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SENATE BILL DRS15048-LR-48A (02/17)

Short Title: Living Wage By 2022.

(Public)

Sponsors: Senators Bryant, Waddell, and McKissick (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT INCREASING THE STATE'S MINIMUM WAGE IN PHASES UNTIL 2022 WHEN
3 THE WAGE SHALL BE ADJUSTED AUTOMATICALLY EACH YEAR BY INCREASES
4 IN THE COST OF LIVING.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 95-25.3 reads as rewritten:

7 "§ 95-25.3. Minimum wage.

8 (a) Every employer shall pay to each employee who in any workweek performs any work,
9 wages of at least ~~six dollars and fifteen cents (\$6.15) per hour or the minimum wage set forth in~~
10 ~~paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage may~~
11 ~~change from time to time, whichever is higher, except as otherwise provided in this section.~~
12 the following amounts:

13 (1) Effective January 1, 2018, eight dollars and eighty cents (\$8.80) per hour or the
14 minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor
15 Standards Act, 29 U.S.C. 206(a)(1), as that wage may change from time to
16 time, whichever is higher, except as otherwise provided in this section.

17 (2) Effective January 1, 2019, ten dollars and thirty five cents (\$10.35) per hour or
18 the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor
19 Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to
20 time, whichever is higher, except as otherwise provided in this section.

21 (3) Effective January 1, 2020, twelve dollars (\$12.00) per hour or the minimum
22 wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act,
23 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is
24 higher, except as otherwise provided in this section.

25 (4) Effective January 1, 2021, thirteen dollars and fifty cents (\$13.50) per hour or
26 the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor
27 Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to
28 time, whichever is higher, except as otherwise provided in this section.

29 (5) Effective January 1, 2022, fifteen dollars (\$15.00) per hour or the minimum
30 wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act,
31 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is
32 higher, except as otherwise provided in this section. Beginning September 30,
33 2022, and on each September 30 thereafter, the Commissioner of Labor shall
34 calculate an adjusted minimum wage rate using the Consumer Price Index (All
35 29 Urban Consumers, U.S. City Average for All Items), CPI-U, or its successor
36 index, as calculated by the U.S. Department of Labor for the 12-month period



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1 preceding the previous September 1. Each adjusted minimum wage rate
2 calculated shall be published on September 30 and take effect on the following
3 January 1.

4 (b) In order to prevent curtailment of opportunities for employment, the wage rate for
5 full-time students, learners, apprentices, and messengers, as defined under the Fair Labor
6 Standards Act, shall be ninety percent (90%) of the rate in effect under subsection (a) above,
7 rounded to the lowest nickel.

8 (c) The Commissioner, in order to prevent curtailment of opportunities for employment,
9 may, by regulation, establish a wage rate less than the wage rate in effect under section (a) which
10 may apply to persons whose earning or productive capacity is impaired by age or physical or
11 mental deficiency or injury, as such persons are defined under the Fair Labor Standards Act.

12 (d) The Commissioner, in order to prevent curtailment of opportunities for employment of
13 the economically disadvantaged and the unemployed, may, by regulation, establish a wage rate not
14 less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under
15 subsection (a) which shall apply to all persons (i) who have been unemployed for at least 15 weeks
16 and who are economically disadvantaged, or (ii) who are, or whose families are, receiving Work
17 First Family Assistance or who are receiving supplemental security benefits under Title XVI of
18 the Social Security Act.

19 Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for
20 such subminimum wage shall be issued by the Division of Employment Security.

21 The regulation issued by the Commissioner shall not permit employment at the subminimum
22 rate for a period in excess of 52 weeks.

23 (e) The Commissioner, in order to prevent curtailment of opportunities for employment,
24 and to not adversely affect the viability of seasonal establishments, may, by regulation, establish a
25 wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect
26 under subsection (a) which shall apply to any employee employed by an establishment which is a
27 seasonal amusement or recreational establishment, or a seasonal food service establishment.

28 (f) Tips earned by a tipped employee may be counted as wages only up to the amount
29 permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the tipped
30 employee is notified in advance, is permitted to retain all tips and the employer maintains accurate
31 and complete records of tips received by each employee as such tips are certified by the employee
32 monthly or for each pay period. Even if the employee refuses to certify tips accurately, tips may
33 still be counted as wages when the employer complies with the other requirements of this section
34 and can demonstrate by monitoring tips that the employee regularly receives tips in the amount for
35 which the credit is taken. Tip pooling shall also be permissible among employees who customarily
36 and regularly receive tips; however, no employee's tips may be reduced by more than fifteen
37 percent (15%) under a tip pooling arrangement.

38 (g) Repealed by Session Laws 2006-259, s. 18, effective August 23, 2006."

39 **SECTION 2.** This act is effective when it becomes law.