



# **117th MAINE LEGISLATURE**

# **SECOND SPECIAL SESSION-1996**

Legislative Document

No. 1893

H.P. 1392

House of Representatives, August 29, 1996

An Act to Conform the Maine Tip Credit to the Federal Tip Credit.

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on August 29, 1996. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

JOSEPH W. MAYO, Clerk

Presented by Representative KERR of Old Orchard Beach. Cosponsored by Senator AMERO of Cumberland and Representatives: CAMPBELL of Holden, FISHER of Brewer, TRUE of Fryeburg, WATERHOUSE of Bridgton, Senators: BUTLAND of Cumberland, FERGUSON of Oxford, STEVENS of Androscoggin. Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

4

Whereas, changes to the federal minimum wage law scheduled to go into effect on October 1, 1996 will increase the minimum wage generally but will freeze the minimum wage for employees who earn tips at current levels; and

10 Whereas, because the State's minimum wage for employees who earn tips is 50% of the general minimum wage it will increase 12 while the federal minimum wage for these employees will not change; and

14

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

20

40

42

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

22 Sec. 1. 26 MRSA §664, sub-§2, as enacted by PL 1995, c. 305, 24 §1, is amended to read:

26 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 or the 28 tip credit allowed under federal law, whichever is greater. An employer who elects to use the tip credit must inform the 30 affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct 32 wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the 34 actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference. 36

38 **Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

#### SUMMARY

44 Under current Maine law and federal law, the effective minimum wage for employees who earn tips is 50% of the minimum wage. An employer is entitled to take a tip credit of up to 50% 46 of the minimum wage to account for tips received by the Under a pending change in federal law, the minimum 48 employee. wage will increase to \$4.75 on October 1, 1996 and the effective minimum wage for employees who earn tips will be frozen at its 50 current level of \$2.13 per hour. This bill makes the required wage for employees who earn tips under state law the same as it 52 is under federal law.

#### Page 1-LR3233(1)

### L.D.1893