

1.1 A bill for an act

1.2 relating to employment; modifying the minimum wage for tipped employees;  
1.3 providing for a tip credit; amending Minnesota Statutes 2008, section 177.24,  
1.4 subdivision 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2008, section 177.24, subdivision 2, is amended to read:

1.7 Subd. 2. ~~Gratuities not applied Tipped employees. No employer may directly~~  
1.8 ~~or indirectly credit, apply, or utilize gratuities towards payment of the minimum wage~~  
1.9 ~~set by this section or federal law.~~

1.10 (a) "Tip or gratuity" means a sum presented by a customer in recognition of a service  
1.11 performed. It does not include:

1.12 (1) payment of a charge made for a service;

1.13 (2) any amount turned over to or credited to the employer to be treated by the  
1.14 employer as part of the employer's gross receipts; or

1.15 (3) a compulsory charge for service, including a fixed percentage of the total amount  
1.16 of the bill, imposed on a customer unless the total amount of the compulsory charge is  
1.17 distributed by the employer to the employee.

1.18 (b) When tips or gratuities are received by the employee, the employer may pay an  
1.19 amount less than the applicable minimum wage under subdivision 1, only if the employer  
1.20 can establish by its payroll records that for each payroll period during which the employer  
1.21 pays an employee an amount less than the minimum wage, that after adding the tips  
1.22 received to the wages paid, no less than the minimum wage under subdivision 1 was  
1.23 received by the employee. However, in no case can an employer pay less than 50 percent  
1.24 of the applicable minimum wage under subdivision 1.

2.1           (c) When an employer pays an amount under paragraph (b) that is less than the  
2.2 minimum wage, the employer must:

2.3           (1) have a tip declaration signed by the employee each pay period; and

2.4           (2) show on the payroll records that required Social Security or other taxes have  
2.5 been withheld each pay period which demonstrate that when adding tips received to the  
2.6 wages paid by the employer, an amount no less than the minimum wage under subdivision  
2.7 1 was received by the employee.

2.8           If the employer's payroll records do not contain the required information, the  
2.9 employer shall not pay an amount less than the minimum wage.

2.10          (d) Under a pooling arrangement whereby the employer redistributes tips to  
2.11 employees based upon a system developed by and to which the employees have mutually  
2.12 agreed among themselves, only the amounts received and retained by each individual  
2.13 employee are counted as the employee's tips.

2.14          (e) This subdivision applies only when an employee receives tips or gratuities in  
2.15 excess of \$30 per month.