**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑1‑125 SO AS TO PROVIDE A BASE STATE MINIMUM WAGE AND A SCHEDULE TO GRADUALLY IMPLEMENT AN ADJUSTED MINIMUM WAGE TO FIFTEEN DOLLARS PER HOUR OVER A THREE‑YEAR PERIOD, TO PROVIDE A METHOD FOR CALCULATING FUTURE MANDATORY ADJUSTMENTS, TO PROVIDE FOR THE NOTIFICATION OF THESE ADJUSTMENTS TO EMPLOYERS AND EMPLOYEES BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, TO PROVIDE THAT IT IS UNLAWFUL FOR AN EMPLOYER TO FAIL TO PAY THE STATE MINIMUM WAGE OR TO RETALIATE AGAINST AN EMPLOYEE FOR CERTAIN ACTIONS REGARDING ENFORCEMENT OF THE STATE MINIMUM WAGE LAW, TO PROVIDE REMEDIES FOR VIOLATIONS, TO PROVIDE A FIVE‑YEAR STATUTE OF LIMITATIONS, AND TO PROVIDE THAT ACTIONS BROUGHT PURSUANT TO THIS ACT MAY BE BROUGHT AS A CLASS ACTION UNDER STATE LAW; AND TO AMEND SECTION 6‑1‑130, RELATING TO THE SCOPE OF AUTHORITY OF A POLITICAL SUBDIVISION OF THE STATE TO SET A MINIMUM WAGE RATE, AND SECTION 44‑22‑160, RELATING TO COMPENSATION OF MENTAL HEALTH PATIENTS FOR THERAPEUTIC EMPLOYMENT, BOTH SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 41 of the 1976 Code is amended by adding:

“Section 41‑1‑125. (A) An employer shall, at a minimum, pay employees a wage at an hourly rate as provided in this section for all hours worked in this State. Only those individuals entitled to receive the federal minimum wage under the federal Fair Labor Standards Act and its implementing regulations are eligible to receive this state minimum wage. The provisions of Sections 213 and 214 of the federal Fair Labor Standards Act, as interpreted by applicable federal regulations and implemented by the United States Secretary of Labor, are incorporated herein.

(B) The minimum wage must be implemented as follows:

(1) Beginning January 1, 2022, the initial state minimum wage is established as eleven dollars per hour.

(2) Beginning January 1, 2023, the state minimum wage increases to thirteen dollars per hour.

(3) Beginning January 1, 2024, the state minimum wage increases to fifteen dollars per hour.

(4) Beginning January 1, 2025, and annually thereafter, the state minimum wage increases from fifteen dollars per hour based on the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for the South Region or a successor index as calculated by the United States Department of Labor. The Department of Labor, Licensing and Regulation annually shall calculate and post the adjusted state minimum wage rate and the effective date on the Internet website of the department before October fifteenth of each year. To the extent funded in the annual general appropriations act, the department annually shall provide written notice of the adjusted rate and the effective date of the adjusted state minimum wage to all employers by November fifteenth.

(C) It is unlawful for an employer or another party to discriminate or take adverse action against a person in retaliation for filing a complaint about a violation of this section or informing any person of the provisions of this section.

(D) A person aggrieved by a violation of this section may bring a civil action in a court of competent jurisdiction against an employer for violating a provision of this section, and if he prevails, must recover the full amount of any unpaid back wages, economic damages, and must be awarded reasonable attorney’s fees and costs. Upon prevailing in an action brought pursuant to this section, an aggrieved person is also entitled to legal or equitable relief as appropriate to remedy the violation, including, without limitation, reinstatement in employment and injunctive relief.

(E) The Attorney General may bring a civil action to enforce this section, and this action may:

(1) seek injunctive relief;

(2) impose a fine of one thousand dollars for each violation, payable to the department. The department shall remit these funds to the state general fund; or

(3) both.

(F) The statute of limitations for an action brought pursuant to this section is for five years and begins on the date on which the alleged violation occurred.

(G) An action brought pursuant to this section may be brought as a class action under state law.”

SECTION 2. Section 6‑1‑130(B) of the 1976 Code is amended to read:

“(B) A political subdivision of this State may not establish, mandate, or otherwise require a minimum wage rate that exceeds the ~~federal~~ state minimum wage rate set forth in ~~Section 6 of~~ the ~~Fair Labor Standards Act of 1938, 29 U.S.C. 206~~ the South Carolina Minimum Wage Act pursuant to Article 3, Chapter 10, Title 41. A political subdivision of this State may not establish, mandate, or otherwise require a minimum wage rate related to employee wages that are exempt under 29 U.S.C. 201 et seq., the Fair Labor Standards Act of 1938.”

SECTION 3. Section 44‑22‑160(A) of the 1976 Code is amended to read:

“(A) ~~Each~~ A patient may refuse nontherapeutic employment within the facility. The department shall establish policies and guidelines to determine what constitutes therapeutic employment. The record and justification of ~~each~~ a patient’s employment must be sent immediately to the attending physician for review and entered into the patient’s record. Patient employment must be compensated in accordance with the Fair Labor Standards Act, except that the employee may receive no less than the state minimum wage provisions of the South Carolina Minimum Wage Act pursuant to Article 3, Chapter 10, Title 41.”

SECTION 4. This act takes effect upon approval by the Governor.

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