

By: Senator(s) Simmons (12th)

To: Labor; Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2079

1 AN ACT TO ENACT A MINIMUM WAGE LAW FOR THE STATE OF  
 2 MISSISSIPPI, WITH ANNUAL INCREMENTAL INCREASES OVER A THREE-YEAR  
 3 PERIOD; TO DEFINE EMPLOYERS AND EMPLOYEES SUBJECT TO THE MINIMUM  
 4 WAGE LAW; TO EMPOWER THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT  
 5 SECURITY, OFFICE OF THE GOVERNOR, TO ENFORCE AND ADMINISTER THE  
 6 PROVISIONS OF THE MINIMUM WAGE LAW; TO PROVIDE CRIMINAL PENALTIES  
 7 AND A CIVIL CAUSE OF ACTION AGAINST EMPLOYERS FOR VIOLATIONS OF  
 8 THE MINIMUM WAGE LAW; TO AMEND SECTION 17-1-51, MISSISSIPPI CODE  
 9 OF 1972, TO AUTHORIZE MUNICIPAL AND COUNTY GOVERNING AUTHORITIES,  
 10 IN THEIR DISCRETION, TO MANDATE A WAGE THAT IS MORE THAN THE STATE  
 11 MINIMUM WAGE; TO AMEND SECTION 25-3-40, MISSISSIPPI CODE OF 1972,  
 12 TO CONFORM; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** This act shall be known as the Mississippi  
 15 Minimum Wage Act.

16 **SECTION 2.** It is declared to be the public policy of the  
 17 State of Mississippi to establish fair minimum wages for workers  
 18 in order to safeguard their health, efficiency and general  
 19 well-being and to protect those workers as well as their employers  
 20 from the effects of unfair competition resulting from wage levels  
 21 detrimental to their health, efficiency and well-being.



22           **SECTION 3.** (1) Except as otherwise provided in this act,  
23 every employer shall pay each of its employees a fair minimum wage  
24 as provided in this section.

25           (2) The state minimum wage shall be as follows:

26                 (a) Beginning January 1, 2022, the rate of not less  
27 than Twelve Dollars (\$12.00) per hour; and

28                 (b) Beginning January 1, 2024, the rate of not less  
29 than Fifteen Dollars (\$15.00) per hour.

30           (3) Whenever the highest federal minimum wage is increased,  
31 the minimum wage established under this section shall be increased  
32 to the amount of the federal minimum wage plus one-half of one  
33 percent (1/2 of 1%) more than the federal rate, rounded to the  
34 nearest whole cent, effective on the same date as the increase in  
35 the highest federal minimum wage, and shall apply to all wage  
36 orders and administrative regulations then in force.

37           (4) The rates for learners, beginners, and persons under the  
38 age of eighteen (18) years shall be not less than eighty-five  
39 percent (85%) of the state minimum wage for the first two hundred  
40 (200) hours of their employment and equal to the applicable state  
41 minimum wage thereafter, except institutional training programs  
42 specifically exempted by the director.

43           **SECTION 4.** As used in this act, unless the context otherwise  
44 requires:

45                 (a) "Director" means the Executive Director of the  
46 Mississippi Department of Employment Security.



47           (b) "Department" means the Mississippi Department of  
48 Employment Security, Office of the Governor, established under  
49 Section 71-5-101.

50           (c) "Wage" means compensation due to an employee by  
51 reason of his or her employment, payable in legal tender of the  
52 United States or checks on banks convertible into cash on demand  
53 at full face value, subject to any deductions, charges or  
54 allowances as may be permitted by this act or by regulations of  
55 the department under this act.

56           (d) "Employ" includes to suffer or to permit to work;

57           (e) "Employer" includes any individual, partnership,  
58 association, corporation, business trust, or any person or group  
59 of persons acting directly or indirectly in the interest of an  
60 employer in relation to an employee. The term "employer" does not  
61 include:

62           (i) Any individual, partnership, association,  
63 corporation, business trust, or any person or group of persons  
64 acting directly or indirectly in the interest of an employer in  
65 relation to an employee that employs fewer than five (5) employees  
66 in a regular employment relationship; or

67           (ii) Any person, firm or corporation, or other  
68 entity subject to the provisions of the federal Fair Labor  
69 Standards Act of 1938.

70           (f) "Independent contractor" means any individual who  
71 contracts to perform certain work away from the premises of his or



72 her employer, uses his or her own methods to accomplish the work,  
73 and is subject to the control of the employer only as to the  
74 result of his or her work.

75 (g) "Employee" includes any individual employed by an  
76 employer but does not include:

77 (i) Any individual employed in a bona fide  
78 executive, administrative or professional capacity, or as an  
79 outside commission-paid salesperson, who customarily performs his  
80 or her services away from his or her employer's premises, taking  
81 orders for goods or services;

82 (ii) Any student performing services for any  
83 school, college or university in which he or she is enrolled and  
84 is regularly attending classes;

85 (iii) Any individual employed by the United States  
86 or by the state or any political subdivision of the state, except  
87 public schools and school districts;

88 (iv) Any individual engaged in an activity of any  
89 educational, charitable, religious or nonprofit organization where  
90 the employer/employee relationship does not in fact exist or where  
91 the service is rendered to the organization gratuitously;

92 (v) Any bona fide independent contractor;

93 (vi) Any individual employed by an agricultural  
94 employer who did not use more than five hundred (500) man-days of  
95 agricultural labor in any calendar quarter of the preceding  
96 calendar year;



97 (vii) The parent, spouse, child or other member of  
98 an agricultural employer's immediate family;

99 (viii) An individual who:

100 1. Is employed as a hand harvest laborer and  
101 is paid on a piece-rate basis in an operation that has been, and  
102 is customarily and generally recognized as having been, paid on a  
103 piece-rate basis in the region of employment;

104 2. Commutes daily from his or her permanent  
105 residence to the farm on which he or she is so employed; and

106 3. Has been employed in agriculture less than  
107 thirteen (13) weeks during the preceding calendar year;

108 (ix) A migrant who:

109 1. Is sixteen (16) years of age or under and  
110 is employed as a hand harvest laborer;

111 2. Is paid on a piece-rate basis in an  
112 operation which has been, and is customarily and generally  
113 recognized as having been, paid on a piece-rate basis in the  
114 region of employment;

115 3. Is employed on the same farm as his or her  
116 parents; and

117 4. Is paid the same piece-rate as employees  
118 over age sixteen (16) are paid on the same farm;

119 (x) Any employee principally engaged in the range  
120 production of livestock; or



121                   (xi) Any employee employed in planting or tending  
122 trees, cruising, surveying or felling timber, or in preparing or  
123 transporting logs or other forestry products to the mill,  
124 processing plants, or railroad or other transportation terminal if  
125 the number of employees employed by his or her employer in the  
126 forestry or lumbering operations does not exceed eight (8).

127                   (h) "Occupation" means any occupation, service, trade,  
128 business, industry, or branch or group of industries or employment  
129 or class of employment in which employees are gainfully employed.

130                   (i) "Gratuities" means voluntary monetary contributions  
131 received by an employee from a guest, patron or customer for  
132 services rendered.

133                   (j) "Man-day" means any day during any portion of which  
134 an employee performs any agricultural labor.

135                   **SECTION 5.** Nothing in this act shall be deemed to interfere  
136 with, impede, or in any way diminish the right of employers and  
137 employees to bargain collectively through representatives of their  
138 own choosing in order to establish wages or other conditions of  
139 work.

140                   **SECTION 6.** (1) Any employer who willfully:

141                   (a) Hinders or delays the department or its authorized  
142 representative in the performance of its duties in the enforcement  
143 of this act;

144                   (b) Refuses to admit the department or its authorized  
145 representative to any place of employment;



146 (c) Fails to make, keep and preserve any records as  
147 required under the provisions of this act or to make the record  
148 accessible to the department or its authorized representative upon  
149 demand;

150 (d) Refuses to furnish a sworn statement of the record  
151 or any other information required for the proper enforcement of  
152 this act to the department or its authorized representative upon  
153 demand; or

154 (e) Fails to post a summary of this act or a copy of  
155 any applicable regulations as required by this act shall be deemed  
156 in violation of this act and shall, upon conviction, be fined not  
157 less than One Hundred Dollars (\$100.00) nor more than Four Hundred  
158 Dollars (\$400.00). For the purposes of this subsection, each  
159 violation shall constitute a separate offense.

160 (2) Any employer who pays or agrees to pay minimum wages at  
161 a rate less than the rate applicable under this act shall be  
162 guilty of a felony and the employer shall:

163 (a) Be fined not less than Four Thousand Dollars  
164 (\$4,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for  
165 each offense if the total amount of all unpaid wages owed to an  
166 employee is more than Two Thousand Dollars (\$2,000.00);

167 (b) Be fined not less than Two Thousand Dollars  
168 (\$2,000.00) nor more than Four Thousand Dollars (\$4,000.00) or the  
169 agent or officer of the employer shall be imprisoned not more than  
170 one (1) year, or both, for each offense if the total amount of all



171 unpaid wages owed to an employee is more than One Thousand Dollars  
172 (\$1,000.00) but not more than Two Thousand Dollars (\$2,000.00);

173 (c) Be fined not less than One Thousand Dollars  
174 (\$1,000.00) nor more than Two Thousand Dollars (\$2,000.00) or the  
175 agent or officer of the employer shall be imprisoned not more than  
176 six (6) months, or both, for each offense if the total amount of  
177 all unpaid wages owed to an employee is more than Five Hundred  
178 Dollars (\$500.00) but not more than One Thousand Dollars  
179 (\$1,000.00); or

180 (d) Be fined not less than Four Hundred Dollars  
181 (\$400.00) nor more than One Thousand Dollars (\$1,000.00) or the  
182 agent or officer of the employer shall be imprisoned not more than  
183 three (3) months, or both, for each offense if the total amount of  
184 all unpaid wages owed to an employee is Five Hundred Dollars  
185 (\$500.00) or less.

186 (3) Any employer who willfully discharges or in any other  
187 manner willfully discriminates against any employee because:

188 (a) The employee has made any complaint to his or her  
189 employer, to the department, or to the director or his authorized  
190 representative that he or she has not been paid minimum wages in  
191 accordance with the provisions of this act;

192 (b) The employee has caused to be instituted or is  
193 about to cause to be instituted any proceeding under or related to  
194 this act; or





195 (c) The employee has testified or is about to testify  
196 in any such proceeding, shall be deemed in violation of this act  
197 and shall, upon conviction, be fined not more than One Hundred  
198 Dollars (\$100.00).

199 **SECTION 7.** (1) For any occupation, the department shall  
200 make and revise any administrative regulations, including  
201 definitions of terms, as it may deem appropriate to carry out the  
202 purposes of this act or necessary to prevent the circumvention or  
203 evasion of those purposes and to safeguard the minimum wage rates  
204 established.

205 (2) The regulations may include, but are not limited to,  
206 regulations governing:

207 (a) Outside or commission salespeople;

208 (b) Learners and apprentices, their number, proportion  
209 or length of service;

210 (c) Part-time pay, bonuses or fringe benefits;

211 (d) Special pay for special or extra work;

212 (e) Permitted charges to employees or allowances for  
213 board, lodging, apparel, or other facilities or services  
214 customarily furnished by employers to employees;

215 (f) Allowances for gratuities; or

216 (g) Allowances for other special conditions or  
217 circumstances that may be usual in a particular employer/employee  
218 relationship.



219 (3) Regulations or revisions issued by the department under  
220 this section shall be made only after a public hearing, at which  
221 any person may be heard by the department, at least ten (10) days  
222 subsequent to publication of notice of the hearing in a newspaper  
223 of general circulation throughout the State of Mississippi.

224 **SECTION 8.** The director or his or her authorized  
225 representatives shall:

226 (a) Have authority to enter and inspect the place of  
227 business or employment of any employer in the state for the  
228 purpose of examining and inspecting any or all books, registers,  
229 payrolls and other records of any employer that in any way relate  
230 to or have a bearing upon the question of wages, hours or other  
231 conditions of employment of any employees; copy any or all of the  
232 books, registers, payrolls or other records as he or she may deem  
233 necessary or appropriate; and question employees for the purpose  
234 of ascertaining whether the provisions of this act and regulations  
235 issued under this act have been and are being complied with;

236 (b) Have authority to require from the employer full  
237 and correct statements in writing, including sworn statements,  
238 with respect to wages, hours, names, addresses and any information  
239 pertaining to his or her employees as the director or his or her  
240 authorized representative may deem necessary or appropriate;

241 (c) Publish all regulations made by the department; and

242 (d) Otherwise implement and enforce the regulations and  
243 decisions of the department.



244           **SECTION 9.** (1) Except as otherwise provided in this  
245 section, no employer shall employ any of his or her employees for  
246 a workweek longer than forty (40) hours unless the employee  
247 receives compensation for his or her employment in excess of the  
248 hours above specified at a rate not less than one and one-half  
249 (1-1/2) times the regular rate of pay at which he is employed.

250           (2) The provisions regarding the payment of wages at one and  
251 one-half (1-1/2) times the regular rate of pay for overtime  
252 services shall not be applicable with respect to agricultural  
253 employees.

254           **SECTION 10.** (1) Every employer of an employee engaged in  
255 any occupation in which gratuities have been customarily and  
256 usually constituted and have been recognized as a part of  
257 remuneration for hiring purposes shall be entitled to an allowance  
258 for gratuities as a part of the hourly wage rate provided in  
259 Section 3 of this act in an amount not to exceed fifty percent  
260 (50%) of the minimum wage established by Section 3 of this act,  
261 provided that the employee actually received that amount in  
262 gratuities and that the application of the foregoing gratuity  
263 allowances results in payment of wages other than gratuities to  
264 tipped employees, including full-time students, subject to the  
265 provisions of this act, of not less than fifty percent (50%) of  
266 the minimum wage prescribed by this act.

267           (2) In determining whether an employee received in  
268 gratuities the amount claimed, the director may require the



269 employee to show to the satisfaction of the director that the  
270 actual amount of gratuities received by him or her during any  
271 workweek was less than the amount determined by the employer as  
272 the amount by which the wage paid the employee was deemed to be  
273 increased under this section.

274        **SECTION 11.** (1) Every employer subject to any provisions of  
275 this act shall keep a summary of this act, approved by the  
276 department, and copies of any applicable regulations issued under  
277 this act posted in a conspicuous and accessible place in or about  
278 the premises where any person subject to this act is employed.

279        (2) Employers shall be furnished copies of the summaries of  
280 this statute and regulations by the director on request without  
281 charge.

282        **SECTION 12.** (1) Every employer subject to any provision of  
283 this act or of any regulation issued under this act shall make and  
284 keep for a period of not less than three (3) years, in or about  
285 the premises where any employee is employed, a record of the name,  
286 address and occupation of each of his or her employees, the rate  
287 of pay and the amount paid each pay period to each employee and  
288 any other information as the department prescribes by regulation  
289 as necessary or appropriate for the enforcement of the provisions  
290 of this act or of the regulations under this act.

291        (2) The records shall be open for inspection or  
292 transcription by the director or his or her authorized  
293 representative at any reasonable time.



294 (3) Every employer shall furnish to the director or to his  
295 or her authorized representative on demand a sworn statement of  
296 the records and information upon forms prescribed or approved by  
297 the director.

298 **SECTION 13.** (1) Any employer who pays any employee less  
299 than minimum wages to which the employee is entitled under or by  
300 virtue of this act shall be liable to the employee affected for  
301 the full amount of the wages, less any amount actually paid to the  
302 employee by the employer, and for costs and reasonable attorney's  
303 fees as may be allowed by the court.

304 (2) Any agreement between the employee and employer to work  
305 for less than minimum wages shall be no defense to the action.

306 (3) The venue of the action shall lie in the circuit court  
307 of any county in which the services which are the subject of the  
308 employment were performed.

309 (4) The director shall have the authority to fully enforce  
310 this act by instituting legal action to recover any wages which he  
311 or she determines to be due to employees under this act.

312 **SECTION 14.** Section 17-1-51, Mississippi Code of 1972, is  
313 amended as follows:

314 17-1-51. (1) No county, board of supervisors of a county,  
315 municipality or governing authority of a municipality is  
316 authorized to establish a mandatory, minimum living wage rate  
317 lower than the rate provided in Section 3 of this act, minimum  
318 number of vacation or sick days, whether paid or unpaid, that



319 would regulate how a private employer pays its employees. Each  
320 county, board of supervisors of a county, municipality or  
321 governing authority of a municipality shall be prohibited from  
322 establishing a mandatory, minimum living wage rate lower than the  
323 rate provided in Section 3 of this act, minimum number of vacation  
324 or sick days, whether paid or unpaid, that would regulate how a  
325 private employer pays its employees.

326 (2) The Legislature finds that the prohibitions of  
327 subsection (1) of this section are necessary to ensure an economic  
328 climate conducive to new business development and job growth in  
329 the State of Mississippi while protecting the health and  
330 well-being of workers. \* \* \*

331 \* \* \*

332 ( \* \* \*3) The Legislature concludes from \* \* \* this finding  
333 that, in order for a business to remain competitive and yet  
334 attract and retain the highest possible caliber of employees, and  
335 thereby remain sound, an enterprise must work in \* \* \* an  
336 environment \* \* \* that respects \* \* \* its workers and that  
337 encourages the payment of fair minimum wage rates \* \* \*. The net  
338 impact of any local \* \* \* wages \* \* \* greater than the rate  
339 provided in Section 3 of this act will be economically \* \* \*  
340 stable and create a \* \* \* rise and increase in the standard of  
341 living for the citizens of the state. \* \* \*

342 **SECTION 15.** Section 25-3-40, Mississippi Code of 1972, is  
343 amended as follows:



344 25-3-40. On July 1, 1978, and each year thereafter, the  
345 Mississippi Compensation Plan shall be amended to provide salary  
346 increases in such amounts and percentages as might be recommended  
347 by the Legislative Budget Office and as may be authorized by funds  
348 appropriated by the Legislature for the purpose of granting  
349 incentive salary increases as deemed possible dependent upon the  
350 availability of general and special funds.

351 It is hereby declared to be the intent of the Mississippi  
352 Legislature to implement the minimum wage as enacted by statutory  
353 law of the United States Congress subject to funds being available  
354 for that purpose. It is further the intent of the Legislature to  
355 implement the state minimum wage as provided in Section 3 of this  
356 act. It is the intent and purpose of this section to maximize  
357 annual salary increases consistent with the availability of funds  
358 as might be determined by the Mississippi Legislature at its  
359 regular annual session and that all salary increases hereafter be  
360 made consistent with the provisions of this section.

361 **SECTION 16.** This act shall take effect and be in force from  
362 and after July 1, 2021.

