

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

364S0287

HOUSE BILL NO. 1148

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.

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.