

# SB0104



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB0104

Introduced 1/23/2013, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

820 ILCS 105/4a

from Ch. 48, par. 1004a

Amends the Minimum Wage Law. Provides that overtime compensation provisions of the Law do not apply to any employee who is a member of a bargaining unit recognized by the Illinois Labor Relations Board and whose union has contractually agreed to an alternate shift schedule as allowed by specified provisions of the Fair Labor Standards Act of 1938.

LRB098 00206 MRW 30210 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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.

1           C. Any employer of agricultural labor, with respect to  
2 such agricultural employment.

3           D. Any employee of a governmental body excluded from  
4 the definition of "employee" under paragraph (e)(2)(C) of  
5 Section 3 of the Federal Fair Labor Standards Act of 1938.

6           E. Any employee employed in a bona fide executive,  
7 administrative or professional capacity, including any  
8 radio or television announcer, news editor, or chief  
9 engineer, as defined by or covered by the Federal Fair  
10 Labor Standards Act of 1938 and the rules adopted under  
11 that Act, as both exist on March 30, 2003, but compensated  
12 at the amount of salary specified in subsections (a) and  
13 (b) of Section 541.600 of Title 29 of the Code of Federal  
14 Regulations as proposed in the Federal Register on March  
15 31, 2003 or a greater amount of salary as may be adopted by  
16 the United States Department of Labor. For bona fide  
17 executive, administrative, and professional employees of  
18 not-for-profit corporations, the Director may, by  
19 regulation, adopt a weekly wage rate standard lower than  
20 that provided for executive, administrative, and  
21 professional employees covered under the Fair Labor  
22 Standards Act of 1938, as now or hereafter amended.

23           F. Any commissioned employee as described in paragraph  
24 (i) of Section 7 of the Federal Fair Labor Standards Act of  
25 1938 and rules and regulations promulgated thereunder, as  
26 now or hereafter amended.

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

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

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

19           J. Any employee who is a member of a bargaining unit  
20 recognized by the Illinois Labor Relations Board and whose  
21 union has contractually agreed to an alternate shift  
22 schedule as allowed by subsection (b) of Section 7 of the  
23 Fair Labor Standards Act of 1938.

24           (3) Any employer may employ any employee for a period or  
25 periods of not more than 10 hours in the aggregate in any  
26 workweek in excess of the maximum hours specified in subsection

1 (1) of this Section without paying the compensation for  
2 overtime employment prescribed in subsection (1) if during that  
3 period or periods the employee is receiving remedial education  
4 that:

5 (a) is provided to employees who lack a high school  
6 diploma or educational attainment at the eighth grade  
7 level;

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

10 (c) does not include job specific training.

11 (4) A governmental body is not in violation of subsection  
12 (1) if the governmental body provides compensatory time  
13 pursuant to paragraph (o) of Section 7 of the Federal Fair  
14 Labor Standards Act of 1938, as now or hereafter amended, or is  
15 engaged in fire protection or law enforcement activities and  
16 meets the requirements of paragraph (k) of Section 7 or  
17 paragraph (b)(20) of Section 13 of the Federal Fair Labor  
18 Standards Act of 1938, as now or hereafter amended.

19 (Source: P.A. 92-623, eff. 7-11-02; 93-672, eff. 4-2-04.)