

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Base the Minimum Wage on a New England State Average and To Restore the Tip Credit

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

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

1. Minimum wage. The minimum hourly wage is \$7.50 per hour. Starting January 1, 2017, the minimum hourly wage is \$9.00 per hour; starting January 1, 2018, the minimum hourly wage is \$10.00 per hour; starting January 1, 2019, the minimum hourly wage is \$11.00 per hour; and starting January 1, 2020, the minimum hourly wage is \$12.00 per hour. On January 1, 2021 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢~~the average minimum hourly wage in the New England states of New Hampshire, Vermont, Massachusetts, Connecticut and Rhode Island on July 1st of the previous year, as determined annually by the Commissioner of Labor.~~ If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage,~~and must be increased in accordance with this section thereafter.~~

Sec. 2. 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 January 1, 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~~the minimum cash wage paid directly to a tipped service employee may not be less than 50% of the minimum hourly wage established under subsection 1. 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 provides that starting January 1, 2018 the minimum hourly wage is the average minimum hourly wage in the New England states of New Hampshire, Vermont, Massachusetts, Connecticut and Rhode Island on July 1st of the previous year, as determined annually by the Commissioner of Labor. It also restores the tip credit.