

106TH CONGRESS
2D SESSION

H. R. 3846

To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2000

Mr. SHIMKUS introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. MINIMUM WAGE.**

4 Section 6(a)(1) of the Fair Labor Standards Act of
5 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

6 “(1) except as otherwise provided in this sec-
7 tion, not less than—

8 “(A) \$5.15 an hour beginning September
9 1, 1997,

1 “(B) \$5.48 an hour during the year begin-
2 ning April 1, 2000,

3 “(C) \$5.81 an hour during the year begin-
4 ning April 1, 2001, and

5 “(D) \$6.15 an hour beginning April 1,
6 2002;”.

7 **SEC. 2. EXEMPTION FOR COMPUTER PROFESSIONALS.**

8 Section 13(a) of the Fair Labor Standards Act of
9 1938 (29 U.S.C. 213(a)) is amended by amending para-
10 graph (17) to read as follows:

11 “(17) any employee who is a computer systems,
12 network, or database analyst, designer, developer,
13 programmer, software engineer, or other similarly
14 skilled worker—

15 “(A) whose primary duty is—

16 “(i) the application of systems or net-
17 work or database analysis techniques and
18 procedures, including consulting with
19 users, to determine hardware, software,
20 systems, network, or database specifica-
21 tions (including functional specifications);

22 “(ii) the design, configuration, devel-
23 opment, integration, documentation, anal-
24 ysis, creation, testing, securing, or modi-
25 fication of, or problem resolution for, com-

1 computer systems, networks, databases, or pro-
2 grams, including prototypes, based on and
3 related to user, system, network, or data-
4 base specifications, including design speci-
5 fications and machine operating systems;

6 “(iii) the management or training of
7 employees performing duties described in
8 clause (i) or (ii); or

9 “(iv) a combination of duties de-
10 scribed in clauses (i), (ii), or (iii) the per-
11 formance of which requires the same level
12 of skills; and

13 “(B) who, in the case of an employee who
14 is compensated on an hourly basis, is com-
15 pensated at a rate of not less than \$27.63 an
16 hour.

17 For purposes of paragraph (17), the term ‘network’
18 includes the Internet and intranet networks and the
19 world wide web. An employee who meets the exemp-
20 tion provided by paragraph (17) shall be considered
21 an employee in a professional capacity pursuant to
22 paragraph (1);”.

23 **SEC. 3. EXEMPTION FOR CERTAIN SALES EMPLOYEES.**

24 (a) AMENDMENT.—Section 13(a) of the Fair Labor
25 Standards Act of 1938 (29 U.S.C. 213(a)), as amended

1 by section 2, is amended by adding at the end the fol-
2 lowing:

3 “(18) any employee employed in a sales position
4 if—

5 “(A) the employee has specialized or tech-
6 nical knowledge related to products or services
7 being sold;

8 “(B) the employee’s—

9 “(i) sales are predominantly to per-
10 sons or entities to whom the employee’s
11 position has made previous sales; or

12 “(ii) position does not involve initi-
13 ating sales contacts;

14 “(C) the employee has a detailed under-
15 standing of the needs of those to whom the em-
16 ployee is selling;

17 “(D) the employee exercises discretion in
18 offering a variety of products and services;

19 “(E) the employee receives—

20 “(i) base compensation, determined
21 without regard to the number of hours
22 worked by the employee, of not less than
23 an amount equal to one and one-half times
24 the minimum wage in effect under section
25 6(a)(1) multiplied by 2,080; and

1 “(ii) in addition to the employee’s
2 base compensation, compensation based
3 upon each sale attributable to the em-
4 ployee;

5 “(F) the employee’s aggregate compensa-
6 tion based upon sales attributable to the em-
7 ployee is not less than 40 percent of one and
8 one-half times the minimum wage multiplied by
9 2,080;

10 “(G) the employee receives a rate of com-
11 pensation based upon each sale attributable to
12 the employee which is beyond sales required to
13 reach the compensation required by subpara-
14 graph (F) which rate is not less than the rate
15 on which the compensation required by sub-
16 paragraph (F) is determined; and

17 “(H) the rate of annual compensation or
18 base compensation for any employee who did
19 not work for an employer for an entire calendar
20 year is prorated to reflect annual compensation
21 which would have been earned if the employee
22 had been compensated at the same rate for the
23 entire calendar year;”.

1 (b) CONSTRUCTION.—The amendment made by sub-
2 section (a) may not be construed to apply to individuals
3 who are employed as route sales drivers.

4 **SEC. 4. EXEMPTION FOR FUNERAL DIRECTORS.**

5 Section 13(a) of the Fair Labor Standards Act of
6 1938 (29 U.S.C. 213(a)), as amended by section 3, is
7 amended by adding after paragraph (18) the following:

8 “(19) any employee employed as a licensed fu-
9 neral director or a licensed embalmer.”.

10 **SEC. 5. STATE MINIMUM WAGE.**

11 Section 6 of the Fair Labor Standards Act of 1938
12 (29 U.S.C. 206) is amended by adding at the end the fol-
13 lowing:

14 “(h)(1) An employer in a State that adopts minimum
15 wage legislation that conforms to the requirement of para-
16 graph (2) shall not be required to pay its employees at
17 the minimum wage prescribed by subsection (a)(1).

18 “(2) Paragraph (1) shall apply in a State that adopts
19 minimum wage legislation that—

20 “(A) sets a rate that is not less than \$5.15 an
21 hour; and

22 “(B) applies that rate to not fewer than the
23 employees performing work within the State that

1 would otherwise be covered by the minimum wage
2 rate prescribed by subsection (a)(1).”.

○