

CR-89-197

# RULES CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPT. OF INDUSTRY, )  
LABOR & HUMAN RELATIONS)

RECEIVED

FEB 15 1990  
4:30 pm.  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Gerald Whitburn, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Minimum Wage were duly approved and adopted by this department on 2/15/90.  
(Subject) (date)

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 4:00 p.m. in the city of Madison, this 15th day of February A.D. 1990.

Richard Larson  
Deputy Secretary

# ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 101.02(1) and 104.04, Stats., the Department of Industry, Labor and Human Relations  creates;  amends;  repeals and recreates;  repeals and adopts rules of Wisconsin Administrative Code chapter (s):

<u>Ind 72</u> (Number)	<u>Minimum Wage</u> (Title)
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The attached rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin, this

date: 2/15/90

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

Richard L. Evans  
Secretary

PROPOSED RULES  
FEBRUARY 14, 1990

Pursuant to the authority vested in the Department of Industry, Labor and Human Relations under ss. 101.02(1) and 104.04, Wis. Stats., the department hereby renumbers s. Ind 72.01(3) to (16), amends ss. Ind 72.001(5)(a), Ind 72.01(11), Ind 72.03(1), (2)(a) and (3), and Ind 72.05 and creates ss. Ind 72.01(10) and 72.03(8), Wis. Adm. Code, relating to the minimum wages paid to Wisconsin workers.

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Analysis

This proposed rule changes the definition of "probationary employe" under the minimum wage rules to provide for a 60 day probationary period rather than the current 120 day period.

The proposal also raises the amount of the probationary minimum wage to \$3.50 per hour for adults and \$3.25 per hour for minors. The regular minimum wage is changed to \$3.80 per hour for adults and \$3.45 per hour for minors. The rates for agriculture would increase under the proposal to \$3.60 per hour for adults and \$3.25 per hour for minors. Under the proposal, there will be no probationary wage for agricultural work.

The rates for tipped employes would be set at 55% of the established minimum wage rates, except that these rates will not be allowed to go below the rates that are currently in effect. The rates for meal and lodging credit are established by using the formula contained in s. Ind 72.001(6) and (7).

The entire proposed rule has an effective date of April 1, 1990.

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SECTION 1. Ind 72.001(5)(a) is amended to read:

Ind 72.001(5)(a) ~~Except as provided in s. Ind 72.03(1)(b),~~ the minimum hourly rate for minors 17 years of age and under in both agriculture and nonagriculture shall be computed on the basis of 35 cents per hour less than the minimum rates for employes 18 years of age and over.

SECTION 2. Ind 72.01(3) to (16) are renumbered Ind 72.01(4),(5),(6),(7),(8),(9),(12),(15), (13),(17),(3),(16),(14), and (11), respectively, and Ind 72.01(11), as renumbered, is amended to read:

Ind 72.01 (11) "Probationary employe" means a person who has been in employment status for a number of days equal to or less than the number of days specified in s. Ind 72.01(11) cumulative total of two months or less within a three-year period. In the absence of such a determination, the employe shall be considered to have been in employment status for a number of days equal to or less than the number of days specified in s. Ind 72.01(11) if the employe has been in employment status for a number of days equal to or less than the number of days specified in s. Ind 72.01(11) for a period of 60 consecutive days.

Note: If an employe is in employment status 40 calendar days (even if the employe works and is paid for less than 40 calendar days) in one employment period and then returns to the same employer within three years for another employment period, the employe would not have to start over to reach 60 calendar days, but would only have to be in employment status for 20 additional calendar days to reach the non-probationary rate.

SECTION 3. Ind 72.01(10) is created to read: Ind 72.01(10) "Month" means thirty days.

SECTION 4. Ind 72.03(1),(2)(intro.) and (3) are amended to read:

Ind 72.03 MINIMUM RATES. (1) MINIMUM RATES. Except as provided in ss. Ind 72.05 to 72.09, no employer shall employ any employe in any occupation, trade, or industry at a lesser hourly rate than is indicated.

	<u>EFFECTIVE</u> <u>7-1-88</u> <u>PROBATIONARY</u> <u>EMPLOYEES</u>	<u>EFFECTIVE</u> <u>4-1-90</u> <u>PROBATIONARY</u> <u>EMPLOYEES</u>	<u>EFFECTIVE</u> <u>7-1-88</u> <u>NON-PROBATIONARY</u> <u>EMPLOYEES</u>	<u>EFFECTIVE</u> <u>4-1-90</u> <u>NON-PROBATIONARY</u> <u>EMPLOYEES</u>
(a) Adult employes 18 years of age and over:	<u>\$3.15 per hr.</u>	<u>\$3.50 per hr.</u>	<u>\$0.20 per hr.</u> <u>more than the</u> <u>rate applicable</u> <u>to probationary</u> <u>employes</u>	<u>\$0.30 per hr.</u> <u>more than the</u> <u>rate applicable</u> <u>to probationary</u> <u>employes</u>
(b) Minors 17 years of age and under:	<u>\$3.10 per hr.</u>	<u>\$3.25 per hr.</u>	<u>\$0.20 per hr.</u> <u>more than the</u> <u>rate applicable</u> <u>to probationary</u> <u>employes</u>	<u>\$0.20 per hr.</u> <u>more than the</u> <u>rate applicable</u> <u>to probationary</u> <u>employes</u>

(2) TIPS. Where tips or gratuities are received by the employe from patrons or others, the employer may pay the minimum wage rates established by this subsection, providing the employer can establish by its payroll records that for each week where credit is taken, when adding the tips received to the wages paid, no less than the minimum rate prescribed in sub. (1), was received by the employe. The minimum rate shall be either 55% of the rate prescribed in sub. (1) or the rate established in par. (a), whichever is higher.

(3) ALLOWANCE FOR BOARD AND LODGING. Where board or lodging or both are furnished by the employer in accordance with s. Ind 72.04 and accepted and received by a particular employe, an allowance may be made not to exceed the following amounts:

	<i>EFFECTIVE 7-1-89 PROBATIONARY EMPLOYEES</i>	<u>EFFECTIVE 4-1-90 PROBATIONARY EMPLOYEES</u>	<i>EFFECTIVE 7-1-89 NON-PROBATIONARY EMPLOYEES</i>	<u>EFFECTIVE 4-1-90 NON-PROBATIONARY EMPLOYEES</u>
(a) Lodging--adults 18 years of age and over	<i>\$27.00/per week/ot/\$3.00 per/day</i>	<u>\$28.00 per week or \$4.00 per day</u>	<i>\$7.00/per/week/ot \$0.20/per/day/note/when/when/apply/allowance/raise/</i>	<u>\$2.40 per week or \$0.35 per day more than the applicable probationary employee rate</u>
Minors 17 years of age and under	<i>\$24.00/per week/ot/\$3.00 per/day</i>	<u>\$26.00 per week or \$3.70 per day</u>	<i>\$7.00/per/week/ot/per/week/ot/\$0.20 per/day/note/when/when/apply/allowance/raise/</i>	<u>\$1.60 per week or \$0.25 per day more than the applicable probationary employee rate</u>
	<i>EFFECTIVE 7-1-89 PROBATIONARY EMPLOYEES</i>	<u>EFFECTIVE 4-1-90 PROBATIONARY EMPLOYEES</u>	<i>EFFECTIVE 7-1-89 NON-PROBATIONARY EMPLOYEES</i>	<u>EFFECTIVE 4-1-90 NON-PROBATIONARY EMPLOYEES</u>
(b) Meals--adults 18 years of age and over	<i>\$41.40/per week/ot/\$1.00 per/day</i>	<u>\$42.00 per week or \$2.00 per meal</u>	<i>21.40/per/week/ot \$0.15/per/day/note/when/when/apply/allowance/raise/</i>	<u>\$3.60 per week or \$0.15 per meal more than the applicable probationary employee rate</u>
Minors 17 years of age and under	<i>\$37.20/per week/ot/\$1.15 per/day</i>	<u>\$39.00 per week or \$1.85 per meal</u>	<i>\$21.40/per/week/ot/ot/\$0.15/per/day/note/when/when/apply/allowance/raise/</i>	<u>\$2.40 per week or \$0.10 per meal more than the applicable probationary employee rate</u>

SECTION 5. Ind 72.03(8) is created to read:

Ind 72.03(8) PROOF OF PREVIOUS EMPLOYMENT. An employe is responsible for providing the proof of previous employment necessary to determine whether the person is a probationary employe. An employer shall not be liable for a violation of this section if the violation is caused by the employer's good faith reliance of the proof presented by an employe under this subsection.

SECTION 6. Ind 72.05 is amended to read:

Ind 72.05 AGRICULTURE. (1) MINIMUM RATES. The minimum wage of employes employed in agriculture shall be as follows:

	EFFECTIVE 7-1-89 PROBATIONARY EMPLOYEES	EFFECTIVE 7-1-89 NON-PROBATIONARY EMPLOYEES	EFFECTIVE 4-1-90
(a) Adult employes 18 years of age and over:	\$3.25/peet/hour	\$0.20/peet/hour/week Xhah/Xhe/rax dppxxcawge/eb prowaxxohatg ehpogee	<u>\$3.60 per hr.</u>
(b) Minors 17 years of age and under:	\$2.90/peet/hour	\$0.20/peet/ hour/week/Xhah/Xhe rax/dppxxcawge/eb prowaxxohatg/ehpogee	<u>\$3.25 per hr.</u>

(2) ALLOWANCE FOR BOARD AND LODGING. Where board or lodging or both are furnished by the employer in accordance with s. Ind 72.04, and accepted and received by the employe, an allowance may be made not to exceed the following amounts.

	EFFECTIVE 7-1-89 PROBATIONARY EMPLOYEES	EFFECTIVE 7-1-89 NON-PROBATIONARY EMPLOYEES	EFFECTIVE 4-1-90
(a) Lodging--adult employes 18 years of age and over:	\$28.00/peet week/et/\$3.70 peet/day	\$7.00/peet/week/et \$0.25/peet/day hour/Xhah/Xhe dppxxcawge prowaxxohatg ehpogee/rax	<u>\$28.80 per week or \$4.10 per day.</u>
(b) Minors 17 years of age and under:	\$23.20/peet week/et/\$3.30 peet/day	\$7.00/peet/week et/\$0.25/peet day/hour/Xhah Xhe/dppxxcawge prowaxxohatg/ehpogee rax	<u>\$26.00 per week or \$3.70 per day</u>

	EFFECTIVE 7-1-88 PROBATIONARY EMPLOYEES	EFFECTIVE 7-1-89 NON-PROBATIONARY EMPLOYEES	EFFECTIVE 4-1-90
(b) Meals-- adults 18 years of age and over:	\$38.00/þét úééK/ót/\$7.00 þét/úééX	\$21.40/þét/úééK/ót/ \$0.70/þét/úééX/úóté XKáH/XKé/áþþX7 éXéXé/þtóbáX7óHá7ý 7áXé	\$43.20 per week or \$2.05 per meal
Minors 17 years of age and under:	\$34.80/þét úééK/ót/\$7.00 þét/úééX	\$21.40/þét/úééK ót/\$0.70/þét/úééX/ úóté/XKáH/XKé/ áþþX7éXéXé þtóbáX7óHá7ý /éúþXóýé/7áXé	\$39.00 per week or \$1.85 per meal

SECTION 7. EFFECTIVE DATE. This rule shall take effect on April 1, 1990.

(End)

Tommy G. Thompson  
Governor  
Gerald Whitburn  
Secretary



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## State of Wisconsin Department of Industry, Labor and Human Relations

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February 15, 1990

Gary Poulson  
Assistant Revisor of Statutes  
Suite 702  
30 West Mifflin Street  
Madison, Wisconsin 53703

Douglas LaFollette  
Secretary of State  
10th Floor  
30 West Mifflin Street  
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

### TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 89-197

RULE NO. Ind 72

RELATING TO: Minimum Wage

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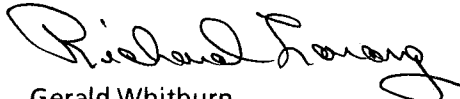
Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,

  
Gerald Whitburn  
Secretary