

IMPROVED WORKFORCE OPPORTUNITY WAGE ACT (EXCERPT)
Act 337 of 2018

408.934d Minimum hourly wage; establishment; conditions; percentages; gratuities; notice of plan to distribute service charges; records.

Sec. 4d. (1) The minimum hourly wage rate of an employee must be established as provided for under subsection (2) if all of the following conditions are met:

- (a) The employee receives gratuities in the course of the employee's employment.
- (b) The gratuities described in subdivision (a) equal or exceed the difference between the minimum hourly wage rate established under subsection (2) and the minimum hourly wage established under section 4.
- (c) The gratuities are proven gratuities as indicated by the employee's declaration for purposes of the federal insurance contribution act, 26 USC 3101 to 3128.
- (d) Except as otherwise provided in this subdivision, the entirety of the gratuities are retained by the employee who receives them. This subdivision does not prohibit an employee from voluntarily sharing the employee's gratuities with another employee if the other employee is directly or indirectly part of the chain of service and the other employee's duties are not primarily managerial or supervisory.
- (e) The employee's employer informed the employee of the provisions of this section, in writing, at or before the time of hire, and the employee gave written consent.

(2) The minimum hourly wage rate of an employee described in subsection (1) is as follows:

- (a) Beginning February 21, 2025, 38% of the minimum hourly wage rate established under section 4.
- (b) Beginning January 1, 2026, 40% of the minimum hourly wage rate established under section 4.
- (c) Beginning January 1, 2027, 42% of the minimum hourly wage rate established under section 4.
- (d) Beginning January 1, 2028, 44% of the minimum hourly wage rate established under section 4.
- (e) Beginning January 1, 2029, 46% of the minimum hourly wage rate established under section 4.
- (f) Beginning January 1, 2030, 48% of the minimum hourly wage rate established under section 4.
- (g) Beginning January 1, 2031, 50% of the minimum hourly wage rate established under section 4.

(3) As used in this section, "gratuities" means tips or voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered to that guest, patron, or customer and that the employee reports to the employer for purposes of the federal insurance contributions act, 26 USC 3101 to 3128.

(4) Except as otherwise provided under subsection (1)(d), gratuities remain the property of the employee who receives them, regardless of whether the employee's employer pays the employee the minimum hourly wage rate established under subsection (2) or the minimum hourly wage rate established under section 4. Gratuities and service charges paid to an employee are in addition to, and do not count toward, wages due the employee.

(5) Employers shall provide employees and consumers written notice of the employer's plan to distribute service charges.

(6) An employer shall keep records that show compliance with this section for not less than 3 years after the date of an employee's last pay period.

History: 2018, Act 337, Eff. Mar. 29, 2019;—Am. 2018, Act 368, Eff. Mar. 29, 2019;—2018, Act 337, Eff. Feb. 21, 2025;—Am. 2025, Act 1, Imd. Eff. Feb. 21, 2025.

Compiler's note: Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.

For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

See *Mothering Justice v Attorney General*, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 368 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.