



Filed: 02/20/04

09300HB4462ham001

LRB093 20765 DRJ 47669 a

1 AMENDMENT TO HOUSE BILL 4462

2 AMENDMENT NO. _____. Amend House Bill 4462 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Minimum Wage Law is amended by changing
5 Section 4a as follows:

6 (820 ILCS 105/4a) (from Ch. 48, par. 1004a)

7 Sec. 4a. (1) Except as otherwise provided in this Section,
8 no employer shall employ any of his employees for a workweek of
9 more than 40 hours unless such employee receives compensation
10 for his employment in excess of the hours above specified at a
11 rate not less than 1 1/2 times the regular rate at which he is
12 employed.

13 (2) The provisions of subsection (1) of this Section are
14 not applicable to:

15 A. Any salesman or mechanic primarily engaged in
16 selling or servicing automobiles, trucks or farm
17 implements, if he is employed by a nonmanufacturing
18 establishment primarily engaged in the business of selling
19 such vehicles or implements to ultimate purchasers.

20 B. Any salesman primarily engaged in selling trailers,
21 boats, or aircraft, if he is employed by a nonmanufacturing
22 establishment primarily engaged in the business of selling
23 trailers, boats, or aircraft to ultimate purchasers.

24 C. Any employer of agricultural labor, with respect to

1 such agricultural employment.

2 D. Any governmental body.

3 E. Any employee employed in a bona fide executive,
4 administrative or professional capacity, including any
5 radio or television announcer, news editor, or chief
6 engineer, as defined by or covered by the Federal Fair
7 Labor Standards Act of 1938, as now or hereafter amended,
8 or as defined by the Department pursuant to its authority
9 under this paragraph (E). For bona fide executive,
10 administrative, and professional employees of
11 not-for-profit corporations, the Director may, by
12 regulation, adopt a weekly wage rate standard lower than
13 that provided for executive, administrative, and
14 professional employees covered under the Fair Labor
15 Standards Act of 1938, as now or hereafter amended. Within
16 30 days after the effective date of this amendatory Act of
17 the 93rd General Assembly, the Department shall adopt
18 emergency rules, in accordance with Section 5-45 of the
19 Illinois Administrative Procedure Act, defining or
20 delimiting this exemption in a manner that is substantially
21 similar to that found at Part 541 of Title 29 of the Code
22 of Federal Regulations on March 30, 2003. For purposes of
23 the Illinois Administrative Procedure Act, the adoption of
24 rules to implement this Section shall be considered an
25 emergency and necessary for the public interest, safety,
26 and welfare. Within 180 days after the effective date of
27 this amendatory Act of the 93rd General Assembly, the
28 Department shall define and delimit this exemption by rule.
29 In no event shall the Department's rules adopted pursuant
30 to this paragraph (E) provide for a broader exemption than
31 that found at Part 541 of Title 29 of the Code of Federal
32 Regulations on March 30, 2003.

33 F. Any commissioned employee as described in paragraph
34 (i) of Section 7 of the Federal Fair Labor Standards Act of

1 1938 and rules and regulations promulgated thereunder, as
2 now or hereafter amended.

3 G. Any employment of an employee in the stead of
4 another employee of the same employer pursuant to a
5 worktime exchange agreement between employees.

6 H. Any employee of a not-for-profit educational or
7 residential child care institution who (a) on a daily basis
8 is directly involved in educating or caring for children
9 who (1) are orphans, foster children, abused, neglected or
10 abandoned children, or are otherwise homeless children and
11 (2) reside in residential facilities of the institution and
12 (b) is compensated at an annual rate of not less than
13 \$13,000 or, if the employee resides in such facilities and
14 receives without cost board and lodging from such
15 institution, not less than \$10,000.

16 I. Any employee employed as a crew member of any
17 uninspected towing vessel, as defined by Section 2101(40)
18 of Title 46 of the United States Code, operating in any
19 navigable waters in or along the boundaries of the State of
20 Illinois.

21 (3) Any employer may employ any employee for a period or
22 periods of not more than 10 hours in the aggregate in any
23 workweek in excess of the maximum hours specified in subsection
24 (1) of this Section without paying the compensation for
25 overtime employment prescribed in subsection (1) if during that
26 period or periods the employee is receiving remedial education
27 that:

28 (a) is provided to employees who lack a high school
29 diploma or educational attainment at the eighth grade
30 level;

31 (b) is designed to provide reading and other basic
32 skills at an eighth grade level or below; and

33 (c) does not include job specific training.

34 (Source: P.A. 92-623, eff. 7-11-02.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".