

JAN 23 2009

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 \$1.40 per hour for
6 tipped workers, and has been eroded by inflation to
7 3.8 per cent of the present minimum wage;

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

11 (3) It is counterproductive to increase the wages of the
12 lowest paid workers, when tipped employees earn two to
13 six times the minimum wage in tips per hour, as
14 employers are compelled to increase the wages of the
15 highest wage earners when tip income is taken into
16 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's
9 method for calculating tip income provides a basis for verifying
10 the amount employees claim as tip income. Additionally, under
11 federal law, certain employers are entitled to a tax credit for
12 any FICA taxes paid on the tips of tipped employees in excess of
13 the amount used to support a tip credit. Consequently, changing
14 the tip credit amount to twenty-five per cent below the minimum
15 wage will result in the following benefits:

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

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

21 (3) Employers will be able to redirect the tip credit
22 savings to discretionary pay increases for non-tipped



1 (lowest-wage) employees and to capital investments,
2 which will ensure job opportunities for tipped and
3 non-tipped employees and help stimulate the economy;

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

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

9 (c) The purpose of this Act is to increase the tip credit
10 amount to twenty-five per cent of the minimum wage.

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.
8

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Report Title:

Minimum Wage Law; Tip Credit

Description:

Establishes a tip credit formula that requires a tipped employee to be paid an hourly amount of not less than 25% below the minimum wage.

