

Be it enacted by the People, and by their authority:

An Act to Require the Full Minimum Wage for Tipped Workers with Tips on Top

SECTION 1.

Section 7 of Chapter 151 of the General Laws is hereby amended by striking the third paragraph, as amended by Chapter 121 of the Acts of 2018, and inserting in place thereof the following paragraph:

In determining the wage an employer is required to pay a tipped employee, the amount paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such employee, which for purposes of such determination shall be not less than sixty-four percent of the wage in effect under section 1; and (2) an additional amount on account of the tips received by such employee, which amount is at least the difference between the wage specified in clause (1) and the wage in effect under section 1, with payments to the employee to be consistent with section 148 of chapter 149. This paragraph shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this paragraph, and all tips received by such employee have been retained by the employee, except that this paragraph shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

SECTION 2.

Said section 7 of said chapter 151 is hereby amended by striking the third paragraph and inserting in place thereof the following paragraph:

In determining the wage an employer is required to pay a tipped employee, the amount paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such employee, which for purposes of such determination shall be not less than seventy-three percent of the wage in effect under section 1; and (2) an additional amount on account of the tips received by such employee, which amount is at least the difference between the wage specified in clause (1) and the wage in effect under section 1, with payments to the employee to be consistent with section 148 of chapter 149. This paragraph shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this paragraph, and all tips received by such employee have been retained by the employee, except that this paragraph shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

SECTION 3.

Said section 7 of said chapter 151 is hereby amended by striking the third paragraph and inserting in place thereof the following paragraph:

In determining the wage an employer is required to pay a tipped employee, the amount paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such employee, which for purposes of such determination shall be not less than eighty-two percent of the wage in effect under section 1; and (2) an additional amount on account of the tips received by such employee, which amount is at least the difference between the wage specified in clause (1) and the wage in effect under section 1, with payments to the employee to be consistent with section 148 of chapter 149. This paragraph shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this paragraph, and all tips received by such employee have been retained

by the employee, except that this paragraph shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

SECTION 4.

Said section 7 of said chapter 151 is hereby amended by striking the third paragraph and inserting in place thereof the following paragraph:

In determining the wage an employer is required to pay a tipped employee, the amount paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such employee, which for purposes of such determination shall be not less than ninety-one percent of the wage in effect under section 1; and (2) an additional amount on account of the tips received by such employee, which amount is at least the difference between the wage specified in clause (1) and the wage in effect under section 1, with payments to the employee to be consistent with section 148 of chapter 149. This paragraph shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this paragraph, and all tips received by such employee have been retained by the employee, except that this paragraph shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

SECTION 5.

Said section 7 of said chapter 151 is hereby amended by striking the third paragraph and inserting in place thereof the following paragraph:

In determining the wage an employer is required to pay a tipped employee, the amount paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such employee, which for purposes of such determination shall be not less than one hundred percent of the wage in effect under section 1; and (2) an additional amount on account of the tips received by such employee, with payments to the employee to be consistent with section 148 of chapter 149. This paragraph shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

SECTION 6.

Section 152A of Chapter 149 of the General Laws is hereby amended by striking paragraph (c) and inserting in place thereof the following paragraph:

(c) Provided that an employer is paying all employees a wage that is not less than the full minimum wage as provided in section 1 of chapter 151, the employer may require that wait staff employees, service employees or service bartenders participate in a tip pool through which such employee remits any wage, tip or service charge, or any portion thereof, for distribution to employees that are not wait staff employees, service employees or service bartenders. An employer may administer a valid tip pool and may keep a record of the amounts received for bookkeeping or tax reporting purposes.