

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 673

S.P. 235

In Senate, February 28, 2017

An Act To Restore the Tip Credit to Maine's Minimum Wage Law

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator KATZ of Kennebec.

Cosponsored by Representative HUBBELL of Bar Harbor and

Senators: COLLINS of York, CUSHING of Penobscot, DIAMOND of Cumberland, DILL of Penobscot, WOODSOME of York, Representatives: GROHMAN of Biddeford, LUCHINI of Ellsworth, MASTRACCIO of Sanford.

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 except that from January 1, 2017 to December 31,~~
7 ~~2017~~, the minimum cash wage paid directly to a tipped service employee may not be less
8 than \$5.00 per hour, ~~and the tip credit may not exceed the difference between the~~
9 ~~minimum cash wage paid directly to a tipped service employee and the minimum hourly~~
10 ~~wage established under subsection 1. Starting January 1, 2018, and on each January 1st~~
11 ~~thereafter, the minimum cash wage paid directly to a tipped service employee must be~~
12 ~~increased by an additional \$1.00 per hour until it reaches the same amount as the annually~~
13 ~~adjusted minimum hourly wage established under subsection 1, except that if the~~
14 ~~minimum cash wage paid directly to a tipped service employee is less than \$1.00 less~~
15 ~~than the annually adjusted minimum hourly wage, it must be increased by that lesser~~
16 ~~amount. An employer who elects to use the tip credit, until it is eliminated under this~~
17 ~~subsection, must inform the affected employee in advance and must be able to show that~~
18 ~~the employee receives at least the minimum hourly wage when direct wages and the tip~~
19 ~~credit are combined. Upon a satisfactory showing by the employee or the employee's~~
20 ~~representative that the actual tips received were less than the tip credit, the employer shall~~
21 ~~increase the direct wages by the 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 to the minimum wage laws.