

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

CHAPTER 367
H.P. 1068 - L.D. 1543

**An Act To Clarify the Use of
Tips in Payment of Service
Employees**

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

Sec. 1. 26 MRSA §663, sub-§8, as enacted by PL 1967, c. 466, §4, is amended to read:

8. Service employee. "Service employee"; means any employee engaged in an occupation, such as waiters, waitresses, bellhops, counter personnel and bartenders who serve customers, in which he the employee customarily and regularly receives more than \$20 \$30 a month in tips.

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

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. An employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

The tips received by a service employee become the property of the employee and may not be shared with the employer. Service employees may volunteer to pool their tips to be split among other service employees or may volunteer to share a part of their tips with other employees who do not generally receive tips directly from customers. Tips that are automatically included in the customer's bill or that are charged to a credit card must be 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.

See title page for effective date.

CHAPTER 368
H.P. 1129 - L.D. 1607

**An Act To Establish a Fund To
Provide American Flags at
Veterans' Graves**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

Whereas, honoring veterans buried in the Maine Veterans' Memorial Cemetery System by placing the United States flag on their graves is our duty as citizens; and

Whereas, the somber occasion of Memorial Day 2007, the day that we honor the sacrifices of those that served their country, will come to pass prior to the adjournment of the First Regular Session of the 123rd Legislature; and

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,

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

Sec. 1. 37-B MRSA §504, sub-§5, as amended by PL 2007, c. 167, §5, is further amended to read:

5. Weekend visitation. The superintendent director of the cemetery system shall arrange for public access during weekend daylight hours and regularly scheduled weekday visiting hours unless closure of the cemetery is considered necessary by the superintendent director for security or public safety purposes.

Sec. 2. 37-B MRSA §504, sub-§7 is enacted to read:

7. Flag placement program. The director of the cemetery system shall establish a program to facilitate the placement of 12-inch by 18-inch American flags at the graves of veterans buried in the Maine Veterans' Memorial Cemetery System. This program must allow for volunteer organizations to place flags on graves beginning 2 days prior to the day Memorial Day is observed and for removal by volunteer organizations 3 days after the day Memorial Day is observed. The director of the cemetery system shall permit a limited extension beyond the 3 days, so that the flags do not have to be removed in inclement weather. The director of the cemetery system is authorized to use funds as provided in subsection 8 and to accept private donations of flags, tools or other equipment necessary to implement the program.

Sec. 3. 37-B MRSA §504, sub-§8 is enacted to read:

8. Flag placement fund. There is established the Maine Veterans' Memorial Cemetery Flag Placement Fund, an interest-bearing account, referred to in this subsection as "the fund." The fund receives money appropriated from the General Fund and any other money contributed voluntarily to the fund. All money