

2021 -- S 0545

LC001961

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- TIPPED MINIMUM WAGE

Introduced By: Senators Euer, Ciccone, Kallman, Valverde, DiMario, Lawson, Cano,  
Murray, Sosnowski, and Goodwin

Date Introduced: March 04, 2021

Referred To: Senate 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.**

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

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

12 (c) Each employer desiring to deduct for gratuities as part of the minimum rates as provided  
13 in §§ 28-12-3 and 28-12-3.1 wages paid to an employee shall provide substantial evidence that the  
14 amount shall be set out in the formula in subsection (b) of this section; however, the cash wage  
15 shall not be less than two dollars and eighty-nine cents (\$2.89) per hour; provided, however, that  
16 commencing January 1, 2016, the cash wage shall increase by fifty cents (\$.50) to an amount not  
17 less than three dollars and thirty-nine cents (\$3.39) per hour; provided further, that commencing  
18 January 1, 2017, the cash wage shall increase by fifty cents (\$.50) to an amount not less than three  
19 dollars and eighty-nine cents (\$3.89) per hour; provided further, that commencing January 1, 2022,

1 the cash wage shall increase by three dollars and six cents (\$3.06) to an amount not less than six  
2 dollars and ninety-five cents (\$6.95) per hour; commencing January 1, 2023, the cash wage shall  
3 increase by two dollars (\$2.00) to an amount not less than eight dollars and ninety-five cents (\$8.95)  
4 per hour; commencing January 1, 2024, the cash wage shall increase by two dollars (\$2.00) to an  
5 amount not less than ten dollars and ninety-five cents (\$10.95) per hour commencing; January 1,  
6 2025, the cash wage shall increase by two dollars (\$2.00) to an amount not less than twelve dollars  
7 and ninety-five cents (\$12.95) per hour; commencing January 1, 2026, the cash wage shall increase  
8 by two dollars (\$2.00) to an amount not less than fourteen dollars and ninety-five cents (\$14.95)  
9 per hour; commencing January 1, 2027, the cash wage shall increase by two dollars (\$2.00) to an  
10 amount not less than sixteen dollars and ninety-five cents (\$16.95) per hour.

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

14 (e) In cases where wages are figured by the employer on an incentive basis in such a manner  
15 that an employee of reasonable average ability earns at least the minimum wage established by §§  
16 28-12-3 and 28-12-3.1, it shall be taken that the employer has complied with this statute. It shall be  
17 of no concern to the director of labor and training how the employer arrives at its wage scale so  
18 long as it is not unreasonable in its demands on the employee.

19 (f) Where, in the case of the employment of a full-time student who has not attained his or  
20 her nineteenth (19th) birthday engaged in the activities of a nonprofit association or corporation,  
21 whose aims and objectives are religious, educational, librarial, or community service in nature, the  
22 employer-employee relationship does exist, the employer shall pay to each such employee wages  
23 at a rate of not less than ninety percent (90%) of the minimum wage as specified in § 28-12-3. In  
24 case of any conflict between provisions of this section and those of § 28-12-3.1, the provisions of  
25 § 28-12-3.1 shall govern.

26 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 gradually increase the tipped minimum wage from the current three dollars  
2 and eighty-nine cents (\$3.89) to sixteen dollars and ninety-five cents (\$16.95) over the course of  
3 five (5) years, between 2022 and 2027.

4           This act would take effect upon passage.

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