

**As Passed by the House
(CORRECTED VERSION)**

**126th General Assembly
Regular Session
2005-2006**

Am. Sub. H. B. No. 690

**Representatives Seitz, Brinkman, Combs, Evans, D., Flowers, Gibbs, Hood,
Martin, Reidelbach, Schneider, Setzer, Webster**

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A B I L L

To amend sections 4111.01, 4111.02, 4111.03, 4111.04, 1
4111.08, 4111.09, and 4111.10 and to enact section 2
4111.14 of the Revised Code to implement Section 3
34a, Article II, of the Constitution of the State 4
of Ohio and to terminate the provisions of section 5
4111.08 of the Revised Code, as amended by this 6
act, on January 1, 2010 by repealing section 7
4111.08 of the Revised Code. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4111.01, 4111.02, 4111.03, 4111.04, 9
4111.08, 4111.09, and 4111.10 be amended and section 4111.14 of 10
the Revised Code be enacted to read as follows: 11

Sec. 4111.01. As used in ~~sections 4111.01 to 4111.17 of the~~ 12
~~Revised Code~~ this chapter: 13

(A) "Wage" means compensation due to an employee by reason of 14
employment, payable in legal tender of the United States or checks 15
on banks convertible into cash on demand at full face value, 16
subject to the deductions, charges, or allowances permitted by 17
rules of the director of commerce under section 4111.05 of the 18

Revised Code. "Wage" includes an employee's commissions of which
the employee's employer keeps a record, but does not include
gratuities, except as provided by rules issued under section
4111.05 of the Revised Code.

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"Wage" also includes the reasonable cost to the employer of
furnishing to an employee board, lodging, or other facilities, if
the board, lodging, or other facilities are customarily furnished
by the employer to the employer's employees. The cost of board,
lodging, or other facilities shall not be included as part of wage
to the extent excluded therefrom under the terms of a bona fide
collective bargaining agreement applicable to the employee.

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~~(B) "Employ" means to suffer or to permit to work.~~

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~~(C) "Employer" means the state of Ohio, its
instrumentalities, and its political subdivisions and their
instrumentalities, any individual, partnership, association,
corporation, business trust, or any person or group of persons,
acting in the interest of an employer in relation to an employee,
but does not include an employer whose annual gross volume of
sales made for business done is less than one hundred fifty
thousand dollars, exclusive of excise taxes at the retail level
which are separately stated.~~

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~~(D) "Employee" means any individual employed by an employer
but does not include:~~

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~~(1) Any individual employed by the United States;~~

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~~(2) Any individual employed as a baby-sitter in the
employer's home, or a live-in companion to a sick, convalescing,
or elderly person whose principal duties do not include
housekeeping;~~

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~~(3) Any individual engaged in the delivery of newspapers to
the consumer;~~

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~~(4) Any individual employed as an outside salesperson 49
compensated by commissions or in a bona fide executive, 50
administrative, or professional capacity as such terms are defined 51
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 52
U.S.C.A. 201, as amended; 53~~

~~(5) Any employee employed in agriculture if the employee is 54
employed by an employer who did not, during any calendar quarter 55
during the preceding calendar year, use more than five hundred 56
worker days of agricultural labor, or if the employee is the 57
parent, spouse, child, or other member of the employer's immediate 58
family; 59~~

~~(6) Any individual who works or provides personal services of 60
a charitable nature in a hospital or health institution for which 61
compensation is not sought or contemplated; 62~~

~~(7) A member of a police or fire protection agency or student 63
employed on a part time or seasonal basis by a political 64
subdivision of this state; 65~~

~~(8) Any individual in the employ of a camp or recreational 66
area for children under eighteen years of age and owned and 67
operated by a nonprofit organization or group of organizations 68
described in Section 501 (c)(3) of the "Internal Revenue Code of 69
1954," and exempt from income tax under Section 501 (a) of that 70
code; 71~~

~~(9) Any individual employed directly by the house of 72
representatives or directly by the senate. 73~~

~~(E) "Occupation" means any occupation, service, trade, 74
business, industry, or branch or group of industries or employment 75
or class of employment in which individuals are employed. 76~~

~~Sec. 4111.02. (A) Every employer and employers with less than 77
one hundred fifty thousand dollars gross annual sales, as defined 78~~

in Section 34a of Article II, Ohio Constitution, shall pay each of 79
the employer's employees at a wage rate of not less than the wage 80
rate specified in the "~~Fair Labor Standards Act,~~" 29 U.S.C. 206, 81
~~as now or hereafter amended, beginning on the effective date of~~ 82
~~this amendment, except as otherwise provided in this section~~ 83
Section 34a of Article II, Ohio Constitution. 84

~~(B) Every employer shall pay each employee in agriculture at 85
a wage rate not less than the wage rate described in division (A) 86
of this section. This provision does not apply to any employee 87
employed in agriculture if the employee: (1)(a) is employed as a 88
hand harvest laborer and is paid on a piece rate basis in an 89
operation which has been, and is customarily and generally 90
recognized as having been, paid on a piece rate basis in the 91
region of employment, (b) commutes daily from the employee's 92
permanent residence to the farm on which the employee is so 93
employed, and (c) has been employed in agriculture less than 94
thirteen weeks during the preceding calendar year, or (2)(a) is 95
sixteen years of age or under, is employed as a hand harvest 96
laborer, and is paid on a piece rate basis in an operation which 97
has been, and is customarily and generally recognized as having 98
been paid on a piece rate basis in the region of employment, (b) 99
is employed on the same farm as the employee's parent or person 100
standing in the place of the employee's parent, and (c) is paid at 101
the same piece rate as employees over age sixteen are paid on the 102
same farm. Such employees shall be paid no less than two dollars 103
and eighty cents per hour.~~ 104

~~(C) For any employee engaged in an occupation in which the 105
employee customarily and regularly receives tips from patrons or 106
others, the employer shall pay The director of commerce annually 107
shall adjust the wage rate as specified for tipped employees in 108
the "~~Fair Labor Standards Act,~~" 29 U.S.C. 203, as now or hereafter 109
~~amended~~ in Section 34a of Article II, Ohio Constitution. 110~~

Sec. 4111.03. (A) An employer shall pay an employee for 111
overtime at a wage rate of one and one-half times the employee's 112
wage rate for hours worked in excess of forty hours in one 113
workweek, in the manner and methods provided in and subject to the 114
exemptions of section 7 and section 13 of the "Fair Labor 115
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as 116
amended. 117

Any employee employed in agriculture shall not be covered by 118
the overtime provision of this section. 119

(B) For the purposes of this section, the number of hours 120
worked by a county employee in any one workweek shall be deemed to 121
include, in addition to hours actually worked, all periods in an 122
active pay status. 123

(C) If a county employee elects to take compensatory time off 124
in lieu of overtime pay, for any overtime worked, such 125
compensatory time may be granted by the employee's administrative 126
superior, on a time and one-half basis, at a time mutually 127
convenient to the employee and the administrative superior within 128
one hundred eighty days after the overtime is worked. 129

(D) A county appointing authority with the exception of the 130
county department of job and family services may, by rule or 131
resolution as is appropriate, indicate the authority's intention 132
not to be bound by division (B) or (C) of this section, and to 133
adopt a different policy for the calculation and payment of 134
overtime that is embodied in those divisions. Upon adoption, the 135
alternative policy prevails. Prior to the adoption of an 136
alternative overtime policy, the county appointing authority with 137
the exception of the county department of job and family services 138
shall give a written notice of the alternative policy to each 139
employee at least ten days prior to the effective date of the 140
policy. 141

<u>(E) As used in section:</u>	142
<u>(1) "Employ" means to suffer or to permit to work.</u>	143
<u>(2) "Employer" means the state of Ohio, its</u>	144
<u>instrumentalities, and its political subdivisions and their</u>	145
<u>instrumentalities, any individual, partnership, association,</u>	146
<u>corporation, business trust, or any person or group of persons,</u>	147
<u>acting in the interest of an employer in relation to an employee,</u>	148
<u>but does not include an employer whose annual gross volume of</u>	149
<u>sales made for business done is less than one hundred fifty</u>	150
<u>thousand dollars, exclusive of excise taxes at the retail level</u>	151
<u>which are separately stated.</u>	152
<u>(3) "Employee" means any individual employed by an employer</u>	153
<u>but does not include:</u>	154
<u>(a) Any individual employed by the United States;</u>	155
<u>(b) Any individual employed as a baby-sitter in the</u>	156
<u>employer's home, or a live-in companion to a sick, convalescing,</u>	157
<u>or elderly person whose principal duties do not include</u>	158
<u>housekeeping;</u>	159
<u>(c) Any individual engaged in the delivery of newspapers to</u>	160
<u>the consumer;</u>	161
<u>(d) Any individual employed as an outside salesperson</u>	162
<u>compensated by commissions or employed in a bona fide executive,</u>	163
<u>administrative, or professional capacity as such terms are defined</u>	164
<u>by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29</u>	165
<u>U.S.C.A. 201, as amended;</u>	166
<u>(e) Any individual who works or provides personal services of</u>	167
<u>a charitable nature in a hospital or health institution for which</u>	168
<u>compensation is not sought or contemplated;</u>	169
<u>(f) A member of a police or fire protection agency or student</u>	170
<u>employed on a part-time or seasonal basis by a political</u>	171

subdivision of this state; 172

(g) Any individual in the employ of a camp or recreational 173
area for children under eighteen years of age and owned and 174
operated by a nonprofit organization or group of organizations 175
described in Section 501 (c)(3) of the "Internal Revenue Code of 176
1954," and exempt from income tax under Section 501 (a) of that 177
code; 178

(h) Any individual employed directly by the house of 179
representatives or directly by the senate. 180

Sec. 4111.04. The director of commerce may: 181

(A) Investigate and ascertain the wages of persons employed 182
in any occupation in the state; 183

(B) Enter and inspect the place of business or employment of 184
any employer for the purpose of inspecting any books, registers, 185
payrolls, or other records of the employer that in any way relate 186
to the question of wages, hours, and other conditions of 187
employment of any employees, and may question the employees for 188
the purpose of ascertaining whether sections 4111.01 to 4111.17 of 189
the Revised Code, and the rules adopted thereunder, have been and 190
are being obeyed. In conducting an inspection of the records of an 191
employer, the director shall make every effort to coordinate the 192
inspection with those conducted by the federal agency responsible 193
for enforcement of the "Fair Labor Standards Act of 1938," 52 194
Stat. 1060, 29 U.S.C.A. 201, as amended. If the federal agency has 195
completed an audit or examination of the employer's records within 196
the sixty days prior to the date the director notifies the 197
employer of the director's intent to examine the employer's 198
records, the director shall accept in lieu of the director's own 199
inspection, a report from the federal agency that the employer is 200
in compliance with the federal act, unless the director has 201

reasonable grounds for believing that the report is inaccurate or
incomplete for the purposes of sections 4111.01 to 4111.13 of the
Revised Code, or that events occurring since the audit give the
director reasonable grounds for believing that a violation of
sections 4111.01 to 4111.13 of the Revised Code has occurred.

(C) In the event the director is prohibited by any employer
from carrying out the intent of this section, the director may
~~apply to any court of common pleas having jurisdiction of that
employer or the place of employment under issue subpoenas and
compel attendance of witnesses and production of papers, books,
accounts, payrolls, documents, records, and testimony relating and
relevant to the director's investigation, for an order directing
compliance with this section. Failure of the employer to obey the
order of the court may be punished by said court as a contempt
thereof.~~

Sec. 4111.08. Every employer subject to sections 4111.01 to
4111.17 of the Revised Code, or to any rule adopted thereunder,
shall make and keep for a period of not less than three years a
record of the name, address, and occupation of each of the
employer's employees, the rate of pay and the amount paid each pay
period to each employee, the hours worked each day and each work
week by the employee, and other information as the director of
commerce prescribes by rule as necessary or appropriate for the
enforcement of sections 4111.01 to 4111.17 of the Revised Code, or
of the rules thereunder. Records may be opened for inspection or
copying by the director at any reasonable time. Any records an
employer creates on or before December 31, 2006, shall be created
and maintained in accordance with this section.

Sec. 4111.09. Every employer subject to sections 4111.01 to
4111.17 of the Revised Code, or to any rules issued thereunder,

shall keep a summary of the sections, approved by the director of 232
commerce, and copies of any applicable rules issued thereunder, or 233
a summary of the rules, posted in a conspicuous and accessible 234
place in or about the premises wherein any person subject thereto 235
is employed. The director of commerce shall make the summary 236
described in this section available on the web site of the 237
department of commerce. The director shall update this summary as 238
necessary, but not less than annually, in order to reflect changes 239
in the minimum wage rate as required under Section 34a of Article 240
II, Ohio Constitution. Employees and employers shall be furnished 241
copies of the summaries and rules by the state, on request, 242
without charge. 243

Sec. 4111.10. (A) Any employer who pays any employee less 244
than wages to which the employee is entitled under ~~sections~~ 245
~~4111.01 to 4111.17~~ section 4111.03 of the Revised Code, is liable 246
to the employee affected for the full amount of the overtime wage 247
rate, less any amount actually paid to the employee by the 248
employer, and for costs and reasonable attorney's fees as may be 249
allowed by the court. Any agreement between the employee and the 250
employer to work for less than the overtime wage rate is no 251
defense to an action. 252

(B) At the written request of any employee paid less than the 253
wages to which the employee is entitled under ~~sections 4111.01 to~~ 254
~~4111.17~~ section 4111.03 of the Revised Code, the director of 255
commerce may take an assignment of a wage claim in trust for the 256
assigning employee and may bring any legal action necessary to 257
collect the claim. The employer shall pay the costs and reasonable 258
attorney's fees allowed by the court. 259

Sec. 4111.14. (A) Pursuant to the general assembly's 260
authority to establish a minimum wage under Section 34 of Article 261
II, Ohio Constitution, this section is in implementation of 262

Section 34a of Article II, Ohio Constitution. In implementing 263
Section 34a of Article II, Ohio Constitution, the general assembly 264
hereby finds that the purpose of Section 34a of Article II, Ohio 265
Constitution is to: 266

(1) Ensure that Ohio employees, as defined in division (B)(1) 267
of this section, are paid the wage rate required by Section 34a of 268
Article II, Ohio Constitution; 269

(2) Ensure that covered Ohio employers maintain certain 270
records that are directly related to the enforcement of the wage 271
rate requirements in Section 34a of Article II, Ohio Constitution; 272

(3) Ensure that Ohio employees who are paid the wage rate 273
required by Section 34a of Article II, Ohio Constitution may 274
enforce their right to receive that wage rate in the manner set 275
forth in Section 34a of Article II, Ohio Constitution; and 276

(4) Protect the privacy of Ohio employees' pay and personal 277
information specified in Section 34a of Article II, Ohio 278
Constitution by restricting an employee's access, and access by a 279
person acting on behalf of that employee, to the employee's own 280
pay and personal information. 281

(B) In accordance with Section 34a of Article II, Ohio 282
Constitution, the terms "employer," "employee," "employ," 283
"person," and "independent contractor" have the same meanings as 284
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 285
U.S.C. 203, as amended. In construing the meaning of these terms, 286
due consideration and great weight shall be given to the United 287
States department of labor's and federal courts' interpretations 288
of those terms under the Fair Labor Standards Act and its 289
regulations. As used in division (B) of this section: 290

(1) "Employee" means individuals employed in Ohio, but does 291
not mean individuals who are excluded from the definition of 292

"employee" under 29 U.S.C. 203(e) or individuals who are exempted 293
from the minimum wage requirements in 29 U.S.C. 213 and from the 294
definition of "employee" in this chapter. 295

(2) "Employ" and "employee" do not include any person acting 296
as a volunteer. In construing who is a volunteer, "volunteer" 297
shall have the same meaning as in sections 553.101 to 553.106 of 298
Title 29 of the Code of Federal Regulations, as amended, and due 299
consideration and great weight shall be given to the United States 300
department of labor's and federal courts' interpretations of the 301
term "volunteer" under the Fair Labor Standards Act and its 302
regulations. 303

(C) In accordance with Section 34a of Article II, Ohio 304
Constitution, the state may issue licenses to employers who are 305
not subject to the Fair Labor Standards Act authorizing payment of 306
a wage below that required by Section 34a of Article II, Ohio 307
Constitution to individuals with mental or physical disabilities 308
that may otherwise adversely affect their opportunity for 309
employment. In issuing such licenses, the state shall abide by the 310
rules adopted pursuant to section 4111.06 of the Revised Code. 311

(D) In accordance with Section 34a of Article II, Ohio 312
Constitution, individuals employed in or about the property of an 313
employer or an individual's residence on a casual basis are not 314
included within the coverage of Section 34a of Article II, Ohio 315
Constitution. As used in division (D) of this section: 316

(1) "Casual basis" means employment that is irregular or 317
intermittent and that is not performed by an individual whose 318
vocation is to be employed in or about the property of the 319
employer or individual's residence. In construing who is employed 320
on a "casual basis," due consideration and great weight shall be 321
given to the United States department of labor's and federal 322
courts' interpretations of the term "casual basis" under the Fair 323

Labor Standards Act and its regulations. 324

(2) "An individual employed in or about the property of an employer or individual's residence" means an individual employed on a casual basis or an individual employed in or about a residence on a casual basis, respectively. 325
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(E) In accordance with Section 34a of Article II, Ohio Constitution, an employer shall at the time of hire provide an employee with the employer's name, address, telephone number, and other contact information and update such information when it changes. As used in division (E) of this section: 329
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(1) "Other contact information" may include, where applicable, the address of the employer's internet site on the world wide web, the employer's electronic mail address, fax number, or the name, address, and telephone number of the employer's statutory agent. "Other contact information" does not include the name, address, telephone number, fax number, internet site address, or electronic mail address of any employee, shareholder, officer, director, supervisor, manager, or other individual employed by or associated with an employer. 334
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(2) "When it changes" means that the employer shall provide its employees with the change in its name, address, telephone number, or other contact information within sixty business days after the change occurs. The employer shall provide the changed information by using any of its usual methods of communicating with its employees, including, but not limited to, listing the change on the employer's internet site on the world wide web, internal computer network, or a bulletin board where it commonly posts employee communications or by insertion or inclusion with employees' paychecks or pay stubs. 343
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(F) In accordance with Section 34a of Article II, Ohio Constitution, an employer shall maintain a record of the name, 353
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address, occupation, pay rate, hours worked for each day worked, 355
and each amount paid an employee for a period of not less than 356
three years following the last date the employee was employed by 357
that employer. As used in division (F) of this section: 358

(1) "Address" means an employee's home address as maintained 359
in the employer's personnel file or personnel database for that 360
employee. 361

(2)(a) With respect to employees who are not exempt from the 362
overtime pay requirements of the Fair Labor Standards Act or this 363
chapter, "pay rate" means an employee's base rate of pay. 364

(b) With respect to employees who are exempt from the 365
overtime pay requirements of the Fair Labor Standards Act or this 366
chapter, "pay rate" means an employee's annual base salary or 367
other rate of pay by which the particular employee qualifies for 368
that exemption under the Fair Labor Standards Act or this chapter, 369
but does not include bonuses, stock options, incentives, deferred 370
compensation, or any other similar form of compensation. 371

(3) "Record" means the name, address, occupation, pay rate, 372
hours worked for each day worked, and each amount paid an employee 373
in one or more documents, databases, or other paper or electronic 374
forms of record-keeping maintained by an employer. No one 375
particular method or form of maintaining such a record or records 376
is required under this division. An employer is not required to 377
create or maintain a single record containing only the employee's 378
name, address, occupation, pay rate, hours worked for each day 379
worked, and each amount paid an employee. An employer shall 380
maintain a record or records from which the employee or person 381
acting on behalf of that employee could reasonably review the 382
information requested by the employee or person. 383

An employer is not required to maintain the records specified 384
in division (F)(3) of this section for any period before January 385

1, 2007. On and after January 1, 2007, the employer shall maintain
the records required by division (F)(3) of this section for three
years from the date the hours were worked by the employee.

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(4)(a) With respect to employees who are not employed as
outside salespersons compensated by commissions or employed in a
bona fide executive, administrative, or professional capacity as
such terms are defined in the Fair Labor Standards Act or its
regulations, "hours worked for each day worked" means the total
amount of time worked by an employee in whatever increments the
employer uses for its payroll purposes during a day worked by the
employee. An employer is not required to keep a record of the time
of day an employee begins and ends work on any given day. As used
in division (F)(4) of this section, "day" means a fixed period of
twenty-four consecutive hours during which an employee performs
work for an employer.

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(b) An employer is not required to keep records of "hours
worked for each day worked" for employees who are employed as
outside salespersons compensated by commissions or employed in a
bona fide executive, administrative, or professional capacity as
such terms are defined in the Fair Labor Standards Act or its
regulations.

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(5) "Each amount paid an employee" means the total gross
wages paid to an employee for each pay period. As used in division
(F)(5) of this section, "pay period" means the period of time
designated by an employer to pay an employee the employee's gross
wages in accordance with the employer's payroll practices under
section 4113.15 of the Revised Code.

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(G) In accordance with Section 34a of Article II, Ohio
Constitution, an employer must provide such information without
charge to an employee or person acting on behalf of an employee
upon request. As used in division (G) of this section:

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(1) "Such information" means the name, address, occupation, pay rate, hours worked for each day worked, and each amount paid for the specific employee who has requested that specific employee's own information and does not include the name, address, occupation, pay rate, hours worked for each day worked, or each amount paid of any other employee of the employer. "Such information" does not include hours worked for each day worked by employees employed as outside salespersons compensated by commissions or employed in a bona fide executive, administrative, or professional capacity as such terms are defined in the Fair Labor Standards Act and its regulations.

(2) "Acting on behalf of an employee" means a person acting on behalf of an employee as any of the following:

(a) The certified or legally recognized collective bargaining representative for that employee under the applicable federal law or Chapter 4117. of the Revised Code;

(b) The employee's attorney;

(c) The employee's parent, guardian, or legal custodian.

A person "acting on behalf of an employee" must be specifically authorized by an employee in order to make a request for that employee's own name, address, occupation, pay rate, hours worked for each day worked, and each amount paid to that employee.

(3) "Provide" means that an employer shall provide the requested information within thirty business days after the date the employer receives the request, unless either of the following occurs:

(a) The employer and the employee or person acting on behalf of the employee agree to some alternative time period for providing the information.

(b) The thirty-day period would cause a hardship on the

employer under the circumstances, in which case the employer must
provide the requested information as soon as practicable.

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(4) A "request" made by an employee or a person acting on
behalf of an employee means a request by an employee or a person
acting on behalf of an employee for the employee's own
information. The employer may require that the employee provide
the employer with a written request that has been signed by the
employee and notarized and that reasonably specifies the
particular information being requested. The employer may require
that the person acting on behalf of an employee provide the
employer with a written request that has been signed by the
employee whose information is being requested and notarized and
that reasonably specifies the particular information being
requested.

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(H) In accordance with Section 34a of Article II, Ohio
Constitution, an employee, person acting on behalf of one or more
employees, and any other interested party may file a complaint
with the state for a violation of any provision of Section 34a of
Article II, Ohio Constitution or any law or regulation
implementing its provisions. Such complaint shall be promptly
investigated and resolved by the state. The employee's name shall
be kept confidential unless disclosure is necessary to resolution
of a complaint and the employee consents to disclosure. As used in
division (H) of this section:

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(1) "Complaint" means a complaint of an alleged violation
pertaining to harm suffered by the employee filing the complaint,
by a person acting on behalf of one or more employees, or by an
interested party.

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(2) "Acting on behalf of one or more employees" has the same
meaning as "acting on behalf of an employee" in division (G)(2) of
this section. Each employee must provide a separate written and

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notarized authorization before the person acting on that 478
employee's or those employees' behalf may request the name, 479
address, occupation, pay rate, hours worked for each day worked, 480
and each amount paid for the particular employee. 481

(3) "Interested party" means a party who alleges to be 482
injured by the alleged violation and who has standing to file a 483
complaint under common law principles of standing. 484

(4) "Resolved by the state" means that the complaint has been 485
resolved to the satisfaction of the state. 486

(5) "Shall be kept confidential" means that the state shall 487
keep the name of the employee confidential as required by division 488
(H) of this section. 489

(I) In accordance with Section 34a of Article II, Ohio 490
Constitution, the state may on its own initiative investigate an 491
employer's compliance with Section 34a of Article II, Ohio 492
Constitution and any law or regulation implementing Section 34a of 493
Article II, Ohio Constitution. The employer shall make available 494
to the state any records related to such investigation and other 495
information required for enforcement of Section 34a of Article II, 496
Ohio Constitution or any law or regulation implementing Section 497
34a of Article II, Ohio Constitution. The state shall investigate 498
an employer's compliance with this section in accordance with the 499
procedures described in section 4111.04 of the Revised Code. All 500
records and information related to investigations by the state are 501
confidential and are not a public record subject to section 149.43 502
of the Revised Code. This division does not prevent the state from 503
releasing to or exchanging with other state and federal wage and 504
hour regulatory authorities information related to investigations. 505

(J) In accordance with Section 34a of Article II, Ohio 506
Constitution, damages shall be calculated as an additional two 507
times the amount of the back wages and in the case of a violation 508

of an anti-retaliation provision an amount set by the state or 509
court sufficient to compensate the employee and deter future 510
violations, but not less than one hundred fifty dollars for each 511
day that the violation continued. The "not less than one hundred 512
fifty dollar" penalty specified in division (J) of this section 513
shall be imposed only for violations of the anti-retaliation 514
provision in Section 34a of Article II, Ohio Constitution. 515

(K) In accordance with Section 34a of Article II, Ohio 516
Constitution, an action for equitable and monetary relief may be 517
brought against an employer by the attorney general and/or an 518
employee or person acting on behalf of an employee or all 519
similarly situated employees in any court of competent 520
jurisdiction, including the court of common pleas of an employee's 521
county of residence, for any violation of Section 34a of Article 522
II, Ohio Constitution or any law or regulation implementing its 523
provisions within three years of the violation or of when the 524
violation ceased if it was of a continuing nature, or within one 525
year after notification to the employee of final disposition by 526
the state of a complaint for the same violation, whichever is 527
later. 528

(1) As used in division (K) of this section, "notification" 529
means the date on which the notice was sent to the employee by the 530
state. 531

(2) No employee shall join as a party plaintiff in any civil 532
action that is brought under division (K) of this section by an 533
employee, person acting on behalf of an employee, or person acting 534
on behalf of all similarly situated employees unless that employee 535
first gives written consent to become such a party plaintiff and 536
that consent is filed with the court in which the action is 537
brought. 538

(3) A civil action regarding an alleged violation of this 539

section shall be maintained only under division (K) of this
section. This division does not preclude the joinder in a single
civil action of an action under this division and an action under
section 4111.10 of the Revised Code.

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(4) Any agreement between an employee and employer to work
for less than the wage rate specified in Section 34a of Article
II, Ohio Constitution, is no defense to an action under this
section.

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(L) In accordance with Section 34a of Article II, Ohio
Constitution, there shall be no exhaustion requirement, no
procedural, pleading, or burden of proof requirements beyond those
that apply generally to civil suits in order to maintain such
action and no liability for costs or attorney's fees on an
employee except upon a finding that such action was frivolous in
accordance with the same standards that apply generally in civil
suits. Nothing in division (L) of this section affects the right
of an employer and employee to agree to submit a dispute under
this section to alternative dispute resolution, including, but not
limited to, arbitration, in lieu of maintaining the civil suit
specified in division (K) of this section. Nothing in this
division limits the state's ability to investigate or enforce this
section.

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(M) An employer who provides such information specified in
Section 34a of Article II, Ohio Constitution, shall be immune from
any civil liability for injury, death, or loss to person or
property that otherwise might be incurred or imposed as a result
of providing that information to an employee or person acting on
behalf of an employee in response to a request by the employee or
person, and the employer shall not be subject to the provisions of
Chapters 1347. and 1349. of the Revised Code to the extent that
such provisions would otherwise apply. As used in division (M) of
this section, "such information," "acting on behalf of an

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employee," and "request" have the same meanings as in division (G) 572
of this section. 573

(N) As used in this section, "the state" means the director 574
of commerce. 575

Section 2. That existing sections 4111.01, 4111.02, 4111.03, 576
4111.04, 4111.08, 4111.09, and 4111.10 of the Revised Code are 577
hereby repealed. 578

Section 3. Section 4111.08 of the Revised Code is hereby 579
repealed, effective January 1, 2010. 580

Section 4. (A) The General Assembly, by enacting this act, 581
intends to implement the Ohio Fair Minimum Wage Amendment in the 582
manner in which the proponents of the Amendment described it to 583
Ohio voters during the campaigns for the General Election on 584
November 7, 2006. 585

(B) The proponents of the Ohio Fair Minimum Wage Amendment 586
issued campaign materials, one of which was entitled "Fact vs. 587
Fiction: Minimum Wage Opponents Shamelessly Distort Facts to Deny 588
Low-Wage Workers a Raise," published by Ohioans for a Fair Minimum 589
Wage, that stated all of the following upon which Ohio voters 590
relied to be honest and accurate: 591

(1) The Amendment defines "employer," "employee," and 592
"employ" as having the same meanings as under the federal Fair 593
Labor Standards Act. Clear definitions for terms such as "employ" 594
and "casual basis" will not necessitate litigation to clarify 595
their meanings because those terms have been established by 596
federal regulations, well settled case law, or both. 597

(2) By referencing the federal minimum wage law directly, the 598
Amendment ensures that the Ohio law tracks the federal minimum 599
wage requirements with respect to individuals who volunteer their 600

time. 601

(3) The Amendment does not threaten employees' privacy 602
because employees may seek access only to their own payroll 603
records. 604

(4) The Amendment allows an employer to take reasonable steps 605
to verify that a person does in fact represent the employee. 606

(5) Employment law experts explain that state authorities in 607
Ohio will undoubtedly interpret the parallel language in the 608
Amendment in the same manner as the federal Department of Labor, 609
clarifying that employers need not keep irrelevant records for 610
non-hourly employees. 611

(C) The General Assembly enacts this act according to the 612
proponents' campaign materials and pursuant to the authority 613
vested in the General Assembly by the following constitutional 614
provisions: 615

(1) Section 34a of Article II, Ohio Constitution, which 616
states that "laws may be passed to implement its provisions. . . ." 617

(2) Section 34 of Article II, Ohio Constitution, which states 618
that "laws may be passed fixing and regulating the hours of labor, 619
establishing a minimum wage, and providing for the comfort, 620
health, safety and general welfare of all employees; and no other 621
provision of the constitution shall impair or limit this power," 622
which Section 34a of Article II, Ohio Constitution, made no 623
attempt to amend, repeal, or otherwise modify. 624

Section 5. If any item of law that constitutes the whole or 625
part of a codified or uncodified section of law contained in this 626
act, or if any application of any item of law that constitutes the 627
whole or part of a codified or uncodified section of law contained 628
in this act, is held invalid, the invalidity does not affect other 629
items of law or applications of items of law that can be given 630

effect without the invalid item of law or application. To this	631
end, the items of law of which the codified and uncodified	632
sections of law contained in this act are composed, and their	633
applications, are independent and severable.	634