

# MAINE STATE LEGISLATURE

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SMC  
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L.D. 207

1  
2 Date: 5-2-11

(Filing No. S- 58 )

3 LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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5 STATE OF MAINE

6 SENATE

7 125TH LEGISLATURE

8 FIRST REGULAR SESSION

9 COMMITTEE AMENDMENT "A" to S.P. 57, L.D. 207, Bill, "An Act To Amend  
10 the Laws Regarding Tips Used in Payment of Service Employees"

11 Amend the bill by striking out all of section 2 and inserting the following:

12 'Sec. 2. 26 MRSA §663, sub-§15 is enacted to read:

13 15. Tip. "Tip" means a sum presented by a customer in recognition of services  
14 performed by one or more service employees, including a charge automatically included  
15 in the customer's bill. "Tip" does not include a service charge added to a customer's bill in  
16 a banquet or private club setting by agreement between the customer and employer.

17 **Sec. 3. 26 MRSA §664, sub-§2**, as amended by PL 2007, c. 367, §2, is further  
18 amended to read:

19 **2. Tip credit.** An employer may consider tips as part of the wages of a service  
20 employee, but such a tip credit may not exceed 50% of the minimum hourly wage  
21 established in this section. An employer who elects to use the tip credit must inform the  
22 affected employee in advance and must be able to show that the employee receives at  
23 least the minimum hourly wage when direct wages and the tip credit are combined. Upon  
24 a satisfactory showing by the employee or the employee's representative that the actual  
25 tips received were less than the tip credit, the employer shall increase the direct wages by  
26 the difference.

27 The tips received by a service employee become the property of the employee and may  
28 not be shared with the employer. ~~Service employees may volunteer to pool their tips to~~  
29 ~~be split among other service employees or may volunteer to share a part of their tips with~~  
30 ~~other employees who do not generally receive tips directly from customers.~~ Tips that are  
31 automatically included in the customer's bill or that are charged to a credit card must be  
32 treated like tips given to the service employee. A tip that is charged to a credit card must  
33 be paid by the employer to the employee by the next regular payday and may not be held  
34 while the employer is awaiting reimbursement from a credit card company.

35 **Sec. 4. 26 MRSA §664, sub-§§2-A and 2-B** are enacted to read:

