

## STATE OF MAINE

—

IN THE YEAR OF OUR LORD

TWO THOUSAND AND SEVENTEEN

—

S.P. 235 - L.D. 673

**An Act To Restore the Tip Credit to Maine's Minimum Wage Law**

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

**Sec. 1. 26 MRSA §664, sub-§2**, as amended by IB 2015, c. 2, §2, is further amended to read:

**2. Tip credit.** An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. ~~Starting except that from January 1, 2017 to December 31, 2017, the minimum cash wage paid directly to a tipped service employee may not be less than \$5.00 per hour, and the tip credit may not exceed the difference between the minimum cash wage paid directly to a tipped service employee and the minimum hourly wage established under subsection 1. Starting January 1, 2018, and on each January 1st thereafter, the minimum cash wage paid directly to a tipped service employee must be increased by an additional \$1.00 per hour until it reaches the same amount as the annually adjusted minimum hourly wage established under subsection 1, except that if the minimum cash wage paid directly to a tipped service employee is less than \$1.00 less than the annually adjusted minimum hourly wage, it must be increased by that lesser amount. An employer who elects to use the tip credit, until it is eliminated under this subsection, must inform the affected employee in advance, as provided for in this subsection, and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined within the established 7-day workweek. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.~~

The tips received by a service employee become the property of the employee and may not be shared with the employer. Tips that are automatically included in the customer's bill or that are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company. The employer may not deduct any amount

from employee tips charged to a credit card, including, but not limited to, service fees assessed to the employer in connection with the credit card transaction.

An employer who elects to use the tip credit must inform the affected employee in advance, either orally or in writing, of the following information:

A. The amount of the direct wage to be paid by the employer to the tipped employee;

B. The amount of tips to be credited as wages toward the minimum wage;

C. That the amount of tips to be credited as wages may not exceed the value of the tips actually received by the employee;

D. That all tips received by the affected employee must be retained by the employee, except for a valid tip pooling arrangement limited to employees who customarily and regularly receive tips in accordance with subsection 2-A;

E. That the tip credit may not apply to any employee who has not been informed by the employer of the provisions for a tip credit; and

F. If the employer uses a tip pooling arrangement, any required tip pool contribution amount from the employee.