



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0082/1  
GMM:cjs:rs

**SENATE SUBSTITUTE AMENDMENT 3,  
TO 2005 SENATE BILL 147**

April 12, 2005 – Offered by Senator JAUCH.

1     **AN ACT** *to renumber* 104.01 (1); *to renumber and amend* 104.045, 104.08 (1),  
2           104.08 (2) and 104.08 (3); *to amend* 49.141 (1) (g), 104.01 (intro.), 104.01 (5),  
3           104.01 (8), 104.02, 104.03, 104.04, 104.05, 104.06, 104.07 (1), 104.07 (2), 104.10,  
4           104.11, 104.12, 234.94 (5), 234.94 (8), 800.09 (1) (b), 800.095 (4) (b) 3. and  
5           895.035 (2m) (c); and *to create* 104.001, 104.01 (1d), 104.01 (5g), 104.01 (5m),  
6           104.01 (7m), 104.035, 104.045 (2) and (3), 104.08 (1m) (b) and 104.08 (3) (a) of  
7           the statutes; **relating to:** a state minimum wage; preemption of city, village,  
8           town, and county minimum wage ordinances; granting rule-making authority;  
9           and providing a penalty.

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***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; 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 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 substitute amendment, 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 wage because of a disability. For other employees, however, the substitute amendment sets the minimum wages as follows:

Employees generally

Current minimum wage	\$5.15 per hour
Minimum wage on enactment	\$5.70 per hour
Minimum wage on October 1, 2005	\$6.50 per hour

Minor employees

Current minimum wage	\$5.15 per hour
Minimum wage on enactment	\$5.30 per hour
Minimum wage on October 1, 2005	\$5.90 per hour

Opportunity employees

Current minimum wage	\$4.25 per hour
Minimum wage on enactment	\$5.30 per hour
Minimum wage on October 1, 2005	\$5.90 per hour

Tipped employees

Current minimum wage	\$2.33 per hour for nonopportunity employees \$2.13 per hour for opportunity employees
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Minimum wage on enactment	No change
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*Agricultural employees*

Current minimum wage	\$4.05 per hour for adults \$3.70 per hour for minors
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Minimum wage on enactment	\$5.15 per hour for adults \$4.25 per hour for minors
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*Adult camp counselors*

Current minimum wage	\$140 per week if meals and lodging not furnished \$110 per week if meals, but not lodging, furnished \$91 per week if meals and lodging furnished
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Minimum wage on enactment	\$215 per week if meals and lodging not furnished \$164 per week if meals, but not lodging, furnished \$129 per week if meals and lodging furnished
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Minimum wage on October 1, 2005	\$270 per week if meals and lodging not furnished \$217 per week if meals, but not lodging, furnished \$171 per week if meals and lodging furnished
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Minimum wage on October 1, 2006	\$315 per week if meals and lodging not furnished
	\$240 per week if meals, but not lodging, furnished
	\$189 per week if meals and lodging furnished

Minor camp counselors

Current minimum wage	\$123 per week if meals and lodging not furnished
	\$92 per week if meals, but not lodging, furnished
	\$74 per week if meals and lodging furnished

Minimum wage on enactment	\$175 per week if meals and lodging not furnished
	\$133 per week if meals, but not lodging, furnished
	\$105 per week if meals and lodging furnished

Minimum wage on October 1, 2005	\$225 per week if meals and lodging not furnished
	\$171 per week if meals, but not lodging, furnished
	\$135 per week if meals and lodging furnished

Minimum wage on October 1, 2006	\$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

Golf caddies

Current minimum wage	\$5.95 for 18 holes \$3.35 for nine holes
Minimum wage on enactment	\$10.50 for 18 holes \$5.90 for nine holes

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

Employees generally

## Lodging

Current allowance	\$41.20 per week or \$5.90 per day
Allowance on enactment	\$45.60 per week or \$6.50 per day
Allowance on October 1, 2005	\$52 per week or \$7.40 per day

## Meals

Current allowance	\$61.80 per week or \$2.95 per meal
Allowance on enactment	\$68.40 per week or \$3.25 per meal
Allowance on October 1, 2005	\$78 per week or \$3.70 per meal

Minor employees

## Lodging

Current allowance	\$41.20 per week or \$5.90 per day
Allowance on enactment	\$42.40 per week or \$6.05 per day

Allowance on October 1, 2005 \$47.20 per week or \$6.75 per day

Meals

Current allowance \$61.80 per week or \$2.95 per meal

Allowance on enactment \$63.60 per week or \$3 per meal

Allowance on October 1, 2005 \$70.80 per week or \$3.35 per meal

Opportunity employees

Lodging

Current allowance \$34 per week or \$4.85 per day

Allowance on enactment \$42.40 per week or \$6.05 per day

Allowance on October 1, 2005 \$47.20 per week or \$6.75 per day

Meals

Current allowance \$51 per week or \$2.45 per meal

Allowance on enactment \$63.60 per week or \$3 per meal

Allowance on October 1, 2005 \$70.80 per week or \$3.35 per meal

Adult agricultural employees

Lodging

Current allowance \$32.40 per week or \$4.65 per day

Allowance on enactment \$41.20 per week or \$5.90 per day

## Meals

Current allowance	\$48.60 per week or \$2.30 per meal
Allowance on enactment	\$61.80 per week or \$2.95 per meal

*Minor agricultural employees*

## Lodging

Current allowance	\$29.60 per week or \$4.25 per day
Allowance on enactment	\$34 per week or \$4.85 per day

## Meals

Current allowance	\$44.40 per week or \$2.10 per meal
Allowance on enactment	\$51 per week or \$2.40 per meal

Finally, under current constitutional and statutory home rule provisions, a city or village may determine its own local affairs subject only to the Wisconsin Constitution and to any enactment of the legislature that is of statewide concern and that affects every city or village with uniformity. This substitute amendment requires that the state minimum wage law be construed as an enactment of statewide concern for the purpose of providing a living wage that is uniform throughout the state. As such, the substitute amendment permits a city, village, town, or county to enact an ordinance establishing a living wage only if the ordinance strictly conforms to the state minimum wage law.

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***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:
- 2           49.141 (1) (g) “Minimum wage” means the state minimum hourly wage under
- 3           ~~ch. 104 s. 104.035 (1)~~ or the federal minimum hourly wage under 29 USC 206 (a) (1),
- 4           whichever is applicable.

1           **SECTION 2.** 104.001 of the statutes is created to read:

2           **104.001 Statewide concern; uniformity.** (1) This chapter shall be  
3 construed as an enactment of statewide concern for the purpose of providing a living  
4 wage that is uniform throughout the state.

5           (2) A city, village, town, or county may enact and administer an ordinance  
6 establishing a living wage only if the ordinance strictly conforms to this chapter and  
7 any rules promulgated under this chapter. Except as provided in sub. (3), a city,  
8 village, town, or county may not administer an ordinance establishing a living wage  
9 unless that ordinance strictly conforms to this chapter and any rules promulgated  
10 under this chapter.

11           (3) A city, village, town, or county that has a living wage ordinance in effect on  
12 the effective date of this subsection .... [revisor inserts date], may maintain and  
13 administer that ordinance if the department reviews the ordinance and determines  
14 that the ordinance strictly conforms to this chapter and any rules promulgated under  
15 this chapter. If the department determines that any part of the existing ordinance  
16 does not strictly conform to this chapter and any rules promulgated under this  
17 chapter, the city, village, town, or county may amend the ordinance and submit the  
18 amended ordinance to the department for a determination of whether the amended  
19 ordinance strictly conforms to this chapter and any rules promulgated under this  
20 chapter. A city, village, town, or county may not amend a living wage ordinance  
21 except to maintain strict conformity with this chapter and any rules promulgated  
22 under this chapter.

23           (4) A county ordinance enacted under this section does not apply within any  
24 city, village, or town that has enacted or enacts an ordinance under this section.

1           **(5)** This section does not affect the requirement that employees employed on  
2 a public works project contracted for by a city, village, town, or county be paid at the  
3 prevailing wage rate, as defined in s. 66.0903 (1) (g), as required under s. 66.0903.

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

5           **104.01 Definitions.** (intro.) ~~The following terms as used in ss. 104.01 to~~  
6 ~~104.12 shall be construed as follows~~ In this chapter:

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

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

9           104.01 **(1d)** “Agricultural employee” means an employee who is employed in  
10 farming, as defined in s. 102.04 (3).

11           **SECTION 6.** 104.01 (5) of the statutes is amended to read:

12           104.01 **(5)** ~~The term “living wage” shall mean~~ “Living wage” means  
13 compensation for labor paid, whether by time, piecework, or otherwise, sufficient to  
14 enable the employee receiving it to maintain himself or herself under conditions  
15 consistent with his or her welfare.

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.

1           **SECTION 10.** 104.01 (8) of the statutes is amended to read:

2           104.01 (8) ~~The term “wage” and the term “wages” shall each mean “Wage”~~  
3           means any compensation for labor measured by time, piece, or otherwise.

4           **SECTION 11.** 104.02 of the statutes is amended to read:

5           **104.02 Living-wage prescribed Living wage required.** Every wage paid  
6           or agreed to be paid by any employer to any employee, except as otherwise provided  
7           in s. 104.07, shall be not less than a ~~living-wage~~ living wage.

8           **SECTION 12.** 104.03 of the statutes is amended to read:

9           **104.03 Unlawful wages.** Any employer paying, offering to pay, or agreeing  
10          to pay any employee a wage lower or less in value than a ~~living-wage~~ living wage is  
11          guilty of a violation of ~~ss. 104.01 to 104.12~~ this chapter.

12          **SECTION 13.** 104.035 of the statutes is created to read:

13          **104.035 Minimum wage. (1) EMPLOYEES GENERALLY. (a) *Minimum rates.***  
14          Except as provided in subs. (2) to (8), the minimum wage is as follows:

15                1. For wages earned before October 1, 2005, \$5.70 per hour.

16                2. For wages earned beginning on October 1, 2005, \$6.50 per hour.

17                (b) *Allowances for meals and lodging.* Except as provided in subs. (2) (b) and  
18                (4) (b), if an employer furnishes an employee with meals or lodging in accordance  
19                with rules promulgated by the department under s. 104.045 (2), the employer may  
20                deduct the following amounts from the wages of the employee:

21                    1. For lodging furnished before October 1, 2005, \$45.60 per week or \$6.50 per  
22                    day and for meals furnished before October 1, 2005, \$68.40 per week or \$3.25 per  
23                    meal.

1           2. For lodging furnished beginning on October 1, 2005, \$52 per week or \$7.40  
2 per day and for meals furnished beginning on October 1, 2005, \$78 per week or \$3.70  
3 per meal.

4           **(2) MINOR AND OPPORTUNITY EMPLOYEES.** (a) *Minimum rates.* Except as provided  
5 in subs. (3) to (8), the minimum wage for a minor employee or an opportunity  
6 employee is as follows:

7           1. For wages earned before October 1, 2005, \$5.30 per hour.

8           2. For wages earned beginning on October 1, 2005, \$5.90 per hour.

9           (b) *Allowances for meals and lodging.* Except as provided in sub. (4) (b), if an  
10 employer furnishes a minor employee or an opportunity employee with meals or  
11 lodging in accordance with rules promulgated by the department under s. 104.045  
12 (2), the employer may deduct the following amounts from the wages of the employee:

13           1. For lodging furnished before October 1, 2005, \$42.40 per week or \$6.05 per  
14 day and for meals furnished before October 1, 2005, \$63.60 per week or \$3 per meal.

15           2. For lodging furnished beginning on October 1, 2005, \$47.20 per week or \$6.75  
16 per day and for meals furnished beginning on October 1, 2005, \$70.80 per week or  
17 \$3.35 per meal.

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

24           1. For wages earned by a tipped employee who is not an opportunity employee,  
25 \$2.33 per hour.

1           2. For wages earned by a tipped employee who is an opportunity employee,  
2     \$2.13 per hour.

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

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

9           1. For wages earned by an adult agricultural employee, \$5.15 per hour.

10          2. For wages earned by a minor agricultural employee, \$4.25 per hour.

11          (b) *Allowances for meals and lodging.* If an employer furnishes an agricultural  
12     employee with meals or lodging in accordance with rules promulgated by the  
13     department under s. 104.045 (2), the employer may deduct the following amounts  
14     from the wages of the employee:

15          1. For lodging furnished to an adult agricultural employee, \$41.20 per week or  
16     \$5.90 per day and for meals furnished to an adult agricultural employee, \$61.80 per  
17     week or \$2.95 per meal.

18          2. For lodging furnished to a minor agricultural employee, \$34 per week or  
19     \$4.85 per day and for meals furnished to a minor agricultural employee, \$51 per week  
20     or \$2.40 per meal.

21          **(5) CAMP COUNSELORS.** (a) *Minimum rates for adult counselors.* The minimum  
22     wage for a counselor at a seasonal recreational or educational camp, including a day  
23     camp, who is an adult is as follows:

1           1. For wages earned before October 1, 2005, \$215 per week if meals and lodging  
2 are not furnished, \$164 per week if only meals are furnished, and \$129 per week if  
3 both meals and lodging are furnished.

4           2. For wages earned beginning on October 1, 2005, \$270 per week if meals and  
5 lodging are not furnished, \$217 per week if only meals are furnished, and \$171 per  
6 week if both meals and lodging are furnished.

7           3. For wages earned beginning on October 1, 2006, \$315 per week if meals and  
8 lodging are not furnished, \$240 per week if only meals are furnished, and \$189 per  
9 week if both meals and lodging are furnished.

10           (b) *Minimum rates for minor counselors.* The minimum wage for a counselor  
11 at a seasonal recreational or educational camp, including a day camp, who is a minor  
12 is as follows:

13           1. For wages earned before October 1, 2005, \$175 per week if meals and lodging  
14 are not furnished, \$133 per week if only meals are furnished, and \$105 per week if  
15 both meals and lodging are furnished.

16           2. For wages earned beginning on October 1, 2005, \$225 per week if meals and  
17 lodging are not furnished, \$171 per week if only meals are furnished, and \$135 per  
18 week if both meals and lodging are furnished.

19           3. For wages earned beginning on October 1, 2006, \$275 per week if meals and  
20 lodging are not furnished, \$209 per week if only meals are furnished, and \$165 per  
21 week if both meals and lodging are furnished.

22           **(6) GOLF CADDIES.** The minimum wage for a golf caddy is as follows:

23           (a) For 18 holes, \$10.50.

24           (b) For 9 holes, \$5.90.

1           **(7) MINIMUM WAGE ESTABLISHED BY DEPARTMENT.** The department shall  
2 promulgate rules providing the minimum wage for all of the following:

3           (a) An employee or worker with a disability covered under a license under s.  
4 104.07.

5           (b) A student learner.

6           (c) A student employed by an independent college or university for less than  
7 20 hours per week.

8           **(8) EMPLOYMENT EXEMPTED BY DEPARTMENT.** The department shall promulgate  
9 rules exempting from the minimum wage requirements under subs. (1) to (7) all of  
10 the following:

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

13           (b) A person who resides with and who provides companionship and care, not  
14 including practical or professional nursing, as defined in s. 441.001 (3) and (4), and  
15 not more than 15 hours per week of general household work for an employer who, due  
16 to advanced age or physical or mental disability, cannot care for his or her own needs.

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

19           **(9) DEPARTMENT MAY REVISE.** The department may promulgate rules to increase  
20 a minimum wage or an allowance for meals and lodging provided under subs. (1) to  
21 (7).

22           **SECTION 14.** 104.04 of the statutes is amended to read:

23           **104.04 Classifications; department's authority.** The department shall  
24 investigate, ascertain, determine, and fix such reasonable classifications, and shall  
25 impose general or special orders, determining the ~~living-wage~~ living wage, and shall

1 carry out the purposes of ss. ~~104.01 to 104.12.~~ ~~Such~~ this chapter. ~~Those~~  
2 investigations, classifications, and orders shall be made as provided under s.  
3 103.005, and the penalties specified in s. 103.005 (12) shall apply to and be imposed  
4 for any violation of ss. ~~104.01 to 104.12~~ this chapter. In determining the ~~living-wage~~  
5 living wage, the department may consider the effect that an increase in the  
6 ~~living-wage~~ living wage might have on the economy of the state, including the effect  
7 of a ~~living-wage~~ living wage increase on job creation, retention, and expansion, on  
8 the availability of entry-level jobs, and on regional economic conditions within the  
9 state. The department may not establish a different minimum wage for men and  
10 women. ~~Said~~ Those orders shall be subject to review in the manner provided in ch.  
11 227.

12 **SECTION 15.** 104.045 of the statutes is renumbered 104.045 (intro.) and  
13 amended to read:

14 **104.045 Tipped employees Tips, meals, lodging, and hours worked.**  
15 (intro.) The department shall ~~by rule determine what amount of promulgate rules~~  
16 governing all of the following:

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

19 **SECTION 16.** 104.045 (2) and (3) of the statutes are created to read:

20 104.045 **(2)** The deduction of meals or lodging provided by an employer to an  
21 employee from the employer's obligation under this chapter.

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

24 **SECTION 17.** 104.05 of the statutes is amended to read:

1           **104.05 Complaints; investigation.** The department shall, within 20 days  
2 after the filing of a verified complaint of any person ~~setting forth~~ alleging that the  
3 wages paid to any employee ~~in any occupation~~ are not sufficient to enable the  
4 employee to maintain himself or herself under conditions consistent with his or her  
5 welfare, investigate and determine whether there is reasonable cause to believe that  
6 the wage paid to any the employee is not a ~~living-wage~~ living wage.

7           **SECTION 18.** 104.06 of the statutes is amended to read:

8           **104.06 Wage council; determination.** If, upon investigation, the  
9 department finds that there is reasonable cause to believe that the wages paid to any  
10 employee are not a ~~living-wage~~, it living wage, the department shall appoint a wage  
11 council, selected so as fairly to represent employers, employees, and the public, to  
12 assist in its investigations and determinations. The living-wage department may  
13 use the results of an investigation under this section to establish a living wage. A  
14 living wage so determined ~~upon~~ shall be the ~~living-wage~~ living wage for all  
15 employees within the same class as established by the ~~classification of the~~  
16 department under s. 104.04.

17           **SECTION 19.** 104.07 (1) of the statutes is amended to read:

18           104.07 (1) The department shall make promulgate rules and, except as  
19 provided under subs. (5) and (6), grant licenses, to any employer who employs any  
20 employee who is unable to earn the ~~living-wage theretofore determined upon,~~  
21 ~~permitting such person to~~ a living wage so that the employee may work for a wage  
22 ~~which shall be~~ that is commensurate with the employee's ability and each. Each  
23 license so granted shall establish a wage for the licensee employees of the licensee  
24 who are unable to earn a living wage.

25           **SECTION 20.** 104.07 (2) of the statutes is amended to read:

1           104.07 (2) The department shall ~~make~~ promulgate rules and, except as  
2 provided under subs. (5) and (6), grant licenses to sheltered workshops to permit the  
3 employment of workers with disabilities who are unable to earn ~~the living-wage at~~  
4 a living wage so that those workers may work for a wage that is commensurate with  
5 their ~~ability~~ abilities and productivity. A license granted to a sheltered workshop  
6 under this section may be issued for the entire workshop or a department of the  
7 workshop.

8           **SECTION 21.** 104.08 (1) of the statutes is renumbered 104.08 (2m) and amended  
9 to read:

10           104.08 (2m) ~~All persons~~ Any person working in ~~an occupation~~ a trade industry  
11 for which a ~~living-wage~~ living wage has been established for minors, and who ~~shall~~  
12 ~~have~~ has no trade, ~~shall, if employed in an occupation which is a trade industry,~~ be  
13 indentured under ~~the provisions of s. 106.01.~~

14           **SECTION 22.** 104.08 (1m) (b) of the statutes is created to read:

15           104.08 (1m) (b) “Trade industry” means an industry involving physical labor  
16 and characterized by mechanical skill and training such as render a period of  
17 instruction reasonably necessary.

18           **SECTION 23.** 104.08 (2) of the statutes is renumbered 104.08 (1m) (intro.) and  
19 amended to read:

20           104.08 (1m) (intro.) ~~A “trade” or a “trade industry” within the meaning of ss.~~  
21 ~~104.01 to 104.12 shall be a trade or~~ In this section:

22           (a) “Trade” means an industry occupation involving physical labor and  
23 characterized by mechanical skill and training such as render a period of instruction  
24 reasonably necessary. ~~The department shall investigate, determine and declare~~

1 ~~what occupations and industries are included within the phrase a “trade” or a “trade~~  
2 ~~industry”.~~

3 **SECTION 24.** 104.08 (3) of the statutes is renumbered 104.08 (3) (b) and  
4 amended to read:

5 104.08 (3) (b) The department may make exceptions to the operation of subs.  
6 ~~(1) and (2)~~ (1m) and (2m) where conditions make their application unreasonable.

7 **SECTION 25.** 104.08 (3) (a) of the statutes is created to read:

8 104.08 (3) (a) The department shall investigate, determine, and declare what  
9 occupations and industries are included within a trade or a trade industry.

10 **SECTION 26.** 104.10 of the statutes is amended to read:

11 **104.10 Penalty for intimidating witness.** Any employer who discharges or  
12 threatens to discharge, or who in any way discriminates, or threatens to  
13 discriminate, against any employee because the employee has testified or is about  
14 to testify, or because the employer believes that the employee may testify, in any  
15 investigation or proceeding relative to the enforcement of ~~ss. 104.01 to 104.12~~, is  
16 ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of~~  
17 \$25 this chapter may be fined \$500 for each offense.

18 **SECTION 27.** 104.11 of the statutes is amended to read:

19 **104.11 Definition of violation.** Each day during which ~~any~~ an employer  
20 shall ~~employ~~ employs a person for whom a ~~living-wage~~ living wage has been fixed  
21 established at a wage less than the ~~living-wage fixed~~ established living wage shall  
22 constitute a separate and distinct violation of ~~ss. 104.01 to 104.12~~ this chapter.

23 **SECTION 28.** 104.12 of the statutes is amended to read:

24 **104.12 Complaints.** Any person may register with the department a  
25 complaint that the wages paid to employees for whom a ~~living-wage~~ living wage has

1       been established are less than that rate, and the department shall investigate the  
2       matter and take all proceedings necessary to enforce the payment of a wage not less  
3       than ~~the living wage~~ a living wage. Section 111.322 (2m) applies to discharge and  
4       other discriminatory acts arising in connection with any proceeding under this  
5       section.

6               **SECTION 29.** 234.94 (5) of the statutes is amended to read:

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

11              **SECTION 30.** 234.94 (8) of the statutes is amended to read:

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

18              **SECTION 31.** 800.09 (1) (b) of the statutes is amended to read:

19             800.09 (1) (b) If the defendant agrees to perform community service work in  
20       lieu of making restitution or paying the forfeiture, assessments, and costs, or both,  
21       the court may order that the defendant perform community service work for a public  
22       agency or a nonprofit charitable organization that is designated by the court.  
23       Community service work may be in lieu of restitution only if also agreed to by the  
24       public agency or nonprofit charitable organization and by the person to whom  
25       restitution is owed. The court may utilize any available resources, including any

1 community service work program, in ordering the defendant to perform community  
2 service work. The number of hours of community service work required may not  
3 exceed the number determined by dividing the amount owed on the forfeiture by the  
4 minimum wage established under ~~ch. 104 for adults in nonagriculture, nontipped~~  
5 ~~employment~~ s. 104.035 (1). The court shall ensure that the defendant is provided a  
6 written statement of the terms of the community service order and that the  
7 community service order is monitored.

8 **SECTION 32.** 800.095 (4) (b) 3. of the statutes is amended to read:

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

22 **SECTION 33.** 895.035 (2m) (c) of the statutes is amended to read:

23 895.035 (2m) (c) The court assigned to exercise jurisdiction under chs. 48 and  
24 938 may order that the juvenile perform community service work for a public agency  
25 or nonprofit charitable organization that is designated by the court in lieu of making

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

15 **SECTION 34. Initial applicability.**

16 (1) COLLECTIVE BARGAINING AGREEMENTS. The treatment of section 104.001 of the  
17 statutes, first applies to an employee who is affected by a collective bargaining  
18 agreement that contains provisions that are inconsistent with that section on the day  
19 on which the collective bargaining agreement expires or is extended, modified, or  
20 renewed, whichever occurs first.

21 **SECTION 35. Effective date.**

22 (1) MINIMUM WAGE. This act takes effect on the first day of the 3rd month  
23 beginning after publication.

24 (END)