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

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

Presented by Senator KATZ of Kennebec.
Cosponsored by Representative HUBBELL of Bar Harbor and Senators: COLLINS of York, CUSHING of Penobscot, DIAMOND of Cumberland, DILL of Penobscot, WOODSOME of York, Representatives: GROHMAN of Biddeford, LUCHINI of Ellsworth, MASTRACCIO of Sanford.
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 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. 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.

SUMMARY

This bill restores the tip credit to the minimum wage laws.