Session of 2009

SENATE BILL No. 160

By Senators Francisco, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kutala, Reitz, Steineger and Wysong

2-2

AN ACT concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section. 12 13 Be it enacted by the Legislature of the State of Kansas: 14 Section 1. K.S.A. 44-1203 is hereby amended to read as follows: 44-15 16 1203. (a) Except as otherwise provided in the minimum wage and maxi-17 mum hours law, every employer shall pay to each employee wages at a rate of not less than \$2.65 an hour. as follows: 18 (1) Prior to September 1, 2009 January I, 2010, employee wages 19 20 shall be paid at a rate of not less than \$2.65 an hour; and (2) on and after September 1, 2009 January 1, 2010, employee wages 21 22 shall be paid at a rate of not less than \$7.25 an hour. 23 (b) In calculating such minimum wage rate, an employer may include 24 tips and gratuities received by an employee in an amount equal to not more than 40% of the minimum wage rate if such tips and gratuities have 25 customarily constituted part of the remuneration of the employee and if 27 the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of 28 an allowance for gratuities to provide substantial evidence of the amounts 29 of such gratuities on account of which the employer has taken an allow-30 31 ance pursuant to this section. In calculating such minimum wage rate, 32 an employer may include tips and gratuities received by an em-33 ployee if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned 34 actually received and retained such tips and gratuities. For em-35 36 ployees receiving tips and gratuities, the employer shall pay a minimum wage of at least \$2.13 an hour. If when combined with the 37 minimum wage rate prescribed in this subsection the amount of the 38 39 employee's tips and gratuities are:

(1) At least equal to \$7.25 an hour, no further payment is required by the employer; or

(2) less than \$7.25 an hour, the employer must pay the employee the difference between \$7.25 an hour and the actual hourly amount

PAGE 38/39

SIMIE LIBRARY UP KS

40 41

42

SB 160-Am.

received by the employee determined by combining the amount of tips and gratuities received by the employee with the minimum wage prescribed by this subsection paid by the employer.

(b) (c) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. § 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

Sec. 2. K.S.A. 44-1203 is hereby repealed. 10 Sec. 3. This act shall take effect and be in force from and after its

11 publication in the statute book.