

H .B. NO. 2392

A BILL FOR AN ACT

RELATING TO TIP CREDIT.

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

1 SECTION 1. Hawaii's tip credit law needs amending because
2 the current law concerning tips does not accurately reflect
3 actual earnings, including tips, received by tipped employees in
4 the food and beverage industry.

5 The state minimum wage is currently \$6.75 per hour. In
6 1969, when the minimum wage was \$1.60, the State allowed
7 employers of tipped employees to take a credit of 20 cents of
8 every wage dollar paid to a tipped employee if that tipped
9 employee received at least \$20 per month in tips. Hawaii's tip
10 credit, which has only been adjusted once since 1969, has been
11 eroded by inflation.

12 Hawaii's "tip credit" is significantly less than the
13 federal tip credit and the tip credit in the majority of other
14 states. Further, it is counterproductive to increasing the
15 wages of the lowest paid workers in businesses when tipped
16 employees earn two to six times the minimum wage in tips per
17 hour, as employers are mandated to increase the wages of the
18 highest wage earners when tip income is taken into account.

1 Additionally, the current "tip credit" does not take into
2 consideration the investment the employer makes to create the
3 conditions that enable tipped employees to earn tips. It
4 creates a significant disparity in earning ability between
5 tipped and non-tipped employees within a business.

6 As such, tipped employees in the food and service industry
7 generally earn substantially more than the minimum wage because
8 their income includes a mandatory wage of \$6.75 per hour,
9 including tips. The tip credit, which is set at 25 cents,
10 should therefore be changed to account for past inflation and to
11 reflect the level of tips currently received by tipped employees
12 in the food and beverage industry. This change would assist the
13 service industry in providing greater benefits and wages to
14 those employees who are not tipped and are paid at a lower pay
15 scale. These employees are the usually the cooks and food
16 preparation personnel who are also more likely to be parents and
17 grandparents who are the main providers for their families.

18 This Act provides relief to Hawaii employers by increasing
19 the tip credit from 25 cents to \$1.25 upon approval, and to
20 \$2.25 on January 1, 2007. This legislation also provides a
21 formula to be enacted January 1, 2008, that will allow for the
22 tip credit to automatically adjust to inflation.

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

3 "**§387-2 Minimum wages.** Except as provided in section 387-
4 9 and this section, every employer shall pay to each employee
5 employed by the employer wages at the rate of not less than:

6 (1) \$6.25 per hour beginning January 1, 2003;

7 (2) \$6.75 per hour beginning January 1, 2006; and

8 (3) \$7.25 per hour beginning January 1, 2007.

9 The hourly wage of a tipped employee may be deemed to be
10 increased on account of tips if the employee is paid not less
11 than [~~25 cents~~] \$1.25 below the applicable minimum wage by the
12 employee's employer and the combined amount the employee
13 receives from the employee's employer and in tips is at least 50
14 cents more than the applicable minimum wage.

15 Beginning January 1, 2007, the hourly wage of a tipped
16 employee may be deemed to be increased on account of tips if the
17 employee is paid not less than \$2.25 below the applicable
18 minimum wage by the employee's employer and the combined amount
19 the employee receives from the employee's employer and in tips
20 is at least 50 cents more than the applicable minimum wage."

21 Beginning January 11, 2008, the hourly wage of a tipped
22 employee may be deemed to be increased on account of tips if the

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1 employee is paid not less than twenty-five per cent of the tips
2 claimed by the employee as income below the applicable minimum
3 wage; and the combined amount the employee receives from the
4 employee's employer and in tips is at least 50 cents more than
5 the applicable minimum wage provided that the cash wage paid by
6 the employer is not less than \$4 per hour."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

Calvin K-Y Day

BY REQUEST
JAN 23 2006

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO TIP CREDIT.

PURPOSE: To provide a segment of Hawaii's lowest paid employees and business community with economic relief by increasing Hawaii's tip credit from 25 cents to \$1.25 upon approval in 2006, to \$2.25 on January 1, 2007, and to 25% of the tips claimed by an employee as income January 1, 2008.

MEANS: Amend section 387-2, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii's tip credit, which has only been adjusted once since 1969 when the minimum wage was \$1.60, has been eroded by inflation to 3.8 per cent of the present minimum wage.

The tip credit is significantly less than the federal tip credit and the tip credit in the majority of other states. Further it is counterproductive to increasing the wages of the lowest paid workers in businesses when tipped employees earn two to six times the minimum wage in tips per hour, as employers are mandated to increase the wages of the highest wage earners when tip income is taken into account.

The current "tip credit" does not take into consideration the investment the employer makes to create the conditions that enable tipped employees to earn tips. It creates a significant disparity in earning ability between tipped and non-tipped employees within a business.

Impact on the public: Businesses will be able to offer the lowest paid employees, such as cooks and dishwashers, greater wages.

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Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR-171.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.