The People of the State of Arizona hereby make the following findings and declare their purpose in enacting this Act is as follows:

Section 8. Minimum Wage

A. “EMPLOYEE” MEANS ANY PERSON WHO IS OR WAS EMPLOYED BY AN EMPLOYER BUT DOES NOT INCLUDE ANY PERSON WHO IS EMPLOYED BY A PARENT OR A SIBLING, OR WHO IS EMPLOYED PERFORMING BABYSITTING SERVICES IN THE EMPLOYER’S HOME ON A CASUAL BASIS.

B. “EMPLOYER” INCLUDES ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, LABOR OR ITS SUCCESSOR AGENCY, OR ANY OTHER BUSINESS ENTITY OR INDIVIDUAL ENGAGED IN BUSINESS IN WHICH THE INTEREST OF AN EMPLOYER IN RELATION TO AN EMPLOYEE, BUT DOES NOT INCLUDE THE STATE OF ARIZONA, THE UNITED STATES, OR A SMALL BUSINESS.

C. “SMALL BUSINESS” MEANS ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, TRUST, OR ASSOCIATION THAT HAS LESS THAN FIFTY HUNDRED THOUSAND DOLLARS IN GROSS ANNUAL REVENUE AND THAT IS EXEMPT FROM HAVING TO PAY A MINIMUM WAGE UNDER SECTION 206(A) OF TITLE 29 OF THE UNITED STATES CODE.

D. “EMPLOY” INCLUDES TO SUFFER OR PERMIT TO WORK; WHETHER A PERSON IS AN INDEPENDENT CONTRACTOR OR AN EMPLOYEE SHALL BE DETERMINED ACCORDING TO THE STANDARDS OF THE FEDERAL FAIR LABOR STANDARDS ACT, BUT THE BURDEN OF PROOF SHALL BE UPON THE PARTY FOR WHOM THE WORK IS PERFORMED TO SHOW INDEPENDENT CONTRACTOR STATUS BY CLEAR AND CONVINCING EVIDENCE.

E. “WAGE” MEANS MONETARY COMPENSATION DUE TO AN EMPLOYEE BY REASON OF EMPLOYMENT, INCLUDING AN EMPLOYEE’S COMPENSATION, BUT NOT TIPS OR GRATUITIES.

F. “FALSE EMPLOYMENT OFFICER” MEANS ATTORNEY GENERAL, A CITY ATTORNEY, A COUNTY ATTORNEY OR A TOWN ATTORNEY.

G. “COMMISSION” MEANS THE INDUSTRIAL COMMISSION OF ARIZONA, ANY SUCCESSOR AGENCY, OR SUCH OTHER AGENCY AS THE GOVERNOR SHALL DESIGNATE TO IMPLEMENT THIS ARTICLE.

23-363. Minimum Wage

A. EMPLOYERS SHALL PAY EMPLOYEES NO LESS THAN THE MINIMUM WAGE, WHICH SHALL BE SIX DOLLARS AND SEVENTY-FIVE CENTS ($6.75) AN HOUR BEGINNING ON JANUARY 1, 2007.


C. FOR ANY EMPLOYEE WHO CUSTOMARILY AND REGULARLY RECEIVES TIPS OR GRATUITIES FROM PATRONS OR OTHERS, THE EMPLOYER MAY PAY A WAGE UP TO $3.00 PER HOUR LESS THAN THE MINIMUM WAGE IF THE EMPLOYEE CAN ESTABLISH BY ITS RECORDS OF CHARGED TIPS OR BY THE EMPLOYEE’S DECLARATION FOR FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA) PURPOSES THAT, WHEN ADJUSTING TIPS RECEIVED TO WAGES PAID, THE EMPLOYEE RECEIVED AT LEAST THE MINIMUM WAGE FOR ALL HOURS WORKED. COMPLIANCE WITH THIS PROVISION WILL BE DETERMINED BY AVERAGE TIPS RECEIVED BY THE EMPLOYEE OVER THE COURSE OF THE EMPLOYER’S PAYROLL PERIOD OR ANY OTHER PERIOD SELECTED BY THE EMPLOYER THAT COMPLIES WITH REGULATIONS ADOPTED BY THE COMMISSION.

23-364. Enforcement

A. THE COMMISSION IS AUTHORIZED TO ENFORCE AND IMPLEMENT THIS ARTICLE AND MAY PROMULGATE REGULATIONS CONSISTENT WITH THIS ARTICLE TO DO SO.

B. NO EMPLOYER OR OTHER PERSON SHALL DISCHARGE OR TAKE ANY OTHER ADVERSE ACTION AGAINST ANY PERSON IN RETALIATION FOR ASSERTING ANY CLAIM OR RIGHT UNDER THIS ARTICLE, FOR ASSISTING ANY OTHER PERSON IN DOING SO, OR FOR INFORMING ANY PERSON ABOUT THEIR RIGHTS. TAKING ADVERSE ACTION AGAINST A PERSON WITHIN NINETY DAYS OF A PERSON’S ENGAGING IN THE FOREGOING ACTIVITIES SHALL RAISE A PRESUMPTION THAT SUCH ACTION WAS RETALIATION, WHICH MAY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT SUCH ACTION WAS TAKEN FOR OTHER PERMISSIBLE REASONS.

C. ANY PERSON OR ORGANIZATION THAT FILES AN ADMINISTRATIVE COMPLAINT WITH THE COMMISSION CHARGING THAT AN EMPLOYER HAS VIOLATED THIS ARTICLE AS TO THEM OR TO ANY OTHER PERSON, WHEN THE COMMISSION RECEIVES A COMPLAINT, THE COMMISSION MAY REVIEW RECORDS REGARDING ALL EMPLOYEES AT THE EMPLOYER’S WORKSITE IN ORDER TO PROTECT THE IDENTITY OF ANY EMPLOYEE IDENTIFIED IN THE COMPLAINT AND TO DETERMINE WHETHER A PATTERN OF VIOLATIONS HAS OCCURRED. THE COMMISSION MAY REQUIRE A COMPLAINT IN WHICH THE COMMISSION SHALL BE KEPT CONFIDENTIAL AS LONG AS POSSIBLE. WHERE THE COMMISSION DETERMINES THAT AN EMPLOYEE’S NAME MUST BE DISCLOSED IN ORDER TO INVESTIGATE A COMPLAINT FURTHER, IT MAY DO SO ONLY WITH THE EMPLOYEE’S CONSENT.

D. EMPLOYERS WHO VIOLATE THIS ARTICLE OR ANY REGULATIONS, IN SUCH FORM OR MANNER AS THE COMMISSION, NOTIFYING EMPLOYEES OF THEIR RIGHTS UNDER THIS ARTICLE. EMPLOYERS SHALL PROVIDE THEIR BUSINESS NAME, ADDRESS, AND TELEPHONE NUMBER IN WRITING TO EMPLOYEES UPON HIRE. EMPLOYERS SHALL MAINTAIN PAYROLL RECORDS SHOWING THE HOURS WORKED FOR EACH PAY PERIOD AND THE WAGES PAID TO EMPLOYEES FOR EACH PAY PERIOD. FAILURE TO DO SO SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE EMPLOYER DID NOT PAY THE REQUIRED MINIMUM WAGE RATE. THE COMMISSION MAY BY REGULATION REDUCE OR WAIVE THE RECORDKEEPING AND POSTING REQUIREMENTS HEREIN FOR ANY CATEGORIES OF SMALL EMPLOYERS WHOSE ACTIONS WOULD BE UNREASONABLY BURDENTED BY SUCH REQUIREMENTS. EMPLOYERS SHALL PERMIT THE COMMISSION OR A LAWFUL ENFORCEMENT OFFICER TO INSPECT AND COPY PAYROLL OR OTHER BUSINESS RECORDS, SHALL PERMIT THEM TO INTERVIEW EMPLOYEES AWAY FROM THE WORKSITE, AND SHALL NOT HINDER ANY INVESTIGATION. SUCH INFORMATION PROVIDED SHALL KEEP CONFIDENTIAL EXCEPT AS IS REQUIRED TO PROSECUTE VIOLATIONS OF THIS ARTICLE. EMPLOYERS SHALL PERMIT AN EMPLOYEE OR HIS OR HER DESIGNATED REPRESENTATIVE TO INSPECT AND COPY PAYROLL RECORDS PERTAINING TO THAT EMPLOYEE.

E. A CIVIL ACTION TO ENFORCE THIS ARTICLE MAY BE MAINTAINED IN A COURT OF COMPETENT JURISDICTION BY A LAWFUL ENFORCEMENT OFFICER OR BY ANY PRIVATE PARTY INJURED BY A VIOLATION OF THIS ARTICLE.

F. ANY EMPLOYER WHO VIOLATES RECORDKEEPING, POSTING, OR OTHER REQUIREMENTS THAT THE COMMISSION MAY ESTABLISH UNLESS THE VIOLATIONS CAUSE OR ARE A DIRECT RESULT OF VIOLATIONS FOR WHICH A PENALTY HAS BEEN PAID, AND AT LEAST $1000 DOLLARS FOR EACH SUBSEQUENT OR WILLFUL VIOLATION AND MAY, IF THE COMMISSION OR COURT DETERMINES APPROPRIATE, BE SUBJECT TO SPECIAL MONITORING AND INSPECTIONS.

G. ANY EMPLOYER WHO FAILS TO PAY THE WAGES REQUIRED UNDER THIS ARTICLE SHALL BE REQUIRED TO PAY THE EMPLOYEE THE BALANCE OF THE WAGES OWED, INCLUDING INTEREST THEREON, AND AN ADDITIONAL AMOUNT EQUAL TO TWICE THE UNDERPAID WAGES. ANY EMPLOYER WHO VIOLATES AGAINST AN EMPLOYEE OR OTHER PERSON IN VIOLATION OF THIS ARTICLE SHALL BE REQUIRED TO PAY THE EMPLOYEE AN AMOUNT SET BY THE COMMISSION OR A COURT OF LAW AS COMPENSATION FOR THE EMPLOYEE AND DETER FUTURE VIOLATIONS, BUT NOT LESS THAN ONE HUNDRED FIFTY DOLLARS FOR EACH DAY THAT THE VIOLATION CONTINUED OR UNTIL LEGAL JUDGMENT IS FINAL. THE COMMISSION AND THE COURTS SHALL HAVE THE AUTHORITY TO ORDER THE PAYMENT OF SUCH UNPAID WAGES, INTEREST, OTHER AMOUNTS, AND CIVIL PENALTIES AND TO ORDER TO ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF THAT THE COMMISSION OR A COURT DEems NECESSARY TO FINANCE ACTIVITIES TO ENFORCE THIS ARTICLE. A PREVAILING PLAINTIFF SHALL BE ENTITLED TO REASONABLE ATTORNEY’S FEES AND COSTS OF SUIT.

H. A CIVIL ACTION TO ENFORCE THIS ARTICLE MAY BE COMMENCED NO LATER THAN TWO YEARS AFTER A VIOLATION LAST OCCURS, OR THREE YEARS IN THE CASE OF A WILLFUL VIOLATION, AND MAY ENCOMPASS ALL VIOLATIONS THAT OCCURRED AS PART OF A CONTINUING COURSE OF EMPLOYER CONDUCT REGARDLESS OF THEIR DATE. THE STATUTE OF LIMITATIONS SHALL BE TOLLED DURING ANY INVESTIGATION BY THE COMMISSION OR OTHER LAWFUL ENFORCEMENT OFFICER, BUT SUCH INVESTIGATION SHALL NOT BAR A PERSON FROM BRINGING A CIVIL ACTION UNDER THIS ARTICLE. NO VERBAL OR WRITTEN AGREEMENT OR EMPLOYMENT CONTRACT MAY WAIVE ANY RIGHTS UNDER THIS ARTICLE.
I. THE LEGISLATURE MAY BY STATUTE RAISE THE MINIMUM WAGE ESTABLISHED UNDER THIS ARTICLE, EXTEND COVERAGE, OR INCREASE PENALTIES. A COUNTY, CITY, OR TOWN MAY BY ORDINANCE REGULATE MINIMUM WAGES AND BENEFITS WITHIN ITS GEOGRAPHIC BOUNDARIES BUT MAY NOT PROVIDE FOR A MINIMUM WAGE LOWER THAN THAT PRESCRIBED IN THIS ARTICLE. STATE AGENCIES, COUNTIES, CITIES, TOWNS AND OTHER POLITICAL SUBDIVISIONS OF THE STATE MAY CONSIDER VIOLATIONS OF THIS ARTICLE IN DETERMINING WHETHER EMPLOYERS MAY RECEIVE OR RENEW PUBLIC CONTRACTS, FINANCIAL ASSISTANCE OR LICENSES. THIS ARTICLE SHALL BE LIBERALLY CONSTRUED IN FAVOR OF ITS PURPOSES AND SHALL NOT LIMIT THE AUTHORITY OF THE LEGISLATURE OR ANY OTHER BODY TO ADOPT ANY LAW OR POLICY THAT REQUIRES PAYMENT OF HIGHER OR SUPPLEMENTAL WAGES OR BENEFITS, OR THAT EXTENDS SUCH PROTECTIONS TO EMPLOYERS OR EMPLOYEES NOT COVERED BY THIS ARTICLE.

Section 4. Severability
If any part of this law, or the application of the law to any person or circumstance, is held invalid, the remainder of this law, including the application of such part to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the parts of this law are severable.

Section 5. Effective Date
This article shall take effect January 1, 2007.