

2022 -- S 2246 SUBSTITUTE A

LC004366/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - TIP PROTECTION

Introduced By: Senators Kallman, Coyne, Sosnowski, Goodwin, Acosta, Zurier, Mack,
Cano, DiPalma, and Seveney

Date Introduced: February 08, 2022

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR RELATIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 14.1

4 TIP PROTECTION

5 **28-14.1-1. Definitions.**

6 Whenever used in this chapter:

7 (1) "Employer" means any individual, firm, partnership, association, joint stock company,
8 trust, corporation, receiver, or other like officer appointed by a court of this state, and any agent or
9 officer of any of the previously mentioned classes, employing any person in this state.

10 (2) "Service charge" means a compulsory fee charged by an employer to a patron.

11 (3) "Tip" means voluntary monetary compensation received directly or indirectly by the
12 employee for services rendered.

13 (4) "Tipped employee" means any employee engaged in an occupation in which the
14 employee customarily and regularly receives more than thirty dollars (\$30.00) a month in tips.

15 **28-14.1-2. Restrictions on tip pooling.**

16 (a) A tip is the sole property of the tipped employee. Any arrangement between the
17 employer and the tipped employee whereby any part of the tip received becomes the property of
18 the employer is prohibited.

19 (b) The requirement that an employee must retain all tips does not preclude a valid tip

1 pooling or sharing arrangement among employees who customarily and regularly receive tips.

2 (1) An employer must notify its employees of any required tip pool contribution amount,
3 may only take a tip credit for the amount of tips each employee ultimately receives, and may not
4 retain any of the employees' tips for any other purpose, except as provided in § 28-14.1-4.

5 (2) An employer that pays the full minimum wage and takes no tip credit may allow
6 employees who are not tipped employees to participate in the tip pool. This shall not apply to
7 exempt employees as defined by section 13(a)(1) of the Fair Labor Standards Act as defined by
8 regulations 29 C.F.R. Part 541.

9 **28-14.1-3. Service charges.**

10 Service charges are part of the employer's gross receipts. Sums distributed to employees
11 from service charges cannot be counted as tips received, but may be used to satisfy the employer's
12 minimum wage and overtime requirements pursuant to the provisions of §§ 28-12-4.1 and 28-12-
13 5. If an employee receives tips in addition to the compulsory service charge, those tips may be
14 considered in determining whether the employee is a tipped employee and in the application of the
15 tip credit.

16 **28-14.1-4. Credit cards.**

17 Where tips are charged on a credit card and the employer must pay the credit card company
18 a percentage on each sale, the employer may deduct that percentage from the employee's tips,
19 provided that the employer notifies the employee of the deduction. This charge on the tip may not
20 reduce the employee's wage below the required minimum wage. The amount due the employee
21 must be paid no later than the regular pay day and may not be held while the employer is awaiting
22 reimbursement from the credit card company.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would prohibit employers from receiving any portion of the tips given by
2 customers to their tipped employees, with limited exceptions for credit card service charges and
3 would allow non-tipped employees to participate in a tip pool in instances where the employer pays
4 the full minimum wage.

5 This act would take effect upon passage.

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