



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 702

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H.P. 493

House of Representatives, February 28, 2017

### **An Act To Restore the Tip Credit to Maine Employees**

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative GUERIN of Glenburn.  
Cosponsored by Representatives: KINNEY of Knox, O'CONNOR of Berwick, WARD of Dedham, Senator MASON of Androscoggin, Senator LANGLEY of Hancock and Representatives: ALLEY of Beals, AUSTIN of Gray, GINZLER of Bridgton, HUBBELL of Bar Harbor, LUCHINI of Ellsworth, NADEAU of Winslow, PICCHIOTTI of Fairfield, STEWART of Presque Isle.

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

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

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

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

28 **SUMMARY**

29 This bill restores the tip credit in the minimum wage laws.