

**2015 -- H 5364 SUBSTITUTE A**

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LC000752/SUB A/2  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2015**

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - MINIMUM WAGE - GRATUITIES

Introduced By: Representatives Regunberg, Bennett, O'Brien, McNamara, and Diaz

Date Introduced: February 11, 2015

Referred To: House Labor

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 28-12-5 of the General Laws in Chapter 28-12 entitled "Minimum  
2 Wages" is hereby amended to read as follows:

3           ~~28-12-5. **Employees receiving gratuities --- Incentive-based wages --- Certain**~~  
4 ~~**employees of nonprofit entities. ---**~~ **Employees receiving gratuities. --** (a) Every employer shall  
5 pay to each of his or her employees who, are engaged in any work or employment in which  
6 gratuities have customarily and usually constituted a part of his or her weekly income, the rate as  
7 provided by §§ 28-12-3 and 28-12-3.1.

8           (b) Allowance for gratuities as part of the hourly wage rate for restaurants, hotels, and  
9 other industries except taxicabs and limited public motor vehicles shall be an amount equal to the  
10 applicable minimum rates as provided by §§ 28-12-3 and 28-12-3.1 less two dollars and eighty-  
11 nine cents (\$2.89) per hour. "Gratuities" means voluntary monetary compensation received  
12 directly or indirectly by the employee for services rendered.

13           (c) Each employer desiring to deduct for gratuities as part of the minimum rates as  
14 provided in §§ 28-12-3 and 28-12-3.1 wages paid to an employee shall provide substantial  
15 evidence that the amount shall be set out in the formula in subsection (b) of this section; however,  
16 the cash wage shall not be less than two dollars and eighty-nine cents (\$2.89) per hour; provided,  
17 however, that commencing January 1, 2016, the cash wage shall increase by fifty cents (\$.50) to  
18 an amount not less than three dollars and thirty-nine cents (\$3.39) per hour; provided further, that  
19 commencing January 1, 2017, the cash wage shall increase by fifty cents (\$.50) to an amount not

1 less than three dollars and eighty-nine cents (\$3.89) per hour.

2 (d) The director of labor and training shall notify employers concerning what type of  
3 proof shall be accepted as substantial evidence for the purpose of this subsection. Employees  
4 involved shall be entitled to a hearing on the question of the amount of deduction if they so  
5 desire.

6 ~~(d)~~(e) In cases where wages are figured by the employer on an incentive basis in such a  
7 manner that an employee of reasonable average ability earns at least the minimum wage  
8 established by §§ 28-12-3 and 28-12-3.1, it shall be taken that the employer has complied with  
9 this statute. It shall be of no concern to the director of labor and training how the employer arrives  
10 at its wage scale so long as it is not unreasonable in its demands on the employee.

11 ~~(e)~~(f) Where, in the case of the employment of a full-time student who has not attained  
12 his or her nineteenth (19th) birthday engaged in the activities of a nonprofit association or  
13 corporation, whose aims and objectives are religious, educational, librarial, or community service  
14 in nature, the employer-employee relationship does exist, the employer shall pay to each such  
15 employee wages at a rate of not less than ninety percent (90%) of the minimum wage as specified  
16 in § 28-12-3. In case of any conflict between provisions of this section and those of § 28-12-3.1,  
17 the provisions of § 28-12-3.1 shall govern.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

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1           This act would raise the minimum wage for tipped workers to three dollars and thirty-  
2   nine cents (\$3.39) per hour beginning January 1, 2016, and to three dollars and eighty-nine cents  
3   (\$3.89) per hour, beginning January 1, 2017.

4           This act would take effect upon passage.

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