

114TH CONGRESS  
1ST SESSION

# H. R. 188

To phase out special wage certificates under the Fair Labor Standards Act of 1938 under which individuals with disabilities may be employed at subminimum wage rates.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2015

Mr. HARPER (for himself and Mr. BILIRAKIS) introduced the following bill;  
which was referred to the Committee on Education and the Workforce

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## A BILL

To phase out special wage certificates under the Fair Labor Standards Act of 1938 under which individuals with disabilities may be employed at subminimum wage rates.

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. SHORT TITLE.**

4       This Act may be cited as the “Transitioning to Inte-  
5       grated and Meaningful Employment Act” or “TIME Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) Current Federal law allows the Secretary of  
9       Labor to grant special wage certificates to entities

1       that provide employment to workers with disabilities,  
2       allowing such entities to pay their disabled workers  
3       at rates that are lower than the Federal minimum  
4       wage.

5           (2) The practice of paying workers with disabili-  
6       ties less than the Federal minimum wage dates  
7       back to the 1930s, when there were virtually no em-  
8       ployment opportunities for disabled workers in the  
9       mainstream workforce.

10          (3) Today, advancements in vocational rehabili-  
11       tation, technology, and training provide disabled  
12       workers with greater opportunities than in the past,  
13       and the number of such workers in the national  
14       workforce has dramatically increased.

15          (4) Employees with disabilities, when provided  
16       the proper rehabilitation services, training, and  
17       tools, can be as productive as nondisabled employees.  
18       Even those individuals that are considered most se-  
19       verely disabled have been able to successfully obtain  
20       employment earning minimum wage or higher.

21          (5) While some employers possessing special  
22       wage certificates claim to provide rehabilitation and  
23       training to disabled workers to prepare them for  
24       competitive employment, the fact that such employ-  
25       ers can pay their workers less than the Federal min-

1       imum wage gives them an incentive to exploit the  
2       cheap labor provided by their disabled workers rath-  
3       er than to prepare those workers for integrated em-  
4       ployment in the mainstream economy.

5           (6) Many employers with a history of paying  
6       subminimum wages benefit from philanthropic dona-  
7       tions and preferred status when bidding on Federal  
8       contracts. Yet they claim that paying minimum wage  
9       to their employees with disabilities would result in  
10      lack of profitability and forced reduction of their  
11      workforces.

12          (7) Other employers, recognizing that the pay-  
13      ment of subminimum wages is in fact exploitation of  
14      disabled workers, are now paying the Federal min-  
15      imum wage, or higher, to their employees with dis-  
16      abilities without reducing their workforces, while still  
17      maintaining their profitability. For example, Na-  
18      tional Industries for the Blind (NIB) agencies ex-  
19      ploited their blind employees for years through the  
20      payment of subminimum wages, claiming they could  
21      not maintain profitability otherwise. Now, “All NIB  
22      associated agencies are committed to the NIB Board  
23      policy to pay employees, whose only disability is  
24      blindness, at or above the Federal minimum wage or  
25      their state minimum wage, whichever is highest.”.

1           (8) The Wage and Hour Division of the De-  
2       partment of Labor is charged with the responsibility  
3       for oversight of these special wage certificates. The  
4       results from thorough investigations conducted by  
5       the Government Accountability Office—“Stronger  
6       Federal Efforts Needed for Providing Employment  
7       Opportunities and Enforcing Labor Standards in  
8       Sheltered Workshops, Report to the Congress,  
9       Comptroller General of the United States” (HRD-  
10      81-99) and “Report to Congressional Requesters,  
11      Special Wage Program: Centers Offer Employment  
12      and Support Services to Workers With Disabilities,  
13      But Labor Should Improve Oversight” (GAO-01-  
14      886)—explain that due to lack of capacity, training,  
15      and resources, the Wage and Hour Division is in-  
16      capable of enforcing compliance with the submin-  
17      imum wage provision. Furthermore, the significant  
18      appropriation that would be required to improve  
19      oversight of the regulation would be better spent im-  
20      proving employment outcomes for people with dis-  
21      abilities.

22           (9) According to the rules established under  
23      section 14(c) of the Fair Labor Standards Act of  
24      1938, employers are to determine the special wage  
25      to be paid to a disabled employee through a com-

1        plicated method that unfairly establishes a produc-  
2        tivity benchmark that would be difficult for anyone  
3        to maintain. The inability of many employers to cor-  
4        rectly establish the wage pursuant to the rule has  
5        regularly resulted in disabled employees receiving  
6        even less than the special minimum wage (below the  
7        federally established minimum wage) that they  
8        should have received under the regulation.

9    **SEC. 3. TRANSITION TO FAIR WAGES.**

10            (1) DISCONTINUANCE.—Effective on the date of  
11        enactment of this Act, the Secretary of Labor shall  
12        discontinue issuing special wage certificates under  
13        section 14(c) of the Fair Labor Standards Act of  
14        1938 (29 U.S.C. 214(c)) to any new entities not  
15        currently holding a certificate.

16            (2) TRANSITION.—All special wage certificates  
17        held on the date of enactment of this Act—

18                    (A) by private for profit entities shall be  
19        revoked 1 year after such date of enactment;

20                    (B) by public or governmental entities  
21        shall be revoked 2 years after such date of en-  
22        actment; and

23                    (C) by non-profit entities shall be revoked  
24        3 years after such date of enactment.

1           (3) REPEAL.—Effective 3 years from the date  
2           of enactment of this Act, section 14(c) of the Fair  
3           Labor Standards Act of 1938 (29 U.S.C. 214(c)) is  
4           repealed and any remaining special wage certificates  
5           issued under such section shall be revoked.

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