

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

✓  
no

June 3, 1964

Madge E. Ames

Labor and Industry

George C. West, Deputy

Attorney General

**Monetary Compensation for Waitresses**

**FACTS:**

Waitresses working in a cocktail lounge are paid on a "commission" basis. The customer orders a drink. The waitress obtains the drink from the bar tender and pays him for the drinks ordered. Generally, this sum is five cents per drink less than the listed price. The waitress then collects from the customer at five cents a drink more than she paid the bar tender. The five cent differential is her "commission" and no additional wages are paid her.

**QUESTION:**

Is the employer permitting a person to work without monetary compensation in violation of the statute?

**ANSWER:**

No.

**OPINION:**

The particular statute which governs the matter is R. S., c. 30, § 53 and reads in part:

"No person, firm or corporation shall require or permit any person as a condition of securing or retaining employment to work without monetary compensation. . . ."

The arrangement here described is one set up for the convenience of the employer. It is a method which insures that each drink will be recorded. It allows no reasonable possibility of a waitress ordering drinks for customers and then forgetting to pay after collecting from the customers.

Hodge H. Ames

-2-

June 3, 1964

Also the system requires less bookkeeping by the employer. He does not have to tally slips and check them against his register tape. All in all it is a much easier method of providing him with a proper count of drinks sold and money received.

Again it allows him to provide compensation to his waitresses without bookkeeping. In all probability he reports no social security benefits, withholding tax or any other usual pay deductions. It is a simplified method for him and at the same time provides "monetary compensation" from him to his waitresses.

He could use the normal method, collecting the full price from the customer and paying the waitress five cents for each drink she serves. This would entail a set of books and allow a certain amount of leeway for an enterprising waitress to make a little extra "monetary compensation" at his expense.

The waitresses are receiving "monetary compensation" within the meaning of C. 30, § 53.

George C. West  
Deputy Attorney General

GCX/slf