

REFERENCE TITLE: nonwage compensation; minimum wage

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

## **HB 2579**

Introduced by  
Representatives Mesnard: Petersen

AN ACT

AMENDING SECTIONS 23-204 AND 23-350, ARIZONA REVISED STATUTES; AMENDING SECTION 23-362, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1997, CHAPTER 51, SECTION 1; RELATING TO THE PAYMENT OF WAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-204, Arizona Revised Statutes, is amended to  
3 read:

4 23-204. Employee benefits: state preemption; exemption;  
5 definition

6 A. The regulation of employee benefits, including NONWAGE  
7 compensation, paid and unpaid leave and other absences, meal breaks and rest  
8 periods, is of statewide concern. The regulation of NONWAGE employee  
9 benefits pursuant to this chapter and federal law is not subject to further  
10 regulation by a city, town or other political subdivision of this state.

11 B. This section does not apply to any employee benefit, including  
12 compensation, paid and unpaid leave and other absences, meal breaks and rest  
13 periods, provided by a city, town or other political subdivision of this  
14 state to any of its employees.

15 C. FOR THE PURPOSES OF THIS SECTION, "NONWAGE COMPENSATION" INCLUDES  
16 FRINGE BENEFITS, WELFARE BENEFITS, CHILD OR ADULT CARE PLANS, SICK PAY,  
17 VACATION PAY, SEVERANCE PAY, COMMISSIONS, BONUSES, RETIREMENT PLAN OR PENSION  
18 CONTRIBUTIONS, OTHER EMPLOYMENT BENEFITS PROVIDED IN 29 UNITED STATES CODE  
19 SECTION 2611 AND OTHER AMOUNTS PROMISED TO THE EMPLOYEE THAT ARE MORE THAN  
20 THE MINIMUM COMPENSATION DUE AN EMPLOYEE BY REASON OF EMPLOYMENT.

21 Sec. 2. Section 23-350, Arizona Revised Statutes, is amended to read:

22 23-350. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Department" means the labor department of the industrial  
25 commission of Arizona.

26 2. "Employee" means any person who performs services for an employer  
27 under a contract of employment either made in this state or to be performed  
28 wholly or partly within this state.

29 3. "Employer" means any individual, partnership, association, joint  
30 stock company, trust, ~~OR~~ corporation, the administrator or executor of the  
31 estate of a deceased individual or the receiver, trustee or successor of any  
32 of such persons employing any person. Employer also includes this state and  
33 any county, municipality, school district or other political subdivision of  
34 this state.

35 4. "Hours worked" includes all time an employee is employed.

36 5. "MINIMUM WAGE" MEANS THE NONDISCRETIONARY MINIMUM COMPENSATION DUE  
37 AN EMPLOYEE BY REASON OF EMPLOYMENT, INCLUDING THE EMPLOYEE'S COMMISSIONS,  
38 BUT EXCLUDING TIPS OR GRATUITIES.

39 ~~5-~~ 6. "Payroll card account" means an account that is directly or  
40 indirectly established through an employer and to which electronic fund  
41 transfers of an employee's wages are made on a recurring basis whether the  
42 account is operated or managed by the employer, a third-party payroll  
43 processor, a depository institution or any other person.

44 ~~6-~~ 7. "Wages" means nondiscretionary compensation due an employee in  
45 return for labor or services rendered by an employee for which the employee

1 has a reasonable expectation to be paid whether determined by a time, task,  
2 piece, commission or other method of calculation. ~~Wages include sick pay,  
3 vacation pay, severance pay, commissions, bonuses and other amounts promised  
4 when the employer has a policy or a practice of making such payments.~~

5 Sec. 3. Subject to the requirements of article IV, part 1, section 1,  
6 Constitution of Arizona, section 23-362, Arizona Revised Statutes, as added  
7 by Laws 1997, chapter 51, section 1, is amended to read:

8 23-362. Minimum wage

9 A. The legislature declares that the establishment of a uniform  
10 minimum wage is a matter of statewide concern.

11 B. ~~No~~ A political subdivision of this state may establish, mandate or  
12 otherwise require a minimum wage ~~that exceeds the federal minimum wage AS~~  
13 prescribed in ~~29 United States Code section 206~~ SECTION 23-363.

14 Sec. 4. Requirements for enactment; three-fourths vote

15 Pursuant to article IV, part 1, section 1, Constitution of Arizona,  
16 section 23-362, Arizona Revised Statutes, as added by Laws 1997, chapter 51,  
17 section 1 and amended by this act, is effective only on the affirmative vote  
18 of at least three-fourths of the members of each house of the legislature.