

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1851

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES THOMSON (Sponsor), NOLTE, NANCE, FISHER, BRANDOM, SMITH (150) AND DENISON (Co-sponsors).

Read 1st time January 24, 2008 and copies ordered printed.

Read 2nd time January 28, 2008 and referred to the Special Committee on Workforce Development and Workplace Safety February 21, 2008.

Reported from the Special Committee on Workforce Development and Workplace Safety April 8, 2008 with recommendation that the bill Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules April 10, 2008 with recommendation that the bill Do Pass with no time limit for debate.

Taken up for Perfection April 22, 2008. Bill ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

4603L.01P

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## AN ACT

To repeal sections 290.505, and 290.512, RSMo, and to enact in lieu thereof three new sections relating to minimum wage law.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 290.505, and 290.512, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 290.505, 290.512, and 290.531, to read as  
3 follows:

290.505. 1. No employer shall employ any of his employees for a workweek longer than  
2 forty hours unless such employee receives compensation for his employment in excess of the  
3 hours above specified at a rate not less than one and one-half times the regular rate at which he  
4 is employed.

5 2. Employees of an amusement or recreation business that meets the criteria set out in  
6 29 U.S.C. § 213(a) (3) must be paid one and one-half times their regular compensation for any  
7 hours worked in excess of fifty-two hours in any one-week period.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8           3. With the exception of employees described in subsection (2), the overtime  
9 requirements of subsection (1) shall not apply to employees who are exempt from federal  
10 minimum wage or overtime requirements [pursuant to 29 U.S.C. §§ 213(a)-(b)] **including, but**  
11 **not limited to, the exemptions or hour calculation formulas specified in 29 U.S.C. Section**  
12 **207 and 213, and any regulations promulgated thereunder.**

13           4. Except as may be otherwise provided under sections 290.500 to 290.530, this  
14 section shall be interpreted in accordance with the Fair Labor Standards Act, 29 U.S.C.  
15 Section 201, et seq., as amended, and the Portal to Portal Act, 29 U.S.C. Section 251, et seq.,  
16 as amended, and any regulations promulgated thereunder.

290.512. 1. No employer of any employee who receives and retains compensation in the  
2 form of gratuities in addition to wages [is required to pay wages in excess of fifty percent of the  
3 minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for  
4 such employee shall total at least the minimum wage specified in sections 290.500 to 290.530,  
5 the difference being made up by the employer] **shall pay such employee a cash wage at a rate**  
6 **less than the cash wage amount specified in the Fair Labor Standards Act, 29 U.S.C.**  
7 **Section 203(m), for tipped employees. However, the total compensation for such tipped**  
8 **employee shall not be less than the minimum wage specified in section 290.502.**

9           2. If an employee receives and retains compensation in the form of goods or services as  
10 an incident of his employment and if he is not required to exercise any discretion in order to  
11 receive the goods or services, the employer is required to pay only the difference between the fair  
12 market value of the goods and services and the minimum wage otherwise required to be paid by  
13 sections 290.500 to 290.530. The fair market value of the goods and services shall be computed  
14 on a weekly basis. The director shall provide by regulation a method of valuing the goods and  
15 services received by any employee in lieu of the wages otherwise required to be paid under the  
16 provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of  
17 determining those types of goods and services that are an incident of employment the receipt of  
18 which does not require any discretion on the part of the employee.

290.531. The department of labor and industrial relations shall promulgate rules  
2 to implement the provisions of sections 290.500 to 290.530. Any rule or portion of a rule,  
3 as that term is defined in section 536.010, RSMo, that is created under the authority  
4 delegated in this section shall become effective only if it complies with and is subject to all  
5 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
6 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
7 general assembly under chapter 536, RSMo, to review, to delay the effective date, or to  
8 disapprove and annul a rule are subsequently held unconstitutional, then the grant of

9 rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be  
10 invalid and void.

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