

JAN 25 2010

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# A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1           SECTION 1. The legislature finds that divergent interests  
2 generally exist between employees and employers with regard to  
3 the treatment of tips received by tipped employees. Employees  
4 desire to retain all tips received, as employees provide the  
5 service from which tips are derived; employers seek to decrease  
6 wages provided to employees through a credit for tips received,  
7 as employers provide the employment through which tips are  
8 received. To achieve a balance between these two opposite  
9 interests, the legislature established a 25-cent tip credit  
10 amount (Act 36, Session Laws of Hawaii 1969, codified as section  
11 378-2, Hawaii Revised Statutes). Act 36 also established a  
12 minimum wage amount of \$1.60 per hour. However, since 1969, the  
13 tip credit amount has remained unchanged, while the minimum wage  
14 amount has increased many times over.

15           Under the current state tip credit law, an employer may  
16 reduce an employee's wages from the minimum wage of \$7.25 per  
17 hour to \$7 per hour, if the employee regularly receives more



1 than \$20 per month in tips and the combined amount the employee  
2 receives in tips and wages from the employer is at least 50  
3 cents more than the minimum wage. This 25-cent tip credit  
4 amount is significantly less than the federal tip credit amount  
5 of \$5.12 per hour, as well as the tip credit amount of all other  
6 states that allow tip credits. However, seven states and one  
7 United States territory do not allow tip credits at all.

8 The legislature further finds that the failure of Hawaii's  
9 tip credit amount to keep pace with the increased minimum wage  
10 amount hampers employers' ability to increase the wage rate of  
11 non-tipped employees who also contribute valuable services to  
12 the business. The balance between the competing interests of  
13 employers and employees must be adjusted to ensure that  
14 employers' interests and ability to do business are protected,  
15 employees are provided an appropriate living wage, and  
16 fundamental fairness exists among employees.

17 The purpose of this Act is to:

- 18 (1) Increase the tip credit amount; and
- 19 (2) Enable the tip credit amount to keep pace with future  
20 minimum wage increases by establishing a tip credit as  
21 a percentage of the minimum wage amount.



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

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

- 7 (1) \$6.25 per hour beginning January 1, 2003;
- 8 (2) \$6.75 per hour beginning January 1, 2006; and
- 9 (3) \$7.25 per hour beginning January 1, 2007.

10 ~~[The]~~ (b) Notwithstanding subsection (a), the hourly wage  
11 of a tipped employee may be deemed to be increased on account of  
12 tips if ~~[the employee is paid not]~~:

13 (1) The employee's employer pays the employees not less  
14 than ~~[25 cents]~~ \_\_\_\_\_ per cent below the applicable  
15 minimum wage ~~[by the employee's employer]~~; and

16 (2) The combined amount the employee receives [from the  
17 ~~employee's employer]~~ under paragraph (1) and in tips  
18 is at least 50 cents more than the applicable minimum  
19 wage."

20 SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22



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

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INTRODUCED BY:

*[Signature]*

*[Signature]*

*Assembly of Bill  
Norman Sakuma*

*[Signature]*



**Report Title:**

Wage and Hour Law; Tip Credit

**Description:**

Establishes a tip credit amount of not more than            per cent  
below the applicable minimum wage amount.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

