

106TH CONGRESS  
2D SESSION

# H. R. 3833

To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2000

Mr. SHIMKUS introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION. 1. MINIMUM WAGE.**

4       Section 6(a)(1) of the Fair Labor Standards Act of  
5       1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

6               “(1) except as otherwise provided in this sec-  
7       tion, not less than—

8               “(A) \$5.15 an hour beginning September  
9       1, 1997,

1 “(B) \$5.48 an hour during the year begin-  
2 ning April 1, 2000,

3 “(C) \$5.81 an hour during the year begin-  
4 ning April 1, 2001, and

5 “(D) \$6.15 an hour beginning April 1,  
6 2002;”.

7 **SEC. 2. EXEMPTION FOR COMPUTER PROFESSIONALS.**

8 Section 13(a) of the Fair Labor Standards Act of  
9 1938 (29 U.S.C. 213(a)) is amended by amending para-  
10 graph (17) to read as follows:

11 “(17) any employee who is a computer systems,  
12 network, or database analyst, designer, developer,  
13 programmer, software engineer, or other similarly  
14 skilled worker—

15 “(A) whose primary duty is—

16 “(i) the application of systems or net-  
17 work or database analysis techniques and  
18 procedures, including consulting with  
19 users, to determine hardware, software,  
20 systems, network, or database specifica-  
21 tions (including functional specifications);

22 “(ii) the design, configuration, devel-  
23 opment, integration, documentation, anal-  
24 ysis, creation, testing, securing, or modi-  
25 fication of, or problem resolution for, com-

puter systems, networks, databases, or programs, including prototypes, based on and related to user, system, network, or database specifications, including design specifications and machine operating systems;

“(iii) the management or training of employees performing duties described in clause (i) or (ii); or

“(iv) a combination of duties described in clauses (i), (ii), or (iii) the performance of which requires the same level of skills; and

“(B) who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than \$27.63 an hour.

For purposes of paragraph (17), the term ‘network’ includes the Internet and intranet networks and the world wide web. An employee who meets the exemption provided by paragraph (17) shall be considered an employee in a professional capacity pursuant to paragraph (1);”.

### **SEC. 3. EXEMPTION FOR CERTAIN SALES EMPLOYEES.**

(a) AMENDMENT.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)), as amended

1 by section 2, is amended by adding at the end the fol-  
2 lowing:

3 “(18) any employee employed in a sales position  
4 if—

5 “(A) the employee has specialized or tech-  
6 nical knowledge related to products or services  
7 being sold;

8 “(B) the employee’s—

9 “(i) sales are predominantly to per-  
10 sons or entities to whom the employee’s  
11 position has made previous sales; or

12 “(ii) position does not involve initi-  
13 ating sales contacts;

14 “(C) the employee has a detailed under-  
15 standing of the needs of those to whom the em-  
16 ployee is selling;

17 “(D) the employee exercises discretion in  
18 offering a variety of products and services;

19 “(E) the employee receives—

20 “(i) base compensation, determined  
21 without regard to the number of hours  
22 worked by the employee, of not less than  
23 an amount equal to one and one-half times  
24 the minimum wage in effect under section  
25 6(a)(1) multiplied by 2,080; and

1           “(ii) in addition to the employee’s  
2           base compensation, compensation based  
3           upon each sale attributable to the em-  
4           ployee;

5           “(F) the employee’s aggregate compensa-  
6           tion based upon sales attributable to the em-  
7           ployee is not less than 40 percent of one and  
8           one-half times the minimum wage multiplied by  
9           2,080;

10          “(G) the employee receives a rate of com-  
11          pensation based upon each sale attributable to  
12          the employee which is beyond sales required to  
13          reach the compensation required by subpara-  
14          graph (F) which rate is not less than the rate  
15          on which the compensation required by sub-  
16          paragraph (F) is determined; and

17          “(H) the rate of annual compensation or  
18          base compensation for any employee who did  
19          not work for an employer for an entire calendar  
20          year is prorated to reflect annual compensation  
21          which would have been earned if the employee  
22          had been compensated at the same rate for the  
23          entire calendar year;”.

1       (b) CONSTRUCTION.—The amendment made by sub-  
2 section (a) may not be construed to apply to individuals  
3 who are employed as route sales drivers.

4 **SEC. 4. EXEMPTION FOR FUNERAL DIRECTORS.**

5       Section 13(a) of the Fair Labor Standards Act of  
6 1938 (29 U.S.C. 213(a)), as amended by section 3, is  
7 amended by adding after paragraph (18) the following:

8               “(19) any employee employed as a licensed fu-  
9 neral director or a licensed embalmer.”.

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