

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

364S0287

HOUSE STATE AFFAIRS
ENGROSSED NO. **HB 1148** - 2/7/2011

Introduced by: Representatives Verchio, Boomgarden, Greenfield, Olson (Betty), Russell, Solum, and Turbiville and Senators Krebs, Brown, Gray, Maher, Nelson (Tom), and Rhoden

1 FOR AN ACT ENTITLED, An Act to revise the minimum wage law for certain seasonal
2 employees and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 60-11-3 be amended to read as follows:

5 60-11-3. Every employer shall pay to each employee wages at a rate of not less than seven
6 dollars and twenty-five cents an hour. Violation of this section is a Class 2 misdemeanor.

7 The provisions of this section do not apply to certain employees being paid an opportunity
8 wage pursuant to § 60-11-4.1, babysitters, or outside ~~salesmen~~ salespersons. The provisions of
9 this section also do not apply to employees employed by an amusement or recreational
10 establishment, an organized camp, or a religious or nonprofit educational conference center if
11 one of the following apply:

12 (1) The establishment, camp, or center does not operate for more than seven months in
13 any calendar year; or

14 (2) During the preceding calendar year, the average receipts of the establishment, camp,



1 or center for any six months of the calendar year were not more than thirty-three and
2 one-third percent of its average receipts for the other six months of the year.

3 Section 2. That § 60-11-3.1 be amended to read as follows:

4 60-11-3.1. Any employer of a tipped employee shall pay a cash wage of not less than two
5 dollars and thirteen cents an hour if the employer claims a tip credit against the employer's
6 minimum wage obligation. If an employee's tips combined with the employer's cash wage of not
7 less than two dollars and thirteen cents an hour do not equal the minimum hourly wage, the
8 employer shall make up the difference as additional wages for each regular pay period of the
9 employer.

10 A "tipped employee" is one engaged in an occupation in which the employee customarily
11 and regularly receives more than thirty-five dollars a month in tips or other considerations.

12 This section does not apply to babysitters or outside ~~salesmen~~ salespersons. This section also
13 does not apply to employees employed by an amusement or recreational establishment, an
14 organized camp, or a religious or nonprofit educational conference center if one of the following
15 apply:

16 (1) The establishment, camp, or center does not operate for more than seven months in
17 any calendar year; or

18 (2) During the preceding calendar year, the average receipts of the establishment, camp,
19 or center for any six months of the calendar year were not more than thirty-three and
20 one-third percent of its average receipts for the other six months of the year.

21 Section 3. Whereas, this Act is necessary for the immediate preservation of the public peace,
22 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
23 effect from and after its passage and approval.