
A BILL FOR AN ACT

RELATING TO TIP CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. (a) The legislature finds that the state law
2 relating to the 25 cent tip credit is undesirable for the
3 following reasons:

4 (1) It has remained generally unchanged since enacted in
5 1969 when the minimum wage was \$1.60 and has been
6 eroded by inflation to 3.8 per cent of the present
7 minimum wage;

8 (2) It is significantly less than the federal tip credit
9 and the tip credit in the majority of other states;

10 (3) It is counterproductive to increasing the wages of the
11 lowest paid workers in businesses when tipped
12 employees earn two to six times the minimum wage in
13 tips per hour, as employers are also mandated to
14 increase the wages of the highest wage earners when
15 tip income is taken into account;

16 (4) It does not take into consideration the investment the
17 employer makes to create the conditions that enable
18 tipped employees to earn tips; and



1 (5) It creates a significant disparity in earning ability
2 between tipped and non-tipped employees within a
3 business.

4 (b) The legislature further finds that the United States
5 Supreme Court ruling in 2002 on the Internal Revenue Service's
6 method of calculating tip income provides a basis for verifying
7 the amount of tips employees claim as income. Therefore, by
8 changing the tip credit to twenty-five per cent of the tips
9 claimed as income by the employee, the following benefits will
10 result:

11 (1) Tipped employees subject to the tip credit will be
12 assured of combined wages that are at least the
13 minimum wage plus three times the tip credit they are
14 subject to (the amount by which the tipped employee's
15 minimum wage is reduced);

16 (2) As the tip credit increases, the amount the tipped
17 employee earns above the minimum wage will also
18 increase;

19 (3) Employers will have an incentive to help tipped
20 employees earn higher tips;

1 (4) Employers will have an incentive to ensure that tipped
2 employees report all the income they receive in tips,
3 which will increase state tax revenues;

4 (5) Employers will be able to redirect the tip credit
5 savings to discretionary pay increases for non-tipped
6 (lowest wage) employees and to capital investments,
7 which will ensure job opportunities for tipped and
8 non-tipped employees and help stimulate the economy;

9 (6) A flexible tip credit will result in a credit that is
10 fair across a variety of industries and job
11 descriptions; and

12 (7) The tip credit amount will not need to be changed even
13 if the minimum wage is increased in the future.

14 SECTION 2. Section 387-2, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§387-2 Minimum wages.** Except as provided in section
17 387-9 and this section, every employer shall pay to each
18 employee employed by the employer, wages at the rate of not less
19 than:

20 (1) \$6.25 per hour beginning January 1, 2003;

21 (2) \$6.75 per hour beginning January 1, 2006; and

22 (3) \$7.25 per hour beginning January 1, 2007.



1 The hourly wage of a tipped employee may be deemed to be
2 increased on account of tips if: [~~the~~]

3 (1) The employee is paid an amount that is not less than
4 [~~25 cents~~] twenty-five per cent of the tips claimed by
5 the employee as income below the applicable minimum
6 wage [~~by the employee's employer and the~~];

7 (2) The combined amount the employee receives from the
8 employee's employer and in tips is at least 50 cents
9 more than the applicable minimum wage[~~-~~]; and

10 (3) The cash wage paid by the employer is not less than \$5
11 per hour."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

15

INTRODUCED BY: *Bruce Harbin*

JAN 25 2006

HB2789

Report Title:

Wages and Tips

Description:

Changes the minimum wage formula for tipped employees.

