

By: Senator(s) Jackson (11th)

To: Labor; Economic and Workforce Development

SENATE BILL NO. 2047

1 AN ACT TO ENACT A MINIMUM WAGE LAW FOR THE STATE OF
 2 MISSISSIPPI, WITH ANNUAL INCREMENTAL INCREASES OVER A THREE-YEAR
 3 PERIOD; TO DEFINE EMPLOYERS AND EMPLOYEES SUBJECT TO THE MINIMUM
 4 WAGE LAW; TO EMPOWER THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
 5 SECURITY, OFFICE OF THE GOVERNOR, TO ENFORCE AND ADMINISTER THE
 6 PROVISIONS OF THE MINIMUM WAGE LAW; TO PROVIDE CRIMINAL PENALTIES
 7 AND A CIVIL CAUSE OF ACTION AGAINST EMPLOYERS FOR VIOLATIONS OF
 8 THE MINIMUM WAGE LAW; TO AMEND SECTION 17-1-51, MISSISSIPPI CODE
 9 OF 1972, TO AUTHORIZE MUNICIPAL AND COUNTY GOVERNING AUTHORITIES,
 10 IN THEIR DISCRETION, TO MANDATE A WAGE THAT IS MORE THAN THE STATE
 11 MINIMUM WAGE; TO AMEND SECTION 25-3-40, MISSISSIPPI CODE OF 1972,
 12 TO CONFORM; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** This act shall be known as the Mississippi
 15 Minimum Wage Act.

16 **SECTION 2.** It is declared to be the public policy of the
 17 State of Mississippi to establish fair minimum wages for workers
 18 in order to safeguard their health, efficiency and general
 19 well-being and to protect those workers as well as their employers
 20 from the effects of unfair competition resulting from wage levels
 21 detrimental to their health, efficiency and well-being.



22 **SECTION 3.** (1) Except as otherwise provided in this act,
23 every employer shall pay each of its employees a fair minimum wage
24 as provided in this section.

25 (2) The state minimum wage shall be as follows:

26 (a) Beginning July 1, 2020, the rate of not less than
27 Seven Dollars and Fifty Cents (\$7.50) per hour;

28 (b) Beginning July 1, 2021, the rate of not less than
29 Seven Dollars and Seventy-five Cents (\$7.75) per hour;

30 (c) Beginning July 1, 2022, the rate of not less than
31 Eight Dollars (\$8.00) per hour; and

32 (d) Beginning July 1, 2023, the rate of not less than
33 Ten Dollars (\$10.00) per hour.

34 (3) Whenever the highest federal minimum wage is increased
35 to an amount exceeding the minimum wage established under this
36 section, the state minimum wage shall be increased to the amount
37 of the federal minimum wage plus one-half of one
38 percent (1/2 of 1%) more than the federal rate, rounded to the
39 nearest whole cent, effective on the same date as the increase in
40 the highest federal minimum wage, and shall apply to all wage
41 orders and administrative regulations then in force.

42 (4) The rates for learners, beginners, and persons under the
43 age of eighteen (18) years shall be not less than eighty-five
44 percent (85%) of the state minimum wage for the first two hundred
45 (200) hours of their employment and equal to the applicable state



46 minimum wage thereafter, except institutional training programs
47 specifically exempted by the director.

48 **SECTION 4.** As used in this act, unless the context otherwise
49 requires:

50 (a) "Director" means the Executive Director of the
51 Mississippi Department of Employment Security.

52 (b) "Department" means the Mississippi Department of
53 Employment Security, Office of the Governor, established under
54 Section 71-5-101.

55 (c) "Wage" means compensation due to an employee by
56 reason of his or her employment, payable in legal tender of the
57 United States or checks on banks convertible into cash on demand
58 at full face value, subject to any deductions, charges or
59 allowances as may be permitted by this act or by regulations of
60 the department under this act.

61 (d) "Employ" includes to permit to work.

62 (e) "Employer" includes any individual, partnership,
63 association, corporation, business trust, or any person or group
64 of persons acting directly or indirectly in the interest of an
65 employer in relation to an employee. The term "employer" does not
66 include:

67 (i) Any individual, partnership, association,
68 corporation, business trust, or any person or group of persons
69 acting directly or indirectly in the interest of an employer in



70 relation to an employee that employs fewer than five (5) employees
71 in a regular employment relationship; or

72 (ii) Any person, firm or corporation, or other
73 entity subject to the provisions of the federal Fair Labor
74 Standards Act of 1938.

75 (f) "Independent contractor" means any individual who
76 contracts to perform certain work away from the premises of his or
77 her employer, uses his or her own methods to accomplish the work,
78 and is subject to the control of the employer only as to the
79 result of his or her work.

80 (g) "Employee" includes any individual employed by an
81 employer but does not include:

82 (i) Any individual employed in a bona fide
83 executive, administrative or professional capacity, or as an
84 outside commission-paid salesperson, who customarily performs his
85 or her services away from his or her employer's premises, taking
86 orders for goods or services;

87 (ii) Any student performing services for any
88 school, college or university in which he or she is enrolled and
89 is regularly attending classes;

90 (iii) Any individual employed by the United States
91 or by the state or any political subdivision of the state, except
92 public schools and school districts;

93 (iv) Any individual engaged in an activity of any
94 educational, charitable, religious or nonprofit organization where



95 the employer/employee relationship does not in fact exist or where
96 the service is rendered to the organization gratuitously;

97 (v) Any bona fide independent contractor;

98 (vi) Any individual employed by an agricultural
99 employer who did not use more than five hundred (500) man-days of
100 agricultural labor in any calendar quarter of the preceding
101 calendar year;

102 (vii) The parent, spouse, child or other member of
103 an agricultural employer's immediate family;

104 (viii) An individual who:

105 1. Is employed as a hand harvest laborer and
106 is paid on a piece-rate basis in an operation that has been, and
107 is customarily and generally recognized as having been, paid on a
108 piece-rate basis in the region of employment;

109 2. Commutes daily from his or her permanent
110 residence to the farm on which he or she is so employed; and

111 3. Has been employed in agriculture less than
112 thirteen (13) weeks during the preceding calendar year;

113 (ix) A migrant who:

114 1. Is sixteen (16) years of age or under and
115 is employed as a hand harvest laborer;

116 2. Is paid on a piece-rate basis in an
117 operation which has been, and is customarily and generally
118 recognized as having been, paid on a piece-rate basis in the
119 region of employment;



120 3. Is employed on the same farm as his or her
121 parents; and

122 4. Is paid the same piece-rate as employees
123 over age sixteen (16) are paid on the same farm;

124 (x) Any employee principally engaged in the range
125 production of livestock; or

126 (xi) Any employee employed in planting or tending
127 trees, cruising, surveying or felling timber, or in preparing or
128 transporting logs or other forestry products to the mill,
129 processing plants, or railroad or other transportation terminal if
130 the number of employees employed by his or her employer in the
131 forestry or lumbering operations does not exceed eight (8).

132 (h) "Occupation" means any occupation, service, trade,
133 business, industry, or branch or group of industries or employment
134 or class of employment in which employees are gainfully employed.

135 (i) "Gratuities" means voluntary monetary contributions
136 received by an employee from a guest, patron or customer for
137 services rendered.

138 (j) "Man-day" means any day during any portion of which
139 an employee performs any agricultural labor.

140 **SECTION 5.** Nothing in this act shall be deemed to interfere
141 with, impede, or in any way diminish the right of employers and
142 employees to bargain collectively through representatives of their
143 own choosing in order to establish wages or other conditions of
144 work.



145 **SECTION 6.** (1) Any employer who willfully:
146 (a) Hinders or delays the department or its authorized
147 representative in the performance of its duties in the enforcement
148 of this act;
149 (b) Refuses to admit the department or its authorized
150 representative to any place of employment;
151 (c) Fails to make, keep and preserve any records as
152 required under the provisions of this act or to make the record
153 accessible to the department or its authorized representative upon
154 demand;
155 (d) Refuses to furnish a sworn statement of the record
156 or any other information required for the proper enforcement of
157 this act to the department or its authorized representative upon
158 demand; or
159 (e) Fails to post a summary of this act or a copy of
160 any applicable regulations as required by this act shall be deemed
161 in violation of this act and shall, upon conviction, be fined not
162 less than One Hundred Dollars (\$100.00) nor more than Four Hundred
163 Dollars (\$400.00). For the purposes of this subsection, each
164 violation shall constitute a separate offense.
165 (2) Any employer who pays or agrees to pay minimum wages at
166 a rate less than the rate applicable under this act shall be
167 guilty of a felony and the employer shall:
168 (a) Be fined not less than Four Thousand Dollars
169 (\$4,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for



170 each offense if the total amount of all unpaid wages owed to an
171 employee is more than Two Thousand Dollars (\$2,000.00);

172 (b) Be fined not less than Two Thousand Dollars
173 (\$2,000.00) nor more than Four Thousand Dollars (\$4,000.00) or the
174 agent or officer of the employer shall be imprisoned not more than
175 one (1) year, or both, for each offense if the total amount of all
176 unpaid wages owed to an employee is more than One Thousand Dollars
177 (\$1,000.00) but not more than Two Thousand Dollars (\$2,000.00);

178 (c) Be fined not less than One Thousand Dollars
179 (\$1,000.00) nor more than Two Thousand Dollars (\$2,000.00) or the
180 agent or officer of the employer shall be imprisoned not more than
181 six (6) months, or both, for each offense if the total amount of
182 all unpaid wages owed to an employee is more than Five Hundred
183 Dollars (\$500.00) but not more than One Thousand Dollars
184 (\$1,000.00); or

185 (d) Be fined not less than Four Hundred Dollars
186 (\$400.00) nor more than One Thousand Dollars (\$1,000.00) or the
187 agent or officer of the employer shall be imprisoned not more than
188 three (3) months, or both, for each offense if the total amount of
189 all unpaid wages owed to an employee is Five Hundred Dollars
190 (\$500.00) or less.

191 (3) Any employer who willfully discharges or in any other
192 manner willfully discriminates against any employee because:

193 (a) The employee has made any complaint to his or her
194 employer, to the department, or to the director or his authorized



195 representative that he or she has not been paid minimum wages in
196 accordance with the provisions of this act;

197 (b) The employee has caused to be instituted or is
198 about to cause to be instituted any proceeding under or related to
199 this act; or

200 (c) The employee has testified or is about to testify
201 in any such proceeding, shall be deemed in violation of this act
202 and shall, upon conviction, be fined not more than One Hundred
203 Dollars (\$100.00).

204 **SECTION 7.** (1) For any occupation, the department shall
205 make and revise any administrative regulations, including
206 definitions of terms, as it may deem appropriate to carry out the
207 purposes of this act or necessary to prevent the circumvention or
208 evasion of those purposes and to safeguard the minimum wage rates
209 established.

210 (2) The regulations may include, but are not limited to,
211 regulations governing:

212 (a) Outside or commission salespeople;

213 (b) Learners and apprentices, their number, proportion
214 or length of service;

215 (c) Part-time pay, bonuses or fringe benefits;

216 (d) Special pay for special or extra work;

217 (e) Permitted charges to employees or allowances for
218 board, lodging, apparel, or other facilities or services
219 customarily furnished by employers to employees;



220 (f) Allowances for gratuities; or
221 (g) Allowances for other special conditions or
222 circumstances that may be usual in a particular employer/employee
223 relationship.

224 (3) Regulations or revisions issued by the department under
225 this section shall be made only after a public hearing, at which
226 any person may be heard by the department, at least ten (10) days
227 subsequent to publication of notice of the hearing in a newspaper
228 of general circulation throughout the State of Mississippi.

229 **SECTION 8.** The director or his or her authorized
230 representatives shall:

231 (a) Have authority to enter and inspect the place of
232 business or employment of any employer in the state for the
233 purpose of examining and inspecting any or all books, registers,
234 payrolls and other records of any employer that in any way relate
235 to or have a bearing upon the question of wages, hours or other
236 conditions of employment of any employees; copy any or all of the
237 books, registers, payrolls or other records as he or she may deem
238 necessary or appropriate; and question employees for the purpose
239 of ascertaining whether the provisions of this act and regulations
240 issued under this act have been and are being complied with;

241 (b) Have authority to require from the employer full
242 and correct statements in writing, including sworn statements,
243 with respect to wages, hours, names, addresses and any information



244 pertaining to his or her employees as the director or his or her
245 authorized representative may deem necessary or appropriate;

246 (c) Publish all regulations made by the department; and
247 (d) Otherwise implement and enforce the regulations and
248 decisions of the department.

249 **SECTION 9.** (1) Except as otherwise provided in this
250 section, no employer shall employ any of his or her employees for
251 a workweek longer than forty (40) hours unless the employee
252 receives compensation for his or her employment in excess of the
253 hours above specified at a rate not less than one and one-half
254 (1-1/2) times the regular rate of pay at which he is employed.

255 (2) The provisions regarding the payment of wages at one and
256 one-half (1-1/2) times the regular rate of pay for overtime
257 services shall not be applicable with respect to agricultural
258 employees.

259 **SECTION 10.** (1) Every employer of an employee engaged in
260 any occupation in which gratuities have been customarily and
261 usually constituted and have been recognized as a part of
262 remuneration for hiring purposes shall be entitled to an allowance
263 for gratuities as a part of the hourly wage rate provided in
264 Section 3 of this act in an amount not to exceed fifty percent
265 (50%) of the minimum wage established by Section 3 of this act,
266 provided that the employee actually received that amount in
267 gratuities and that the application of the foregoing gratuity
268 allowances results in payment of wages other than gratuities to



269 tipped employees, including full-time students, subject to the
270 provisions of this act, of not less than fifty percent (50%) of
271 the minimum wage prescribed by this act.

272 (2) In determining whether an employee received in
273 gratuities the amount claimed, the director may require the
274 employee to show to the satisfaction of the director that the
275 actual amount of gratuities received by him or her during any
276 workweek was less than the amount determined by the employer as
277 the amount by which the wage paid the employee was deemed to be
278 increased under this section.

279 **SECTION 11.** (1) Every employer subject to any provisions of
280 this act shall keep a summary of this act, approved by the
281 department, and copies of any applicable regulations issued under
282 this act posted in a conspicuous and accessible place in or about
283 the premises where any person subject to this act is employed.

284 (2) Employers shall be furnished copies of the summaries of
285 this statute and regulations by the director on request without
286 charge.

287 **SECTION 12.** (1) Every employer subject to any provision of
288 this act or of any regulation issued under this act shall make and
289 keep for a period of not less than three (3) years, in or about
290 the premises where any employee is employed, a record of the name,
291 address and occupation of each of his or her employees, the rate
292 of pay and the amount paid each pay period to each employee and
293 any other information as the department prescribes by regulation



294 as necessary or appropriate for the enforcement of the provisions
295 of this act or of the regulations under this act.

296 (2) The records shall be open for inspection or
297 transcription by the director or his or her authorized
298 representative at any reasonable time.

299 (3) Every employer shall furnish to the director or to his
300 or her authorized representative on demand a sworn statement of
301 the records and information upon forms prescribed or approved by
302 the director.

303 **SECTION 13.** (1) Any employer who pays any employee less
304 than minimum wages to which the employee is entitled under or by
305 virtue of this act shall be liable to the employee affected for
306 the full amount of the wages, less any amount actually paid to the
307 employee by the employer, and for costs and reasonable attorney's
308 fees as may be allowed by the court.

309 (2) Any agreement between the employee and employer to work
310 for less than minimum wages shall be no defense to the action.

311 (3) The venue of the action shall lie in the circuit court
312 of any county in which the services which are the subject of the
313 employment were performed.

314 (4) The director shall have the authority to fully enforce
315 this act by instituting legal action to recover any wages which he
316 or she determines to be due to employees under this act.

317 **SECTION 14.** Section 17-1-51, Mississippi Code of 1972, is
318 amended as follows:



319 17-1-51. (1) No county, board of supervisors of a county,
320 municipality or governing authority of a municipality is
321 authorized to establish a mandatory, minimum living wage rate
322 lower than the rate provided in Section 3 of this act, minimum
323 number of vacation or sick days, whether paid or unpaid, that
324 would regulate how a private employer pays its employees. Each
325 county, board of supervisors of a county, municipality or
326 governing authority of a municipality shall be prohibited from
327 establishing a mandatory, minimum living wage rate lower than the
328 rate provided in Section 3 of this act, minimum number of vacation
329 or sick days, whether paid or unpaid, that would regulate how a
330 private employer pays its employees.

331 (2) The Legislature finds that the prohibitions of
332 subsection (1) of this section are necessary to ensure an economic
333 climate conducive to new business development and job growth in
334 the State of Mississippi while protecting the health and
335 well-being of workers. * * *

336 * * *

337 (* * *3) The Legislature concludes from * * * this finding
338 that, in order for a business to remain competitive and yet
339 attract and retain the highest possible caliber of employees, and
340 thereby remain sound, an enterprise must work in * * * an
341 environment * * * that respects * * * its workers and that
342 encourages the payment of fair minimum wage rates * * *. The net
343 impact of any local * * * wages greater than the rate provided in



344 Section 3 of this act and * * * will be economically * * * stable
345 and create * * * a rise and increase in the standard of living for
346 the citizens of the state. * * *

347 **SECTION 15.** Section 25-3-40, Mississippi Code of 1972, is
348 amended as follows:

349 25-3-40. On July 1, 1978, and each year thereafter, the
350 Mississippi Compensation Plan shall be amended to provide salary
351 increases in such amounts and percentages as might be recommended
352 by the Legislative Budget Office and as may be authorized by funds
353 appropriated by the Legislature for the purpose of granting
354 incentive salary increases as deemed possible dependent upon the
355 availability of general and special funds.

356 It is hereby declared to be the intent of the Mississippi
357 Legislature to implement the minimum wage as enacted by statutory
358 law of the United States Congress subject to funds being available
359 for that purpose. It is further the intent of the Legislature to
360 implement the state minimum wage as provided in Section 3 of this
361 act. It is the intent and purpose of this section to maximize
362 annual salary increases consistent with the availability of funds
363 as might be determined by the Mississippi Legislature at its
364 regular annual session and that all salary increases hereafter be
365 made consistent with the provisions of this section.

366 **SECTION 16.** This act shall take effect and be in force from
367 and after July 1, 2020.

