

MAINE STATE LEGISLATURE

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Date: 2/24/22

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Majority
LABOR AND HOUSING

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1388, L.D. 1878, "An Act To Support Restaurants in the State through Service Charge Revenues"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 26 MRSA §663, sub-§15, as enacted by PL 2011, c. 118, §2, is amended to read:

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

Sec. 2. 26 MRSA §664, sub-§2, as amended by PL 2017, c. 272, §1, is further amended by amending the first blocked paragraph to read:

The tips received by a service employee become the property of the employee and may not be shared with the employer. Tips that ~~are automatically included in the customer's bill or that~~ are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company. The employer may not deduct any amount from employee tips charged to a credit card, including, but not limited to, service fees assessed to the employer in connection with the credit card transaction.

Sec. 3. 26 MRSA §664, sub-§2-B, as enacted by PL 2011, c. 118, §4, is amended to read:

2-B. Service charges. An employer in a restaurant, banquet or private club setting that adds a service charge shall notify the customer that the service charge does not represent a tip for service employees. The employer in a restaurant, banquet or private club

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1 setting may use some or all of any service charge to meet its obligation to compensate all
2 employees at the rate required by this section.'

3 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
4 number to read consecutively.

5 **SUMMARY**

6 This amendment, which is the majority report of the committee, replaces the bill. It
7 clarifies that tips do not include charges automatically included in the customer's bill and
8 that tips do not include service charges added to a customer's bill in a restaurant. It also
9 specifies that an employer in a restaurant may add a service charge if the employer notifies
10 the customer that the service charge is not a tip for a service employee.