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

408.940 Applicability of act; payment in accordance with minimum wage and overtime compensation requirements.

Sec. 10. (1) This act does not apply to an employer that is subject to the minimum wage provisions of the fair labor standards act of 1938, 29 USC 201 to 219, unless the application of those federal minimum wage provisions to the employer would result in a lower minimum hourly wage than provided under this act. If an employer is subject to this act only by application of this subsection, this act does not apply to the employer's employee who is exempt from the minimum wage requirements of the fair labor standards act of 1938, 29 USC 201 to 219.

(2) Notwithstanding subsection (1), an employee must be paid in accordance with the minimum wage and overtime compensation requirements of sections 4 and 4a if the employee meets either of the following conditions:

(a) The employee is employed in domestic service employment to provide companionship services as that term is defined in 29 CFR 552.6 for individuals who, because of age or infirmity, are unable to care for themselves and is not a live-in domestic service employee as described in 29 CFR 552.102.

(b) The employee is employed to provide childcare, but is not a live-in domestic service employee as described in 29 CFR 552.102. However, the requirements of sections 4 and 4a do not apply if the employee meets all the following conditions:

(*i*) Is younger than the age of 18.

(*ii*) Provides services on a casual basis as that term is defined in 29 CFR 552.5.

(*iii*) Provides services that do not regularly exceed 20 hours per week, in the aggregate.

(3) This act does not apply to individuals employed in summer camps for not more than 4 months or to employees who are covered under section 14 of the fair labor standards act of 1938, 29 USC 214.

(4) This act does not apply to agricultural fruit growers, pickle growers and tomato growers, or other agricultural employers who traditionally contract for harvesting on a piecework basis, as to those employees used for harvesting, until the board has acquired sufficient data to determine an adequate basis to establish a scale of piecework and determines a scale equivalent to the prevailing minimum wage for that employment. The piece rate scale must be equivalent to the minimum hourly wage in that, if the payment by unit of production is applied to a worker of average ability and diligence in harvesting a particular commodity, the worker receives an amount not less than the hourly minimum wage.

(5) Notwithstanding any other provision of this act, subsection (1)(a) and (b) and subsection (2) do not deprive an employee or any class of employees of any right that existed on September 30, 2006 to receive overtime compensation or to be paid the minimum wage.

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.