

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

***** 408.934d.amended THIS SECTION IS REVIVED EFFECTIVE FEBRUARY 21, 2025 *****

408.934d.amended 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 shall be as established under subsection (2) if all of the following occur:

- (a) The employee receives gratuities in the course of his or her 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) The entirety of the gratuities are retained by the employee who receives them, except as voluntarily shared with other employees who are directly or indirectly part of the chain of service and whose duties are not primarily managerial or supervisory.
- (e) The employee was informed by the employer of the provisions of this section in writing, at or before the time of hire, and gave written consent.

(2) For purposes of subsection (1) the minimum hourly wage rate of an employee shall be 48% of the minimum hourly wage rate established under section 4 effective January 1, 2019; beginning January 1, 2020, it shall be 60% of the minimum hourly wage rate established under section 4; beginning January 1, 2021, it shall be 70% of the minimum hourly wage rate established under section 4; beginning January 1, 2022, it shall be 80% of the minimum hourly wage rate established under section 4; beginning January 1, 2023, it shall be 90% of the minimum hourly wage rate established under section 4; and beginning January 1, 2024 and thereafter, it shall be 100% 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) Gratuities will remain property of the employee who receives them, except pursuant to a valid and voluntary tip sharing agreement outlined in subsection (1)(d) above, regardless of whether the employer pays the lower tipped hourly wage described in subsection (2) or the full minimum hourly rate established under section 4. Gratuities and service charges paid to an employee are in addition to, and may not count towards, wages due to the employee.

(5) Employers must provide employees and consumers written notice of their plan to distribute service charges.

(6) Employer shall keep records showing compliance with provisions of Section 4d for no less than 3 years from the date of 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.

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. Therefore, the section above is as it was enacted before being amended by 2018 PA 368. To fashion an appropriate remedy that reflects the original initiative's purpose, the Michigan Supreme Court further held that a gradual phase-in mirroring the structure of the original act, but set into the future accounting for the passage of time is most consistent with the original initiative's intent. Accordingly, the Supreme Court adopted a schedule for the minimum hourly wage and tip credit and subsequently clarified and set forth the following clerically corrected schedule on September 18, 2024:

"February 21, 2025 (originally 2019): The minimum hourly wage rate will be \$10.00 plus the state treasurer's inflation adjustment, using July 31, 2024, as the endpoint for that calculation. The tipped workers' minimum hourly wage rate must be at least 48% of the general minimum wage rate, and the tip credit can be used to satisfy the balance owed to such workers.

February 21, 2026 (originally 2020): The minimum hourly wage rate will be \$10.65 plus the state treasurer's inflation adjustment, using July 31, 2024, as the endpoint for that calculation. The tipped workers' minimum hourly wage rate must be at least 60% of the general minimum wage rate, and the tip credit can be used to satisfy the balance owed to such workers.

February 21, 2027 (originally 2021): The minimum hourly wage rate will be \$11.35 plus the state treasurer's inflation adjustment, using July 31, 2024, as the endpoint for that calculation. The tipped workers' minimum hourly wage rate must be at least 70% of the general minimum wage rate, and the tip credit can be used to satisfy the balance owed to such workers.

February 21, 2028 (originally 2022): The minimum hourly wage rate will be \$12.00 plus the state treasurer's inflation adjustment, using July 31, 2024, as the endpoint for that calculation. The tipped workers' minimum hourly wage rate must be at least 80% of the general minimum wage rate, and the tip credit can be used to satisfy the balance owed to such workers.

February 21, 2029 (originally 2023 and after): The state treasurer shall calculate the inflation-adjusted minimum wage rate as set forth in 2018 PA 337, § 4(2). The tipped workers' minimum wage rate must be at least 90% of the general minimum wage rate, and the tip credit can be used to satisfy the balance owed to such workers.

On February 21, 2030 (originally 2024 and after), tipped employees must be paid 100% the general minimum wage rate without any tip credit permitted to offset the minimum wage rate for tipped workers."