

2009 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB41)

Received: 03/19/2010

Received By: gmalaise

Wanted: 03/22/2010

Companion to LRB:

For: Cory Mason (608) 266-0634

By/Representing: Vicki Selkove

May Contact:

Drafter: gmalaise

Subject: Employ Priv - minimum wage

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Mason@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Minimum wage

Instructions:

Update AB 41 to push effective date back to September 5, 2010 and to conform to recent changes in DWD rules, e.g., no separate minimum wage for minors or agricultural employees

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 03/19/2010	csicilia 03/22/2010		_____			
/1			jfrantze 03/22/2010	_____	lparisi 03/22/2010	lparisi 03/22/2010	
/2	gmalaise 03/23/2010	csicilia 03/23/2010	phenry 03/23/2010	_____	lparisi 03/23/2010	lparisi 03/23/2010	

FE Sent For:

<END>

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/?	gmalaise 03/19/2010	csicilia 03/22/2010		_____			
/1			jfrantze 03/22/2010	3/22/10	lparisi 03/22/2010	lparisi 03/22/2010	

FE Sent For:

1/2 jvs 3/23 3
10 b3 on ph/no
<END>

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/?	gmalaise	1 cjs 3/22 10	Jb 3/22	PH 3/22			

FE Sent For: 

<END>

Wisconsin Minimum Wage Rates

Effective July 24, 2009

General Minimum Wage Rates

Non-Opportunity Employees:

\$7.25 per Hour

Opportunity Employees:

\$5.90 per Hour

Minimum Wage Rates for Tipped Employees

Non-Opportunity Employees:

\$2.33 per Hour

Opportunity Employees:

\$2.13 per Hour

Note: "Opportunity employee" means an employee who is not yet 20 years old and who has been in employment status with a particular employer for 90 or fewer consecutive calendar days from the date of initial employment.

Minimum Wage Rates for All Agricultural Employees

Adults

\$7.25 per Hour

= same as non opportunity

Minors

\$7.25 per Hour

Minimum Rates for Caddies

9 Holes \$5.90

18 Holes \$10.50

For more information contact:

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
EQUAL RIGHTS DIVISION

201 E WASHINGTON AVE ROOM A300
PO BOX 8928
MADISON WI 53708

Telephone: (608) 266-6860
TTY: (608) 264-8752

819 N 6th ST
ROOM 255
MILWAUKEE WI 53203

Telephone: (414) 227-4384
TTY: (414) 227-4081

Website: <http://dwd.wisconsin.gov/er/>

The Department of Workforce Development is an equal opportunity employer and service provider. If you have a disability and need to access this information in an alternate format or need it translated to another language, please contact us.

Wisconsin Maximum Allowances for Board and Lodging

Effective July 24, 2009

Non-Agricultural Employment

	Non-Opportunity Employees	Opportunity Employees
Meals	\$87.00 Per Week \$4.15 Per Meal	\$70.80 Per Week \$3.35 Per Meal
Lodging	\$58.00 Per Week \$8.30 Per Day	\$47.20 Per Week \$6.75 Per Day

Agricultural Employment

All Employees = same as non-opportunity

Meals	\$87.00 Per Week \$4.15 Per Meal
Lodging	\$58.00 Per Week \$8.30 Per Day

Camp Counselor Employment

Weekly Salary for All Employees [Adults and Minors]

	Board & Lodging	Board Only	No Board or Lodging
Salary Rates	\$210.00	\$265.00	\$350.00

When board or lodging provided by an employer is accepted and received by an employee, the employer is permitted to deduct up to the above amounts from the worker's paycheck. The amounts deducted are used to determine if the employee is receiving the required minimum wage rates.



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**Wisconsin Department of Workforce
Development**



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[Home](#) > [Equal Rights Division](#) > [Labor Standards Bureau](#) > [Minimum Wage](#) > [Minimum Wage Rate](#)

The Wisconsin's 2009 Minimum Wage Rates

Rate Type:	Current Rate:	As of 7/24/09:
Adult [Non-agriculture]	\$6.50	\$7.25
Minor [Non-agriculture]	\$5.90	\$7.25
Opportunity Employee	\$5.90	\$5.90
Tipped Employee	\$2.33	\$2.33
Tipped Opportunity Employee	\$2.13	\$2.13
Adult [Agriculture]	\$5.15	\$7.25
Minor [Agriculture]	\$4.25	\$7.25

Camp Counselors and Caddies:

Updated September 22, 2009 by the [Equal Rights Division](#)
For additional information contact the Division at [ER Information](#).

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EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

FEDERAL MINIMUM WAGE

\$7.25 PER HOUR

BEGINNING JULY 24, 2009

- OVERTIME PAY** At least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.
- CHILD LABOR** An employee must be at least **16** years old to work in most non-farm jobs and at least **18** to work in non-farm jobs declared hazardous by the Secretary of Labor.
- Youths **14** and **15** years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:
- No more than*
- **3** hours on a school day or **18** hours in a school week;
 - **8** hours on a non-school day or **40** hours in a non-school week.
- Also, work may not begin before **7 a.m.** or end after **7 p.m.**, except from June 1 through Labor Day, when evening hours are extended to **9 p.m.** Different rules apply in agricultural employment.
- TIP CREDIT** Employers of “tipped employees” must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee’s tips combined with the employer’s cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.
- ENFORCEMENT** The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.
- Employers may be assessed civil money penalties of up to \$1,100 for each willful or repeated violation of the minimum wage or overtime pay provisions of the law and up to \$11,000 for each employee who is the subject of a violation of the Act’s child labor provisions. In addition, a civil money penalty of up to \$50,000 may be assessed for each child labor violation that causes the death or serious injury of any minor employee, and such assessments may be doubled, up to \$100,000, when the violations are determined to be willful or repeated. The law also prohibits discriminating against or discharging workers who file a complaint or participate in any proceeding under the Act.
- ADDITIONAL INFORMATION**
- Certain occupations and establishments are exempt from the minimum wage and/or overtime pay provisions.
 - Special provisions apply to workers in American Samoa and the Commonwealth of the Northern Mariana Islands.
 - Some state laws provide greater employee protections; employers must comply with both.
 - The law requires employers to display this poster where employees can readily see it.
 - Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer.
 - Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.



For additional information:

1-866-4-USWAGE 
(1-866-487-9243) TTY: 1-877-889-5627

WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division

In 3/19
Wanted Mon 3/22

50348 / 1

2009 - 2010 LEGISLATURE
ASSEMBLY SUBSTITUTE AMENDMENT

LRB-1010/1
GMM:bjk:jf

\$cjs

2009 ASSEMBLY BILL 41

Gen Cat

February 12, 2009 — Introduced by Representatives MASON, SINICKI, GRIGSBY, BLACK, ZEPNICK, POPE-ROBERTS, A. WILLIAMS, TURNER, MILROY, POCAN, KESSLER, BERCEAU, HILGENBERG, COLON, SOLETSKI, SHERMAN, SHILLING, BENEDICT, TOLES, GARTHWAITE, KRUSICK, YOUNG and PASCH, cosponsored by Senators DECKER, HANSEN, WIRCH, KREITLOW, TAYLOR, CARPENTER, COGGS, LEHMAN, PLALE, MILLER, ERPENDACH, SULLIVAN and VINEHOUT. Referred to Committee on Labor.

extending the time limit for emergency rule procedures,
providing an exemption from emergency rule procedures,
providing an exemption from rule-making procedures, and

requiring the exercise of rule-

Regulate

1 AN ACT to repeal 104.001; to renumber 104.01 (1); to renumber and amend
2 104.045; to amend 49.141 (1) (g), 104.01 (intro.), 104.01 (8), 104.05, 104.07 (1),
3 104.07 (2), 104.10, 104.11, 234.94 (5), 234.94 (8), 800.09 (1) (b), 800.095 (4) (b)
4 3. and 895.035 (2m) (c); and to create 104.01 (1d), 104.01 (1g), 104.01 (5g),
5 104.01 (5m), 104.01 (7m), 104.035 and 104.045 (2) and (3) of the statutes;
6 relating to: a state minimum wage, permitting the enactment of local living
wage ordinances, and granting rule-making authority.

Gen Cat

Gen Cat

Analysis by the Legislative Reference Bureau

Currently, the state minimum wage law requires that employers pay a living wage to their employees. Under that law, the Department of Workforce Development (DWD) has provided, by rule, minimum wages for various types of employees, including employees, generally; ~~minor employees~~ opportunity employees, which are defined as employees under 20 years of age in their first 90 days of employment with a particular employer; tipped employees; ~~agricultural employees~~ camp counselors; golf caddies; students employed at independent colleges and universities for less than 20 hours per week; student learners employed in bona fide school training programs; and individuals who are unable to earn the standard minimum wage because of a disability. DWD has exempted, by rule, from the minimum wage law employees who perform less than 15 hours per week of casual employment, such as

ASSEMBLY BILL 41

- 2 -

September 5, 2010

substitute amendment

baby-sitting or lawn mowing, in and around an employer's home; employees who provide companionship services to elderly or infirm individuals; and elementary and secondary school students performing work-like activities in their schools. DWD has also promulgated rules providing allowances against the minimum wage for employers that provide meals or lodging for their employees.

Under this ~~bill~~, DWD will continue to provide the exemptions listed above and separate minimum wages for students employed at independent colleges and universities for less than 20 hours per week, student learners employed in bona fide school training programs, and individuals who are unable to earn the standard minimum wages because of a disability. For other employees, however, the ~~bill~~ sets the minimum wages, effective on ~~June 1, 2009~~, or on the day after publication of the ~~bill~~, whichever is later, as follows:

Substitute amendment

Employees generally

\$7.25

Substitute amendment

Current minimum wage ~~\$6.50~~ per hour

Minimum wage on effective date \$7.60 per hour

Minor and opportunity employees

Current minimum wage \$5.90 per hour

Minimum wage on effective date \$6.90 per hour

Tipped employees

Current minimum wage \$2.33 per hour for nonopportunity employees
\$2.13 per hour for opportunity employees

Minimum wage on effective date \$2.75 per hour for nonopportunity employees
\$2.50 per hour for opportunity employees

Agricultural employees

\$7.25

Current minimum wage ~~\$5.15~~ per hour for adults
~~\$4.25~~ per hour for minors

\$7.60

Minimum wage on effective date ~~\$6.05~~ per hour for adults
~~\$4.95~~ per hour for minors

ASSEMBLY BILL 41

Adult camp counselors

Current minimum wage

- ~~\$350~~ \$315 per week if meals and lodging not furnished
- ~~\$265~~ \$240 per week if meals, but not lodging, furnished
- ~~\$210~~ \$189 per week if meals and lodging furnished

Minimum wage on effective date

- \$369 per week if meals and lodging not furnished
- \$281 per week if meals, but not lodging, furnished
- \$221 per week if meals and lodging furnished

Minor camp counselors

Current minimum wage

- \$275 per week if meals and lodging not furnished
- \$209 per week if meals, but not lodging, furnished
- \$165 per week if meals and lodging furnished

Minimum wage on effective date

- \$322 per week if meals and lodging not furnished
- \$245 per week if meals, but not lodging, furnished
- \$193 per week if meals and lodging furnished

Golf caddies

Current minimum wage

- \$10.50 for 18 holes
- \$5.90 for 9 holes

Minimum wage on effective date

- \$12.30 for 18 holes
- \$6.90 for 9 holes

substitute amendment

The ~~bill~~ also increases the allowance against the minimum wage that an employer who provides room and board for an employee may take, as follows:

ASSEMBLY BILL 41

Employees generally

Lodging	52 ⁵⁸ per week or 7.40 ^{8.30} per day
Current allowance	\$52 per week or \$7.40 per day
Allowance on effective date	\$61 per week or \$8.65 per day
Meals	79 ⁸⁷ per week or 3.70 ^{4.15} per meal
Current allowance	\$79 per week or \$3.70 per meal
Allowance on effective date	\$91 per week or \$4.35 per meal

Minor and opportunity employees

Lodging	
Current allowance	\$47.20 per week or \$6.75 per day
Allowance on effective date	\$55.20 per week or \$7.90 per day
Meals	
Current allowance	\$70.80 per week or \$3.35 per meal
Allowance on effective date	\$82.85 per week or \$3.90 per meal

Adult agricultural employees

Lodging	
Current allowance	\$41.20 per week or \$5.90 per day
Allowance on effective date	\$48.20 per week or \$6.90 per day

ASSEMBLY BILL 41

Meals	
Current allowance	\$61.80 per week or \$2.95 per meal
Allowance on effective date	\$72.30 per week or \$3.45 per meal
<i>Minor agricultural employees</i>	
Lodging	
Current allowance	\$34 per week or \$4.85 per day
Allowance on effective date	\$39.80 per week or \$5.65 per day
Meals	
Current allowance	\$51 per week or \$2.40 per meal
Allowance on effective date	\$59.65 per week or \$2.80 per meal

substitute amendment

substitute amendment

Beginning on ^{September 5, 2011} ~~June 1, 2010~~, the ~~bill~~ requires DWD annually to promulgate rules revising the minimum wages and allowances for meals and lodging established under the ~~bill~~ by determining the percentage difference between the consumer price index for the preceding year and the consumer price index for the current year, adjusting the minimum wages and allowances in effect on ~~May 1~~ ^{August} of the current year by that percentage difference, and rounding that result to the nearest multiple of five cents or, in the case of a camp counselor, the nearest dollar.

substitute amendment

Finally, current law prohibits a city, village, town, or county from enacting and administering an ordinance establishing a living wage. This ~~bill~~ eliminates that prohibition.

For further information see the ~~state and local~~ fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

SECTION 1. 49.141 (1) (g) of the statutes is amended to read:

Insert A

ASSEMBLY BILL 41

SECTION 1

1 49.141 (1) (g) "Minimum wage" means the state minimum hourly wage under
2 ch. 104 s. 104.035 (1) or the federal minimum hourly wage under 29 USC 206 (a) (1),
3 whichever is applicable. *was affected by 2009 Wisconsin Act 28,*

4 SECTION 2. 104.001 of the statutes is repealed.

5 SECTION 3. 104.01 (intro.) of the statutes is amended to read:

6 104.01 Definitions. (intro.) The following terms as used in In this chapter
7 shall be construed as follows:

8 SECTION 4. 104.01 (1) of the statutes is renumbered 104.01 (1m).

9 ~~SECTION 5. 104.01 (1d) of the statutes is created to read:~~

10 ~~104.01 (1d) "Agricultural employee" means an employee who is employed in~~
11 ~~farming, as defined in s. 102.04 (3).~~

12 SECTION 6. 104.01 (1g) of the statutes is created to read:

13 104.01 (1g) "Consumer price index" means the average of the consumer price
14 index over each 12-month period for all urban consumers, U.S. city average, as
15 determined by the bureau of labor statistics of the U.S. department of labor.

16 ~~SECTION 7. 104.01 (5g) of the statutes is created to read:~~

17 ~~104.01 (5g) "Minor employee" means a minor who is paid at the applicable~~
18 ~~minimum wage rate for minors.~~

19 SECTION 8. 104.01 (5m) of the statutes is created to read:

20 104.01 (5m) "Opportunity employee" means a person under 20 years of age who
21 is in the first 90 consecutive days of employment with his or her employer.

22 SECTION 9. 104.01 (7m) of the statutes is created to read:

23 104.01 (7m) "Tipped employee" means an employee who in the course of
24 employment customarily and regularly receives money or other gratuities from
25 persons other than the employee's employer.

ASSEMBLY BILL 41

SECTION 11

lodging in accordance with rules promulgated by the department under s. 104.045 (2), the employer may deduct the following amounts from the wages of the employee:

1. For lodging furnished before ~~June 1, 2010~~, \$55.20 per week or \$7.90 per day and for meals furnished before ~~June 1, 2010~~, \$82.85 per week or \$3.90 per meal.

2. For meals and lodging furnished beginning on ~~June 1, 2010~~, the amounts determined by the department by rule promulgated under sub. (2).

(3) TIPPED EMPLOYEES. (a) Minimum rates. Except as provided in subs. (4) to (8), if an employer of a tipped employee establishes by the employer's payroll records that, when adding the tips received by the tipped employee in a week to the wages paid to the tipped employee in that week, the tipped employee receives not less than the applicable minimum wage specified in sub. (1) or (2), the minimum wage for the tipped employee is as follows:

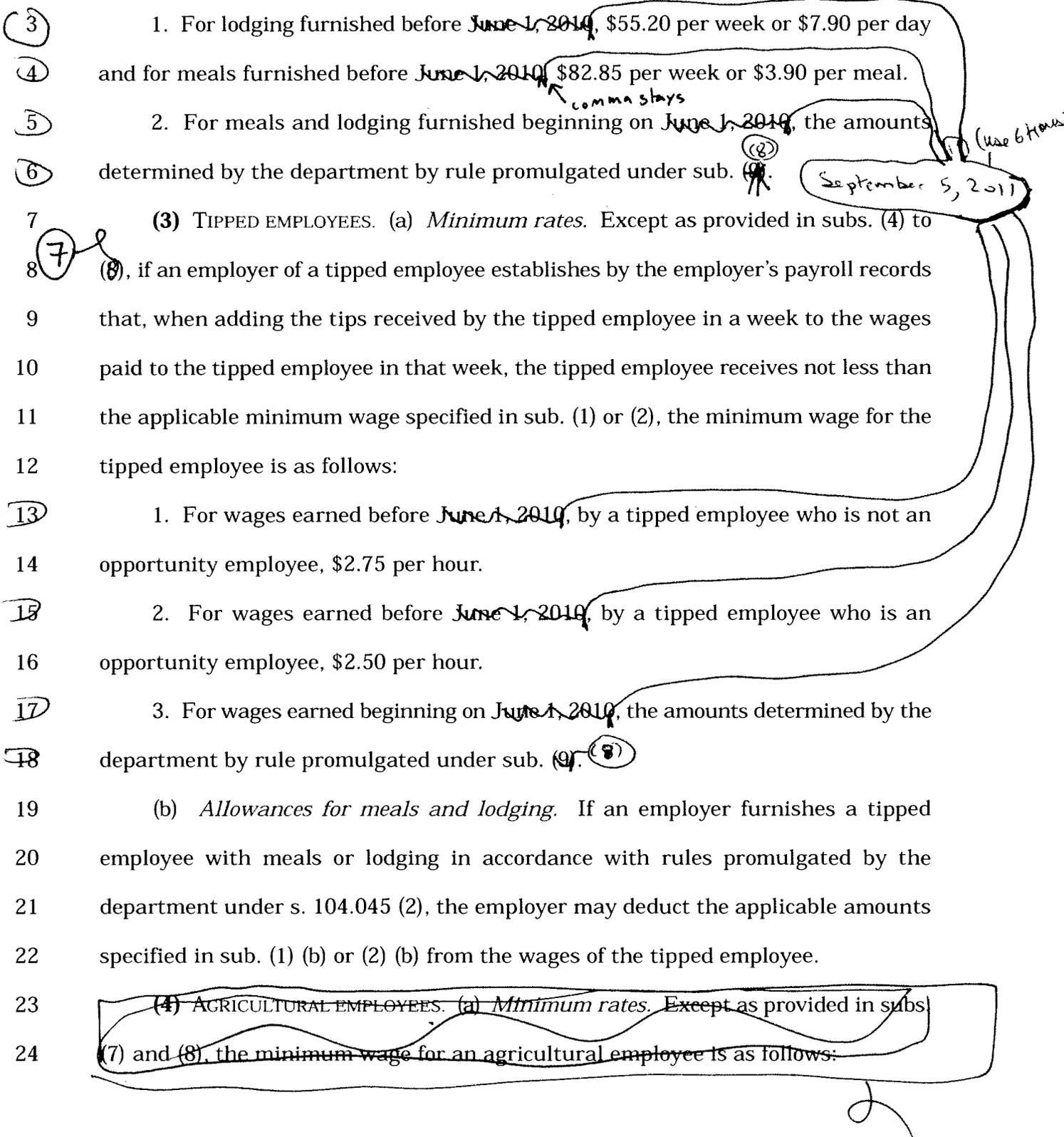
1. For wages earned before ~~June 1, 2010~~, by a tipped employee who is not an opportunity employee, \$2.75 per hour.

2. For wages earned before ~~June 1, 2010~~, by a tipped employee who is an opportunity employee, \$2.50 per hour.

3. For wages earned beginning on ~~June 1, 2010~~, the amounts determined by the department by rule promulgated under sub. (9).

(b) Allowances for meals and lodging. If an employer furnishes a tipped employee with meals or lodging in accordance with rules promulgated by the department under s. 104.045 (2), the employer may deduct the applicable amounts specified in sub. (1) (b) or (2) (b) from the wages of the tipped employee.

(4) AGRICULTURAL EMPLOYEES. (a) Minimum rates. Except as provided in subs. (7) and (8), the minimum wage for an agricultural employee is as follows:



ASSEMBLY BILL 41

- 1 1. For wages earned before June 1, 2010, by an adult agricultural employee,
- 2 \$6.05 per hour.
- 3 2. For wages earned before June 1, 2010, by a minor agricultural employee,
- 4 \$4.95.
- 5 3. For wages earned beginning on June 1, 2010, the amounts determined by the
- 6 department by rule promulgated under sub. (9).
- 7 (b) Allowances for meals and lodging. If an employer furnishes an agricultural
- 8 employee with meals or lodging in accordance with rules promulgated by the
- 9 department under s. 104.045 (2), the employer may deduct the following amounts
- 10 from the wages of the employee:
- 11 1. For lodging furnished to an adult agricultural employee, before June 1, 2010,
- 12 \$48.20 per week or \$6.90 per day and for meals furnished to an adult agricultural
- 13 employee, before June 1, 2010, \$72.30 per week or \$3.45 per meal.
- 14 2. For lodging furnished to a minor agricultural employee before June 1, 2010,
- 15 \$39.80 per week or \$5.65 per day and for meals furnished to a minor agricultural
- 16 employee before June 1, 2010, \$59.65 per week or \$2.80 per meal.
- 17 3. For meals and lodging furnished beginning on June 1, 2010, the amounts
- 18 determined by the department by rule promulgated under sub. (9).

19 (4) (5) CAMP COUNSELORS. ~~(a) Minimum rates for camp counselors.~~ The minimum
 20 wage for a counselor at a seasonal recreational or educational camp, including a day
 21 camp, who is an adult is as follows: September 5, 2011

22 (a) For wages earned before ~~June 1, 2010~~, \$369 per week if meals and lodging
 23 are not furnished, \$281 per week if only meals are furnished, and \$221 per week if
 24 both meals and lodging are furnished.

ASSEMBLY BILL 41

SECTION 11

1 ^(b) ~~For wages earned beginning on June 1, 2010, the amounts determined by the~~
2 department by rule promulgated under sub. ~~(9)~~ ⁽⁸⁾.

3 ~~(b) Minimum rates for minor counselors. The minimum wage for a counselor~~
4 ~~at a seasonal recreational or educational camp, including a day camp, who is a minor~~
5 ~~is as follows:~~

6 1. ~~For wages earned before June 1, 2010, \$322 per week if meals and lodging~~
7 ~~are not furnished, \$245 per week if only meals are furnished, and \$193 per week if~~
8 ~~both meals and lodging are furnished.~~

9 2. ~~For wages earned beginning on June 1, 2010, the amounts determined by the~~
10 ~~department by rule promulgated under sub. (9).~~

11 ⁽⁵⁾ ~~(6)~~ GOLF CADDIES. The minimum wage for a golf caddy is as follows: September 5, 2011

12 (a) For wages earned before ~~June 1, 2010~~, \$12.30 for caddying 18 holes.

13 (b) For wages earned before ~~June 1, 2010~~, \$6.90 for caddying 9 holes.

14 (c) For wages earned beginning on ~~June 1, 2010~~, the amounts determined by
15 the department by rule promulgated under sub. ~~(9)~~ ⁽⁸⁾.

16 ⁽⁶⁾ ~~(7)~~ MINIMUM WAGE ESTABLISHED BY DEPARTMENT. The department shall
17 promulgate rules providing the minimum wage for all of the following:

18 (a) An employee or worker with a disability covered under a license under s.
19 104.07.

20 (b) A student learner.

21 (c) A student employed by an independent college or university for less than
22 20 hours per week.

23 ⁽⁷⁾ ~~(8)~~ EMPLOYMENT EXEMPTED BY DEPARTMENT. The department shall promulgate ⁽⁶⁾
24 rules exempting from the minimum wage requirements under subs. (1) to ~~(7)~~
25 the following:

ASSEMBLY BILL 41

1 (a) A person engaged in casual employment in and around an employer's home
2 on an irregular or intermittent basis for not more than 15 hours per week.

3 (b) A person who resides in the home of an employer who, due to advanced age
4 or physical or mental disability, cannot care for his or her own needs, for the purpose
5 of companionship and who spends not more than 15 hours per week on general
6 household work for the employer.

7 (c) An elementary or secondary school student performing student work-like
8 activities in the student's school.

pers. (h) and (i)

September 5

9 (8) (9) DEPARTMENT TO REVISE. (a) Subject to par. (4), by June 1 of each year, the

10 department, using the procedures under s. 227.24, shall promulgate rules to revise
11 the minimum wages and allowances for meals and lodging established under subs.

12 (1) to (6). The department shall determine those revised minimum wages and

13 allowances by calculating the percentage difference between the consumer price

14 index for the 12-month period ending on February 28 of the preceding year and the

May 31

15 consumer price index for the 12-month period ending on February 28 of the current

May 31

16 year, adjusting the minimum wages and allowances in effect on May 31 of the current

September 4

17 year by that percentage difference, and rounding that result to the nearest multiple

18 of 5 cents, except that for a minimum wage under sub. (5), the department shall

(4)

19 round the result to the nearest dollar. Notwithstanding s. 227.24 (1) (a), (2) (b), and

20 (3), the department may promulgate an emergency rule under s. 227.24 revising the

21 minimum wages and allowances established under subs. (1) to (7) without providing

(6)

22 evidence that the emergency rule is necessary to preserve the public peace, health,

23 safety, or welfare and without a finding of emergency. A revised minimum wage or

24 allowance determined under this paragraph shall first apply to wages earned or

ASSEMBLY BILL 41

SECTION 11

September 5

Insert
12-2

meals or lodging furnished on ~~June~~ of the year in which the wage or allowance is revised.

(b) Paragraph (a) does not preclude the department from promulgating rules to increase a minimum wage provided under subs. (1) to (4). (6)

SECTION 12. 104.045 of the statutes is renumbered 104.045 (intro.) and amended to read:

104.045 Tipped employees Tips, meals, lodging, and hours worked.

(intro.) The department shall by rule determine what amount of promulgate rules governing all of the following:

(1) The counting of tips or similar gratuities may be counted toward fulfillment of the employer's obligation under this chapter.

SECTION 13. 104.045 (2) and (3) of the statutes are created to read:

104.045 (2) The deduction of meals or lodging provided by an employer to an employee from the employer's obligation under this chapter.

(3) The determination of hours worked by an employee during which the employee is entitled to a living wage under this chapter.

SECTION 14. 104.05 of the statutes is amended to read:

104.05 Complaints; investigation. The department shall, ~~within~~ Within 20 days after the filing of a verified complaint of any person ~~setting forth~~ alleging that the wages paid to any employee in any occupation are not sufficient to enable the employee to maintain himself or herself under conditions consistent with his or her welfare, the department shall investigate and determine whether there is reasonable cause to believe that the wage paid to any employee is not a living wage.

SECTION 15. 104.07 (1) of the statutes is amended to read:

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1 104.07 (1) The department shall ~~make~~ promulgate rules, and, except as
2 provided under subs. (5) and (6), grant licenses to any employer who employs any
3 employee who is unable to earn the living wage determined by the department,
4 permitting the employee to work for a wage that is commensurate with the
5 employee's ability. Each license so granted shall establish a wage for the licensee
6 employees of the licensee who are unable to earn a living wage.

7 **SECTION 16.** 104.07 (2) of the statutes is amended to read:

8 104.07 (2) The department shall ~~make~~ promulgate rules, and, except as
9 provided under subs. (5) and (6), grant licenses to sheltered workshops, to permit the
10 employment of workers with disabilities who are unable to earn the living wage at
11 a wage that is commensurate with their ability and productivity. A license granted
12 to a sheltered workshop under this subsection may be issued for the entire workshop
13 or a department of the workshop.

14 **SECTION 17.** 104.10 of the statutes is amended to read:

15 **104.10 Penalty for intimidating witness.** Any employer who discharges or
16 threatens to discharge, or who in any way discriminates, or threatens to discriminate
17 against, any employee because the employee has testified or is about to testify, or
18 because the employer believes that the employee may testify, in any investigation or
19 proceeding relative to the enforcement of this chapter, ~~is guilty of a misdemeanor,~~
20 ~~and upon conviction thereof shall be punished by a fine of~~ may be fined \$25 for each
21 offense.

22 **SECTION 18.** 104.11 of the statutes is amended to read:

23 **104.11 Definition of violation.** Each day during which any employer shall
24 employ employs a person for whom a living wage has been fixed at a wage that is less

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1 than the living wage fixed shall constitute a separate and distinct violation of this
2 chapter.

3 **SECTION 19.** 234.94 (5) of the statutes is amended to read:

4 234.94 (5) "Primary employment" means work ~~which~~ that pays at least the
5 minimum wage as established under ~~ch. 104 s. 104.035 (1)~~ or under federal law,
6 whichever is greater, offers adequate fringe benefits, including health insurance,
7 and is not seasonal or part time.

8 **SECTION 20.** 234.94 (8) of the statutes is amended to read:

9 234.94 (8) "Target group" means a population group for which the
10 unemployment level is at least 25% higher than the statewide unemployment level,
11 or a population group for which the average wage received is less than 1.2 times the
12 minimum wage as established under ~~ch. 104 s. 104.035 (1)~~ or under federal law,
13 whichever is greater. No population group is required to be located within a
14 contiguous geographic area to be considered a target group.

15 **SECTION 21.** 800.09 (1) (b) of the statutes is amended to read:

16 800.09 (1) (b) If the defendant agrees to perform community service work in
17 lieu of making restitution or paying the forfeiture, assessments, and costs, or both,
18 the court may order that the defendant perform community service work for a public
19 agency or a nonprofit charitable organization that is designated by the court.
20 Community service work may be in lieu of restitution only if also agreed to by the
21 public agency or nonprofit charitable organization and by the person to whom
22 restitution is owed. The court may utilize any available resources, including any
23 community service work program, in ordering the defendant to perform community
24 service work. The number of hours of community service work required may not
25 exceed the number determined by dividing the amount owed on the forfeiture by the

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1 minimum wage established under ~~ch. 104 for adults in nonagriculture, nontipped~~
2 ~~employment s. 104.035 (1)~~. The court shall ensure that the defendant is provided a
3 written statement of the terms of the community service order and that the
4 community service order is monitored.

5 **SECTION 22.** 800.095 (4) (b) 3. of the statutes is amended to read:

6 800.095 **(4)** (b) 3. That the defendant perform community service work for a
7 public agency or a nonprofit charitable organization designated by the court, except
8 that the court may not order the defendant to perform community service work
9 unless the defendant agrees to perform community service work and, if the
10 community service work is in lieu of restitution, unless the person to whom the
11 restitution is owed agrees. The court may utilize any available resources, including
12 any community service work program, in ordering the defendant to perform
13 community service work. The number of hours of community service work required
14 may not exceed the number determined by dividing the amount owed on the
15 forfeiture, or restitution, or both, by the minimum wage established under ~~ch. 104~~
16 ~~for adults in nonagriculture, nontipped employment s. 104.035 (1)~~. The court shall
17 ensure that the defendant is provided a written statement of the terms of the
18 community service order and that the community service order is monitored.

19 **SECTION 23.** 895.035 (2m) (c) of the statutes is amended to read:

20 895.035 **(2m)** (c) The court assigned to exercise jurisdiction under chs. 48 and
21 938 may order that the juvenile perform community service work for a public agency
22 or nonprofit charitable organization that is designated by the court in lieu of making
23 restitution or paying the forfeiture or surcharge. If the parent agrees to perform
24 community service work in lieu of making restitution or paying the forfeiture or
25 surcharge, the court may order that the parent perform community service work for

ASSEMBLY BILL 41**SECTION 23**

1 a public agency or a nonprofit charitable organization that is designated by the court.
2 Community service work may be in lieu of restitution only if also agreed to by the
3 public agency or nonprofit charitable organization and by the person to whom
4 restitution is owed. The court may utilize any available resources, including any
5 community service work program, in ordering the juvenile or parent to perform
6 community service work. The number of hours of community service work required
7 may not exceed the number determined by dividing the amount owed on the
8 restitution, forfeiture, or surcharge by the minimum wage established under ~~ch. 104~~
9 ~~for adults in nonagriculture, nontipped employment s. 104.035 (1)~~. The court shall
10 ensure that the juvenile or parent is provided with a written statement of the terms
11 of the community service order and that the community service order is monitored.

12 **SECTION 24. Effective date.**

September 5, 2010

13 (1) MINIMUM WAGE. This act takes effect on ~~June 1, 2009~~, or on the day after
14 publication, whichever is later.

15 (END)

Malaise, Gordon

From: Selkove, Vicky
Sent: Monday, March 22, 2010 11:44 AM
To: Malaise, Gordon
Subject: Substitute to AB 41, continued

Hi Gordon –

I just spent a little time looking back at the history of SB 1, <http://www.legis.state.wi.us/2009/data/SB1hst.html>, which passed the Senate many moons ago, and it occurs to me that we will need the AB 41 substitute to also reflect those adopted amendments to SB 1, so they are as consistent as possible.

As you'll see from the history, there was a Senate substitute amendment to SB 1, and then one adopted amendment to that substitute. That adopted amendment appeared to just change months (not years), i.e. "June" to "September," which I believe is largely consistent with what you & I discussed last week, except we were also changing the years.

So in addition to updating the effective dates in AB 41, and doublechecking that none of the proposed wage rates would be less than the recently raised federal rate, can you please include in the AB 41 substitute any other changes necessary to make it consistent with SB 1, as passed by the Senate on 2-10-09.

The public hearing is scheduled for 1pm on Wednesday, the 24th, and Rep. Sinicki is going to send a revised hearing notice that includes AB 41 in addition to SB 1.

Thanks much,
Vicky

Vicky Selkove
Office of State Representative Cory Mason
62nd Assembly District
Room 321 East, State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634
Toll-free: (888) 534-0062

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Amended Instructions 3/22 Vicki

Conform to SSA 1 to SB 1 as am by SA 1