



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 207

S.P. 57

In Senate, January 27, 2011

An Act To Amend the Laws Regarding Tips Used in Payment of Service Employees

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator LANGLEY of Hancock.
Cosponsored by Senators: MASON of Androscoggin, THIBODEAU of Waldo, TRAHAN of Lincoln, Representatives: KNIGHT of Livermore Falls, MORRISON of South Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §663, sub-§8**, as amended by PL 2007, c. 367, §1, is further
3 amended to read:

4 **8. Service employee.** "Service employee" means any employee engaged in an
5 occupation, ~~such as waiters, waitresses, bellhops, counter personnel and bartenders who~~
6 ~~serve customers~~, in which the employee customarily and regularly receives more than
7 \$30 a month in tips.

8 **Sec. 2. 26 MRSA §664, sub-§2**, as amended by PL 2007, c. 367, §2, is further
9 amended to read:

10 **2. Tip credit.** An employer may consider tips as part of the wages of a service
11 employee, but such a tip credit may not exceed 50% of the minimum hourly wage
12 established in this section. An employer who elects to use the tip credit must inform the
13 affected employee in advance and must be able to show that the employee receives at
14 least the minimum hourly wage when direct wages and the tip credit are combined. Upon
15 a satisfactory showing by the employee or the employee's representative that the actual
16 tips received were less than the tip credit, the employer shall increase the direct wages by
17 the difference.

18 ~~The tips received by a service employee become the property of the employee and may~~
19 ~~not be shared with the employer. Service employees may volunteer to pool their tips to~~
20 ~~be split among other service employees or may volunteer to share a part of their tips with~~
21 ~~other employees who do not generally receive tips directly from customers. Tips that are~~
22 ~~automatically included in the customer's bill or that are charged to a credit card must be~~
23 ~~given to the service employee. A tip that is charged to a credit card must be paid by the~~
24 ~~employer to the employee by the next regular payday and may not be held while the~~
25 ~~employer is awaiting reimbursement from a credit card company.~~

26 **SUMMARY**

27 This bill changes the laws regarding the tip credit for employers as used in the
28 payment of service employees by eliminating the provision that specifies that tips
29 received by a service employee are the property of the employee and may not be shared
30 with the employer. It eliminates the provision that makes tip splitting voluntary and also
31 eliminates the provision that tips automatically included in a customer's bill or charged to
32 a customer's credit card must be given to the service employee. It also eliminates the
33 provision that directs the employer to pay the service employee by the next regular
34 payday for tips charged to a credit card.