SENATE, No. 1572

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

SYNOPSIS

"Tipped Wage Worker Protection Act."

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning wages of tipped workers and supplementing P.L.1966, c.113.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Tipped Wage Worker Protection Act."

2. No employer shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Every gratuity is the sole property of the employee or employees to whom it was paid, given, or left for. An employer that permits patrons to pay gratuities by credit card shall pay the employees the full amount of the gratuity that the patron indicated on the credit card slip, without any deductions for any credit card payment processing fees or costs that may be charged to the employer by the credit card company. Payment of gratuities made by patrons using credit cards shall be made to the employees not later than the next regular payday following the date the patron authorized the credit card payment.

3. Every employer shall keep accurate records of all gratuities received by that employer, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. Those records shall be open to inspection at all reasonable hours by the commissioner.

4. Any employer who violates sections 1 or 2 of this act shall be liable for a civil penalty in an amount not to exceed $1,000 for the first violation, $2,000 for the second violation, and $5,000 for each subsequent violation, collectible by the commissioner in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

5. This act shall take effect one the first day of the second month next following enactment.

STATEMENT

This bill, the "Tipped Wage Worker Protection Act," prohibits employers from taking employee gratuities or forcing employees to share their wages with other employees.

Pursuant to this bill, no employer may collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. The bill provides that every gratuity is the sole property of the employee or employees to whom it was paid, given, or left for.

The bill requires employers that permit patrons to pay gratuities by credit card to pay the employees the full amount of the gratuity that the patron indicated on the credit card slip, without any deductions for any credit card payment processing fees or costs that may be charged to the employer by the credit card company. Payment of gratuities made by patrons using credit cards are to be made to the employees not later than the next regular payday following the date the patron authorized the credit card payment.

The bill requires employers to keep accurate records of all gratuities received by that employer, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. Those records are to be open to inspection at all reasonable hours by the Department of Labor and Workforce Development.

Any employer who violates the provisions of the bill is liable for a civil penalty in an amount not to exceed $1,000 for the first violation, $2,000 for the second violation, and $5,000 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development in a summary proceeding.

Under current State and federal rules, employers cannot force employees to share gratuities or gratuities tips intended for workers. Under a proposed federal rule change, employers could require employees in some states to give gratuities to the employers. The rule allows for certain redistributions of gratuities, provided that employees who receive gratuities are paid the minimum wage. While the proposed federal rule would not immediately impact tipped workers in the State of New Jersey, this bill will protect New Jersey from any future attempts to take gratuities from these workers.