

MOCK-UP

PROPOSED AMENDMENT 5640 TO ASSEMBLY BILL NO. 456

PREPARED FOR ASSEMBLYMAN FRIERSON
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PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

Legislative Counsel's Digest:

Section 16 of Article 15 of the Nevada Constitution requires each employer to pay a certain minimum wage to each employee. This wage is \$5.15 per hour worked if the employer provides certain health benefits or \$6.15 per hour worked if the employer does not provide such benefits. Each year, the wage must be adjusted by the amount of increases in the federal minimum wage over \$5.15 per hour or, if greater, by the cumulative increase in the cost of living measured by the Consumer Price Index (CPI), except the CPI adjustment for any 1-year period greater than 3 percent. (Nev. Const. Art. 15, § 16) Existing law requires the Labor Commissioner, in accordance with federal law, to establish by regulation the minimum wage that may be paid per hour to an employee in private employment in this State. (NRS 608.250) The minimum wage in Nevada is currently \$7.25 if the employer provides certain health benefits and \$8.25 if the employer does not provide such benefits. Section ~~1.5~~ 1.5 of this bill requires ~~the Labor Commissioner, in adopting those regulations, to ensure that the minimum wage for such an employee is increased by 75 cents each year for 5 years or until the minimum wage: (1) is \$12~~ each employer to pay to each employee, beginning on January 1, 2020, a wage that is not less than: (1) \$9 per hour ~~for more,~~ worked, if the employer of the employee does not offer health insurance for the employee in accordance with ~~regulations adopted by the Labor Commissioner,~~ Section 16 of Article 15 of the Nevada Constitution; and (2) ~~is \$11~~ \$8 per hour ~~for more,~~ worked, if the employer of the employee offers health insurance for the employee in accordance with ~~regulations adopted by the Labor Commissioner,~~ Section 16 of Article 15 of the Nevada Constitution. Section 1.5 also provides that the minimum wage shall increase \$1 on January 1 of each year until January 1, 2023, when the minimum hourly wage is: (1) \$12 per hour worked, if the employer of the employee does not offer health insurance for the employee in

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accordance with Section 16 of Article 15 of the Nevada Constitution; and (2) \$11 per hour worked if the employer of the employee offers health insurance for the employee in accordance with Section 16 of Article 15 of the Nevada Constitution. Section 1.5 also removes certain exceptions to the minimum wage requirement.

1 Section 16 of Article 15 of the Nevada Constitution allows an employee claiming that
2 he or she was paid less than the minimum wage required by that provision to bring a civil
3 action against his or her employer. Under this constitutional provision, if the employee
4 prevails in the civil action, the employee: (1) is entitled to all legal and equitable remedies
5 appropriate to remedy the violation, including back pay, damages, reinstatement or
6 injunctive relief; and (2) must be awarded reasonable attorney’s fees and costs. (Nev.
7 Const. Art. 15, § 16) **Section 2** of this bill places in statute the language of the minimum
8 wage provision of the Nevada Constitution: (1) authorizing an employee who prevails in a
9 civil action to recover all legal or equitable remedies appropriate to remedy the violation,
10 including back pay, damages, reinstatement or injunctive relief; and (2) requiring a court to
11 award reasonable attorney’s fees and costs to an employee who prevails in
12 such a civil action. **Section 3** of this bill makes this bill become effective on January 1,
13 2020.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

14 **Section 1.** ~~{Chapter 608 of NRS is hereby amended by adding~~
15 ~~thereto a new section to read as follows:~~

16 ~~— In adopting the regulations establishing the minimum wage per hour~~
17 ~~that may be paid to employees in private employment within the State~~
18 ~~pursuant to NRS 608.250, the Labor Commissioner shall ensure that the~~
19 ~~minimum wage for each employee to whom those regulations apply is~~
20 ~~increased by 75 cents each year until the minimum wage that may be~~
21 ~~paid pursuant to NRS 608.250 is:~~

22 ~~— 1. If the employer of the employee does not offer health insurance~~
23 ~~for the employee in accordance with regulations adopted by the Labor~~
24 ~~Commissioner, \$12 per hour or more; and~~

25 ~~— 2. If the employer of the employee offers health insurance for the~~
26 ~~employee in accordance with regulations adopted by the Labor~~
27 ~~Commissioner, \$11 per hour or more.} (Deleted by amendment.)~~

28 **Sec. 1.5. NRS 608.250 is hereby amended to read as follows:**

29 608.250 1. ~~{Except as otherwise provided in this section, the Labor~~
30 ~~Commissioner shall, in accordance with federal law, establish by~~
31 ~~regulation the minimum wage which may be paid to employees in private~~
32 ~~employment within the State. The Labor Commissioner shall prescribe~~
33 ~~increases in the minimum wage in accordance with those prescribed by~~
34 ~~federal law, unless the Labor Commissioner determines that those~~
35 ~~increases are contrary to the public interest.~~

36 ~~— 2.} Except as otherwise provided in subsections 2 and 3, beginning~~
37 ~~on January 1, 2020, each employer to whom Section 16 of Article 15 of~~
38 ~~the Nevada Constitution applies shall pay a wage to each employee to~~

1 whom Section 16 of Article 15 of the Nevada Constitution applies of not
2 less than:

3 (a) If the employer of the employee offers health insurance for the
4 employee in accordance with Section 16 of Article 15 of the Nevada
5 Constitution, \$8 per hour worked.

6 (b) If the employer of the employee does not offer health insurance
7 for the employee in accordance with Section 16 of Article 15 of the
8 Nevada Constitution, \$9 per hour worked.

9 2. Beginning on January 1, 2021, the minimum hourly rates set
10 forth in subsection 1 shall increase on January 1 of each year by \$1 per
11 hour worked until the rates are:

12 (a) If the employer of the employee offers health insurance for the
13 employee in accordance with Section 16 of Article 15 of the Nevada
14 Constitution, \$11 per hour worked;

15 (b) If the employer of the employee does not offer health insurance
16 for the employee in accordance with Section 16 of Article 15 of the
17 Nevada Constitution, \$12 per hour worked.

18 3. The provisions of subsection 1 do not apply to:

19 ~~—(a) Casual babysitters;~~

20 ~~—(b) Domestic service employees who reside in the household where~~
21 ~~they work;~~

22 ~~—(c) Outside salespersons whose earnings are based on commissions;~~

23 ~~—(d) Employees engaged in an agricultural pursuit for an employer who~~
24 ~~did not use more than 500 days of agricultural labor in any calendar~~
25 ~~quarter of the preceding calendar year;~~

26 ~~—(e) Taxicab and limousine drivers;~~

27 ~~—(f) Persons~~ persons with severe disabilities whose disabilities have
28 diminished their productive capacity in a specific job and who are
29 specified in certificates issued by the Rehabilitation Division of the
30 Department of Employment, Training and Rehabilitation.

31 ~~3.~~ 4. It is unlawful for any person to employ, cause to be employed
32 or permit to be employed, or to contract with, cause to be contracted with
33 or permit to be contracted with, any person for a wage less than that
34 established by ~~[the Labor Commissioner pursuant to the provisions of]~~ this
35 section.

36 **Sec. 2.** ~~[NRS 608.260 is hereby amended to read as follows:~~

37 ~~608.260 1. If any employer pays any employee a lesser amount than~~
38 ~~the minimum wage prescribed by regulation of the Labor Commissioner~~
39 ~~pursuant to the provisions of NRS 608.250, the employee may, at any time~~
40 ~~within 2 years, bring a civil action [to recover the difference between the~~
41 ~~amount paid to the employee and the amount of the minimum wage.]~~
42 ~~against the employer. A contract between the employer and the employee~~
43 ~~or any acceptance of a lesser wage by the employee is not a bar to the~~
44 ~~action.~~

1 ~~2. If the employee prevails in a civil action brought pursuant to~~
2 ~~subsection 1.~~

3 ~~(a) The employee is entitled to all remedies available under the law or~~
4 ~~in equity appropriate to remedy the violation by the employer which may~~
5 ~~include, without limitation, back pay, damages, reinstatement or~~
6 ~~injunctive relief, and~~

7 ~~(b) The court must award the employee reasonable attorney's fees~~
8 ~~and costs.~~ **(Deleted by amendment.)**

9 **Sec. 3.** This act becomes effective on January 1, 2020.

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