

**As Reported by the House State Government Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. H. B. No. 690**

**Representative Seitz**

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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, 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, and to declare an 8  
emergency. 9

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

**Section 1.** That sections 4111.01, 4111.02, 4111.03, 4111.04, 10  
4111.08, 4111.09, and 4111.10 be amended and section 4111.14 of 11  
the Revised Code be enacted to read as follows: 12

**Sec. 4111.01.** As used in ~~sections 4111.01 to 4111.17 of the~~ 13  
~~Revised Code~~ this chapter: 14

(A) "Wage" means compensation due to an employee by reason of 15  
employment, payable in legal tender of the United States or checks 16  
on banks convertible into cash on demand at full face value, 17  
subject to the deductions, charges, or allowances permitted by 18  
rules of the director of commerce under section 4111.05 of the 19  
Revised Code. "Wage" includes an employee's commissions of which 20

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~~

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~~compensated by commissions or in a bona fide executive,  
administrative, or professional capacity as such terms are defined  
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29  
U.S.C.A. 201, as amended;~~

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

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

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

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

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

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

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**Sec. 4111.02.** ~~(A) Every employer and employers with less than  
one hundred fifty thousand dollars gross annual sales, as defined  
in Section 34a of Article II, Ohio Constitution, shall pay each of~~

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the employer's employees at a wage rate of not less than the wage 81  
rate specified in the "~~Fair Labor Standards Act,~~" 29 U.S.C. 206, 82  
~~as now or hereafter amended, beginning on the effective date of~~ 83  
~~this amendment, except as otherwise provided in this section~~ 84  
Section 34a of Article II, Ohio Constitution. 85

~~(B) Every employer shall pay each employee in agriculture at 86  
a wage rate not less than the wage rate described in division (A) 87  
of this section. This provision does not apply to any employee 88  
employed in agriculture if the employee: (1)(a) is employed as a 89  
hand harvest laborer and is paid on a piece rate basis in an 90  
operation which has been, and is customarily and generally 91  
recognized as having been, paid on a piece rate basis in the 92  
region of employment, (b) commutes daily from the employee's 93  
permanent residence to the farm on which the employee is so 94  
employed, and (c) has been employed in agriculture less than 95  
thirteen weeks during the preceding calendar year, or (2)(a) is 96  
sixteen years of age or under, is employed as a hand harvest 97  
laborer, and is paid on a piece rate basis in an operation which 98  
has been, and is customarily and generally recognized as having 99  
been paid on a piece rate basis in the region of employment, (b) 100  
is employed on the same farm as the employee's parent or person 101  
standing in the place of the employee's parent, and (c) is paid at 102  
the same piece rate as employees over age sixteen are paid on the 103  
same farm. Such employees shall be paid no less than two dollars 104  
and eighty cents per hour.~~ 105

~~(C) For any employee engaged in an occupation in which the 106  
employee customarily and regularly receives tips from patrons or 107  
others, the employer shall pay The director of commerce annually 108  
shall adjust the wage rate as specified ~~for tipped employees in~~ 109  
the "~~Fair Labor Standards Act,~~" 29 U.S.C. 203, as now or hereafter 110  
amended in Section 34a of Article II, Ohio Constitution. 111~~

**Sec. 4111.03.** (A) An employer shall pay an employee for 112  
overtime at a wage rate of one and one-half times the employee's 113  
wage rate for hours worked in excess of forty hours in one 114  
workweek, in the manner and methods provided in and subject to the 115  
exemptions of section 7 and section 13 of the "Fair Labor 116  
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as 117  
amended. 118

Any employee employed in agriculture shall not be covered by 119  
the overtime provision of this section. 120

(B) For the purposes of this section, the number of hours 121  
worked by a county employee in any one workweek shall be deemed to 122  
include, in addition to hours actually worked, all periods in an 123  
active pay status. 124

(C) If a county employee elects to take compensatory time off 125  
in lieu of overtime pay, for any overtime worked, such 126  
compensatory time may be granted by the employee's administrative 127  
superior, on a time and one-half basis, at a time mutually 128  
convenient to the employee and the administrative superior within 129  
one hundred eighty days after the overtime is worked. 130

(D) A county appointing authority with the exception of the 131  
county department of job and family services may, by rule or 132  
resolution as is appropriate, indicate the authority's intention 133  
not to be bound by division (B) or (C) of this section, and to 134  
adopt a different policy for the calculation and payment of 135  
overtime that is embodied in those divisions. Upon adoption, the 136  
alternative policy prevails. Prior to the adoption of an 137  
alternative overtime policy, the county appointing authority with 138  
the exception of the county department of job and family services 139  
shall give a written notice of the alternative policy to each 140  
employee at least ten days prior to the effective date of the 141  
policy. 142

<u>(E) As used in section:</u>	143
<u>(1) "Employ" means to suffer or to permit to work.</u>	144
<u>(2) "Employer" means the state of Ohio, its</u>	145
<u>instrumentalities, and its political subdivisions and their</u>	146
<u>instrumentalities, any individual, partnership, association,</u>	147
<u>corporation, business trust, or any person or group of persons,</u>	148
<u>acting in the interest of an employer in relation to an employee,</u>	149
<u>but does not include an employer whose annual gross volume of</u>	150
<u>sales made for business done is less than one hundred fifty</u>	151
<u>thousand dollars, exclusive of excise taxes at the retail level</u>	152
<u>which are separately stated.</u>	153
<u>(3) "Employee" means any individual employed by an employer</u>	154
<u>but does not include:</u>	155
<u>(a) Any individual employed by the United States;</u>	156
<u>(b) Any individual employed as a baby-sitter in the</u>	157
<u>employer's home, or a live-in companion to a sick, convalescing,</u>	158
<u>or elderly person whose principal duties do not include</u>	159
<u>housekeeping;</u>	160
<u>(c) Any individual engaged in the delivery of newspapers to</u>	161
<u>the consumer;</u>	162
<u>(d) Any individual employed as an outside salesperson</u>	163
<u>compensated by commissions or employed in a bona fide executive,</u>	164
<u>administrative, or professional capacity as such terms are defined</u>	165
<u>by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29</u>	166
<u>U.S.C.A. 201, as amended;</u>	167
<u>(e) Any individual who works or provides personal services of</u>	168
<u>a charitable nature in a hospital or health institution for which</u>	169
<u>compensation is not sought or contemplated;</u>	170
<u>(f) A member of a police or fire protection agency or student</u>	171
<u>employed on a part-time or seasonal basis by a political</u>	172

subdivision of this state; 173

(g) Any individual in the employ of a camp or recreational 174  
area for children under eighteen years of age and owned and 175  
operated by a nonprofit organization or group of organizations 176  
described in Section 501 (c)(3) of the "Internal Revenue Code of 177  
1954," and exempt from income tax under Section 501 (a) of that 178  
code; 179

(h) Any individual employed directly by the house of 180  
representatives or directly by the senate. 181

**Sec. 4111.04.** The director of commerce may: 182

(A) Investigate and ascertain the wages of persons employed 183  
in any occupation in the state; 184

(B) Enter and inspect the place of business or employment of 185  
any employer for the purpose of inspecting any books, registers, 186  
payrolls, or other records of the employer that in any way relate 187  
to the question of wages, hours, and other conditions of 188  
employment of any employees, and may question the employees for 189  
the purpose of ascertaining whether sections 4111.01 to 4111.17 of 190  
the Revised Code, and the rules adopted thereunder, have been and 191  
are being obeyed. In conducting an inspection of the records of an 192  
employer, the director shall make every effort to coordinate the 193  
inspection with those conducted by the federal agency responsible 194  
for enforcement of the "Fair Labor Standards Act of 1938," 52 195  
Stat. 1060, 29 U.S.C.A. 201, as amended. If the federal agency has 196  
completed an audit or examination of the employer's records within 197  
the sixty days prior to the date the director notifies the 198  
employer of the director's intent to examine the employer's 199  
records, the director shall accept in lieu of the director's own 200  
inspection, a report from the federal agency that the employer is 201  
in compliance with the federal act, unless the director has 202

reasonable grounds for believing that the report is inaccurate or 203  
incomplete for the purposes of sections 4111.01 to 4111.13 of the 204  
Revised Code, or that events occurring since the audit give the 205  
director reasonable grounds for believing that a violation of 206  
sections 4111.01 to 4111.13 of the Revised Code has occurred. 207

(C) In the event the director is prohibited by any employer 208  
from carrying out the intent of this section, the director may 209  
~~apply to any court of common pleas having jurisdiction of that~~ 210  
~~employer or the place of employment under~~ issue subpoenas and 211  
compel attendance of witnesses and production of papers, books, 212  
accounts, payrolls, documents, records, and testimony relating and 213  
relevant to the director's investigation, ~~for an order directing~~ 214  
~~compliance with this section. Failure of the employer to obey the~~ 215  
~~order of the court may be punished by said court as a contempt~~ 216  
~~thereof.~~ 217

**Sec. 4111.08.** Every employer subject to sections 4111.01 to 218  
4111.17 of the Revised Code, or to any rule adopted thereunder, 219  
shall make and keep for a period of not less than three years a 220  
record of the name, address, and occupation of each of the 221  
employer's employees, the rate of pay and the amount paid each pay 222  
period to each employee, the hours worked each day and each work 223  
week by the employee, and other information as the director of 224  
commerce prescribes by rule as necessary or appropriate for the 225  
enforcement of sections 4111.01 to 4111.17 of the Revised Code, or 226  
of the rules thereunder. Records may be opened for inspection or 227  
copying by the director at any reasonable time. Any records an 228  
employer creates on or before December 31, 2006, shall be created 229  
and maintained in accordance with this section. 230

**Sec. 4111.09.** Every employer subject to sections 4111.01 to 231  
4111.17 of the Revised Code, or to any rules issued thereunder, 232



shall keep a summary of the sections, approved by the director of 233  
commerce, and copies of any applicable rules issued thereunder, or 234  
a summary of the rules, posted in a conspicuous and accessible 235  
place in or about the premises wherein any person subject thereto 236  
is employed. The director of commerce shall make the summary 237  
described in this section available on the web site of the 238  
department of commerce. The director shall update this summary as 239  
necessary, but not less than annually, in order to reflect changes 240  
in the minimum wage rate as required under Section 34a of Article 241  
II, Ohio Constitution. Employees and employers shall be furnished 242  
copies of the summaries and rules by the state, on request, 243  
without charge. 244

**Sec. 4111.10.** (A) Any employer who pays any employee less 245  
than wages to which the employee is entitled under ~~sections~~ 246  
~~4111.01 to 4111.17~~ section 4111.03 of the Revised Code, is liable 247  
to the employee affected for the full amount of the overtime wage 248  
rate, less any amount actually paid to the employee by the 249  
employer, and for costs and reasonable attorney's fees as may be 250  
allowed by the court. Any agreement between the employee and the 251  
employer to work for less than the overtime wage rate is no 252  
defense to an action. 253

(B) At the written request of any employee paid less than the 254  
wages to which the employee is entitled under ~~sections 4111.01 to~~ 255  
~~4111.17~~ section 4111.03 of the Revised Code, the director of 256  
commerce may take an assignment of a wage claim in trust for the 257  
assigning employee and may bring any legal action necessary to 258  
collect the claim. The employer shall pay the costs and reasonable 259  
attorney's fees allowed by the court. 260

**Sec. 4111.14.** (A) Pursuant to the general assembly's 261  
authority to establish a minimum wage under Section 34 of Article 262  
II, Ohio Constitution, this section is in implementation of 263

Section 34a of Article II, Ohio Constitution. In implementing 264  
Section 34a of Article II, Ohio Constitution, the general assembly 265  
hereby finds that the purpose of Section 34a of Article II, Ohio 266  
Constitution is to: 267

(1) Ensure that Ohio employees, as defined in division (B)(1) 268  
of this section, are paid the wage rate required by Section 34a of 269  
Article II, Ohio Constitution; 270

(2) Ensure that covered Ohio employers maintain certain 271  
records that are directly related to the enforcement of the wage 272  
rate requirements in Section 34a of Article II, Ohio Constitution; 273

(3) Ensure that Ohio employees who are paid the wage rate 274  
required by Section 34a of Article II, Ohio Constitution may 275  
enforce their right to receive that wage rate in the manner set 276  
forth in Section 34a of Article II, Ohio Constitution; and 277

(4) Protect the privacy of Ohio employees' pay and personal 278  
information specified in Section 34a of Article II, Ohio 279  
Constitution by restricting an employee's access, and access by a 280  
person acting on behalf of that employee, to the employee's own 281  
pay and personal information. 282

(B) In accordance with Section 34a of Article II, Ohio 283  
Constitution, the terms "employer," "employee," "employ," 284  
"person," and "independent contractor" have the same meanings as 285  
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 286  
U.S.C. 203, as amended. In construing the meaning of these terms, 287  
due consideration and great weight shall be given to the United 288  
States department of labor's and federal courts' interpretations 289  
of those terms under the Fair Labor Standards Act and its 290  
regulations. As used in division (B) of this section: 291

(1) "Employee" means individuals employed in Ohio, but does 292  
not mean individuals who are excluded from the definition of 293

"employee" under 29 U.S.C. 203(e) or individuals who are exempted 294  
from the minimum wage requirements in 29 U.S.C. 213 and from the 295  
definition of "employee" in this chapter. 296

(2) "Employ" and "employee" do not include any person acting 297  
as a volunteer. In construing who is a volunteer, "volunteer" 298  
shall have the same meaning as in sections 553.101 to 553.106 of 299  
Title 29 of the Code of Federal Regulations, as amended, and due 300  
consideration and great weight shall be given to the United States 301  
department of labor's and federal courts' interpretations of the 302  
term "volunteer" under the Fair Labor Standards Act and its 303  
regulations. 304

(C) In accordance with Section 34a of Article II, Ohio 305  
Constitution, the state may issue licenses to employers who are 306  
not subject to the Fair Labor Standards Act authorizing payment of 307  
a wage below that required by Section 34a of Article II, Ohio 308  
Constitution to individuals with mental or physical disabilities 309  
that may otherwise adversely affect their opportunity for 310  
employment. In issuing such licenses, the state shall abide by the 311  
rules adopted pursuant to section 4111.06 of the Revised Code. 312

(D) In accordance with Section 34a of Article II, Ohio 313  
Constitution, individuals employed in or about the property of an 314  
employer or an individual's residence on a casual basis are not 315  
included within the coverage of Section 34a of Article II, Ohio 316  
Constitution. As used in division (D) of this section: 317

(1) "Casual basis" means employment that is irregular or 318  
intermittent and that is not performed by an individual whose 319  
vocation is to be employed in or about the property of the 320  
employer or individual's residence. In construing who is employed 321  
on a "casual basis," due consideration and great weight shall be 322  
given to the United States department of labor's and federal 323  
courts' interpretations of the term "casual basis" under the Fair 324

Labor Standards Act and its regulations. 325

(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. 326  
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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: 330  
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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. 335  
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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. 344  
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(F) In accordance with Section 34a of Article II, Ohio Constitution, an employer shall maintain a record of the name, 354  
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address, occupation, pay rate, hours worked for each day worked, 356  
and each amount paid an employee for a period of not less than 357  
three years following the last date the employee was employed by 358  
that employer. As used in division (F) of this section: 359

(1) "Address" means an employee's home address as maintained 360  
in the employer's personnel file or personnel database for that 361  
employee. 362

(2)(a) With respect to employees who are not exempt from the 363  
overtime pay requirements of the Fair Labor Standards Act or this 364  
chapter, "pay rate" means an employee's base rate of pay. 365

(b) With respect to employees who are exempt from the 366  
overtime pay requirements of the Fair Labor Standards Act or this 367  
chapter, "pay rate" means an employee's annual base salary or 368  
other rate of pay by which the particular employee qualifies for 369  
that exemption under the Fair Labor Standards Act or this chapter, 370  
but does not include bonuses, stock options, incentives, deferred 371  
compensation, or any other similar form of compensation. 372

(3) "Record" means the name, address, occupation, pay rate, 373  
hours worked for each day worked, and each amount paid an employee 374  
in one or more documents, databases, or other paper or electronic 375  
forms of record-keeping maintained by an employer. No one 376  
particular method or form of maintaining such a record or records 377  
is required under this division. An employer is not required to 378  
create or maintain a single record containing only the employee's 379  
name, address, occupation, pay rate, hours worked for each day 380  
worked, and each amount paid an employee. An employer shall 381  
maintain a record or records from which the employee or person 382  
acting on behalf of that employee could reasonably review the 383  
information requested by the employee or person. 384

An employer is not required to maintain the records specified 385  
in division (F)(3) of this section for any period before January 386

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. 418  
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(2) "Acting on behalf of an employee" means a person acting on behalf of an employee as any of the following: 429  
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(a) The certified or legally recognized collective bargaining representative for that employee under the applicable federal law or Chapter 4117. of the Revised Code; 431  
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(b) The employee's attorney; 434

(c) The employee's parent, guardian, or legal custodian. 435

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. 436  
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(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: 440  
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(a) The employer and the employee or person acting on behalf of the employee agree to some alternative time period for providing the information. 444  
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(b) The thirty-day period would cause a hardship on the 447

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 479  
employee's or those employees' behalf may request the name, 480  
address, occupation, pay rate, hours worked for each day worked, 481  
and each amount paid for the particular employee. 482

(3) "Interested party" means a party who alleges to be 483  
injured by the alleged violation and who has standing to file a 484  
complaint under common law principles of standing. 485

(4) "Resolved by the state" means that the complaint has been 486  
resolved to the satisfaction of the state. 487

(5) "Shall be kept confidential" means that the state shall 488  
keep the name of the employee confidential as required by division 489  
(H) of this section. 490

(I) In accordance with Section 34a of Article II, Ohio 491  
Constitution, the state may on its own initiative investigate an 492  
employer's compliance with Section 34a of Article II, Ohio 493  
Constitution and any law or regulation implementing Section 34a of 494  
Article II, Ohio Constitution. The employer shall make available 495  
to the state any records related to such investigation and other 496  
information required for enforcement of Section 34a of Article II, 497  
Ohio Constitution or any law or regulation implementing Section 498  
34a of Article II, Ohio Constitution. The state shall investigate 499  
an employer's compliance with this section in accordance with the 500  
procedures described in section 4111.04 of the Revised Code. All 501  
records and information related to investigations by the state are 502  
confidential and are not a public record subject to section 149.43 503  
of the Revised Code. This division does not prevent the state from 504  
releasing to or exchanging with other state and federal wage and 505  
hour regulatory authorities information related to investigations. 506

(J) In accordance with Section 34a of Article II, Ohio 507  
Constitution, damages shall be calculated as an additional two 508  
times the amount of the back wages and in the case of a violation 509

of an anti-retaliation provision an amount set by the state or 510  
court sufficient to compensate the employee and deter future 511  
violations, but not less than one hundred fifty dollars for each 512  
day that the violation continued. The "not less than one hundred 513  
fifty dollar" penalty specified in division (J) of this section 514  
shall be imposed only for violations of the anti-retaliation 515  
provision in Section 34a of Article II, Ohio Constitution. 516

(K) In accordance with Section 34a of Article II, Ohio 517  
Constitution, an action for equitable and monetary relief may be 518  
brought against an employer by the attorney general and/or an 519  
employee or person acting on behalf of an employee or all 520  
similarly situated employees in any court of competent 521  
jurisdiction, including the court of common pleas of an employee's 522  
county of residence, for any violation of Section 34a of Article 523  
II, Ohio Constitution or any law or regulation implementing its 524  
provisions within three years of the violation or of when the 525  
violation ceased if it was of a continuing nature, or within one 526  
year after notification to the employee of final disposition by 527  
the state of a complaint for the same violation, whichever is 528  
later. 529

(1) As used in division (K) of this section, "notification" 530  
means the date on which the notice was sent to the employee by the 531  
state. 532

(2) No employee shall join as a party plaintiff in any civil 533  
action that is brought under division (K) of this section by an 534  
employee, person acting on behalf of an employee, or person acting 535  
on behalf of all similarly situated employees unless that employee 536  
first gives written consent to become such a party plaintiff and 537  
that consent is filed with the court in which the action is 538  
brought. 539

(3) A civil action regarding an alleged violation of this 540

section shall be maintained only under division (K) of this 541  
section. This division does not preclude the joinder in a single 542  
civil action of an action under this division and an action under 543  
section 4111.10 of the Revised Code. 544

(L) In accordance with Section 34a of Article II, Ohio 545  
Constitution, there shall be no exhaustion requirement, no 546  
procedural, pleading, or burden of proof requirements beyond those 547  
that apply generally to civil suits in order to maintain such 548  
action and no liability for costs or attorney's fees on an 549  
employee except upon a finding that such action was frivolous in 550  
accordance with the same standards that apply generally in civil 551  
suits. Nothing in division (L) of this section affects the right 552  
of an employer and employee to agree to submit a dispute under 553  
this section to alternative dispute resolution, including, but not 554  
limited to, arbitration, in lieu of maintaining the civil suit 555  
specified in division (K) of this section. Nothing in this 556  
division limits the state's ability to investigate or enforce this 557  
section. 558

(M) An employer who provides such information specified in 559  
Section 34a of Article II, Ohio Constitution, shall be immune from 560  
any civil liability for injury, death, or loss to person or 561  
property that otherwise might be incurred or imposed as a result 562  
of providing that information to an employee or person acting on 563  
behalf of an employee in response to a request by the employee or 564  
person, and the employer shall not be subject to the provisions of 565  
Chapters 1347. and 1349. of the Revised Code to the extent that 566  
such provisions would otherwise apply. As used in division (M) of 567  
this section, "such information," "acting on behalf of an 568  
employee," and "request" have the same meanings as in division (G) 569  
of this section. 570

(N) As used in this section, "the state" means the director 571  
of commerce. 572

**Section 2.** That existing sections 4111.01, 4111.02, 4111.03, 573  
4111.04, 4111.08, 4111.09, and 4111.10 of the Revised Code are 574  
hereby repealed. 575

**Section 3.** Section 4111.08 of the Revised Code is hereby 576  
repealed, effective January 1, 2010. 577

**Section 4.** (A) The General Assembly, by enacting this act, 578  
intends to implement the Ohio Fair Minimum Wage Amendment in the 579  
manner in which the proponents of the Amendment described it to 580  
Ohio voters during the campaigns for the General Election on 581  
November 7, 2006. (B) The proponents of the Ohio Fair Minimum Wage 582  
Amendment issued campaign materials, one of which was entitled 583  
"Fact vs. Fiction: Minimum Wage Opponents Shamelessly Distort 584  
Facts to Deny Low-Wage Workers a Raise," published by Ohioans for 585  
a Fair Minimum Wage, that stated all of the following upon which 586  
Ohio voters relied to be honest and accurate: 587

(1) The Amendment defines "employer," "employee," and 588  
"employ" as having the same meanings as under the federal Fair 589  
Labor Standards Act. Clear definitions for terms such as "employ" 590  
and "casual basis" will not necessitate litigation to clarify 591  
their meanings because those terms have been established by 592  
federal regulations, well settled case law, or both. 593

(2) By referencing the federal minimum wage law directly, the 594  
Amendment ensures that the Ohio law tracks the federal minimum 595  
wage requirements with respect to individuals who volunteer their 596  
time. 597

(3) The Amendment does not threaten employees' privacy 598  
because employees may seek access only to their own payroll 599  
records. 600

(4) The Amendment allows an employer to take reasonable steps 601

to verify that a person does in fact represent the employee.

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

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

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

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

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**Section 5.** This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for the necessity is that immediate action is necessary to ensure the timely and proper implementation of Section 34a of Article II, Ohio Constitution, described in Section 1 of this act. Therefore, this act shall go into immediate effect.

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**Section 6.** If any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncodified section of law contained

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in this act, is held invalid, the invalidity does not affect other 632  
items of law or applications of items of law that can be given 633  
effect without the invalid item of law or application. To this 634  
end, the items of law of which the codified and uncodified 635  
sections of law contained in this act are composed, and their 636  
applications, are independent and severable. 637