

JAN 25 2006

S.B. NO. 2979

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# A BILL FOR AN ACT

RELATING TO MINIMUM WAGE LAW.

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

1           SECTION 1. (a) The legislature finds that, under the  
2 minimum wage law, the current 25 cent tip credit is undesirable  
3 for the following reasons:

4           (1) It has remained generally unchanged since established  
5 in 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 amounts in a majority of the other  
10 states;

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



1 (4) It does not take into consideration the investment the  
2 employer makes in creating the conditions that enable  
3 tipped employees to earn tips; and

4 (5) It creates a significant disparity in earnings ability  
5 between tipped and non-tipped employees within a  
6 business.

7 (b) The legislature further finds that the United States  
8 Supreme Court ruling in 2002 on the Internal Revenue Service  
9 method of calculating tip income provides a basis for verifying  
10 the amount of tips employees claim as income. Additionally,  
11 under federal law, certain employers are entitled to a tax  
12 credit for any FICA taxes paid on the tips of tipped employees  
13 in excess of the amount used to support a tip credit.  
14 Consequently, changing the tip credit amount to twenty-five per  
15 cent below the minimum wage will result in the following  
16 benefits:

17 (1) Employers will have an incentive to help tipped  
18 employees earn higher tips;

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



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

6 (4) A flexible tip credit will result in a credit that is  
7 fair across a variety of industries and job  
8 descriptions; and

9 (5) The tip credit amount will not need to be changed even  
10 if the minimum wage is increased in the future.

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

13 "**§387-2 Minimum wages.** Except as provided in section  
14 387-9 and this section, every employer shall pay to each  
15 employee employed by the employer, wages at the rate of not less  
16 than:

- 17 (1) \$6.25 per hour beginning January 1, 2003;
- 18 (2) \$6.75 per hour beginning January 1, 2006; and
- 19 (3) \$7.25 per hour beginning January 1, 2007.

20 The hourly wage of a tipped employee may be deemed to be  
21 increased on account of tips if the employee is paid an amount  
22 that is not less than [25-cents] twenty-five per cent below the

1 applicable minimum wage [~~by the employee's employer~~] and the  
 2 combined amount the employee receives from the employee's  
 3 employer and in tips is at least 50 cents more than the  
 4 applicable minimum wage."

5 SECTION 3. Statutory material to be repealed is bracketed  
 6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval.  
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**Report Title:**

Minimum Wage Law; Tip Credit

**SB. NO. 2979**

**Description:**

Establishes a tip credit formula of twenty-five percent below the minimum wage.

