

2ND DISTRICT
CHRISTINE M. TARTAGLIONE

SENATE BOX 203002
THE STATE CAPITOL
HARRISBURG, PA 17120-3002
717-787-1141
FAX: 717-787-7439

1061 BRIDGE STREET
PHILADELPHIA, PA 19124
215-533-0440
FAX: 215-560-2627

400 WEST ALLEGHENY AVENUE
PHILADELPHIA, PA 19133
215-291-4653
FAX: 215-560-3260

REPLY TO:



Senate of Pennsylvania

November 8, 2019

COMMITTEES

LABOR & INDUSTRY, MINORITY CHAIR
APPROPRIATIONS
BANKING & INSURANCE
INTERGOVERNMENTAL OPERATIONS
LAW & JUSTICE
POLICY
VETERANS AFFAIRS & EMERGENCY
PREPAREDNESS
PHILADELPHIA SENATE DELEGATION,
CHAIR



Independent Regulatory Review Commission
Market Street Tower
333 Market St., 14th Floor
Harrisburg, PA 17101

Dear Commissioners,

I'd like to express my unmitigated support for the final rulemaking submitted by the Pennsylvania Department of Labor and Industry regarding IRRC #3202/Regulation #12-106. I believe that the proposed updates to the Minimum Wage Act of 1968 pertaining to the overtime requirements for executive, administrative, and professional salaried employees (EAPs) are warranted and long overdue.

It has been more than 40 years since the Commonwealth last updated its overtime regulations, including the earnings threshold used to determine whether EAPs are eligible for mandatory overtime pay at a rate of 150% of their regular hourly pay. Likewise, it has been more than 40 years since the definitions of those occupational categories were updated to reflect their modern job duties accurately.

Pennsylvania's mandatory overtime regulations are so outdated that they are superseded by federal regulations allowing an employer to refuse overtime pay to a salaried EAP who earns as little as \$23,660 a year, which is below the federal poverty level for a family of four. That equals just \$455 per week. Due to inflation and other economic factors, when combined with the stagnancy of the threshold, just one in 10 salaried workers nationwide are now protected by mandatory overtime laws.

The Department's proposed final rulemaking would rectify this injustice in the Commonwealth. It would raise the threshold in increments to \$875 per week by 2022, which equates to \$45,500 annually and is more in-line with the salaries that professional, supervisory, and executive-level employees command. Furthermore, the rulemaking would create an automatic adjustment to the threshold, which would be updated every three years starting in 2023 to reflect economic conditions of the time.

An additional 143,000 workers would be eligible for mandatory overtime pay by 2022 under the new threshold. It should be noted that the threshold proposed in this final rulemaking is less than the level originally proposed by the Department. The reduction reflects extensive public feedback received by the Department since June 2018.

In addition to the threshold adjustment, the proposed final rulemaking would clarify the criteria for individual employees to be classified as EAPs so that their specific job duties align more closely with federal criteria. This will make it easier for employers to determine, based on an employee's job duties, if that worker qualifies for mandatory overtime pay. These provisions would strengthen overtime protections for 251,000 additional workers so that the proposed final rulemaking, in its entirety, would directly benefit 394,000 Pennsylvanians who are not currently protected by the overtime provisions of the Minimum Wage Law.

All things considered, I believe that the Department has undertaken a thorough, well-informed, transparent, and timely initiative to modernize Pennsylvania's Minimum Wage Law in an area where it is antiquated and sorely lacking. I strongly and respectfully urge the members of the Commission to approve this final rulemaking.

Sincerely,

A handwritten signature in cursive script that reads "Christine M. Tartaglione".

Christine M. Tartaglione
State Senator – 2nd District