

SENATE No. 982

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the tipped minimum wage.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>

SENATE No. 982

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 982) of Patricia D. Jehlen, Denise Provost, James B. Eldridge, Jason M. Lewis and other members of the General Court for legislation relative to the tipped minimum wage. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the tipped minimum wage.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 151 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by inserting at the end thereof the following:-

3 "Bona fide collective bargaining agreement," an agreement when it is made with a labor
4 organization which has been certified pursuant to the provision of section 7(b)(1) or 7(b)(2) of
5 the National Labor Relations Act by the National Labor Relations Board, or which is the
6 certified representative of the employees under the provisions of the National Labor Relations
7 Act, as amended, or the Railway Labor Act, as amended.

8 SECTION 2. Section 7 of chapter 151 of the General Laws, as so appearing, is hereby
9 amended by striking the third paragraph and inserting in place thereof the following:-

10 In determining the wage an employer is required to pay a tipped employee, the amount
11 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
12 employee which for purposes of such determination shall be not less than \$4.50; and (2) an

13 additional amount on account of the tips received by such employee which amount is equal to the
14 difference between the wage specified in clause (1) and the wage in effect under section 1. The
15 additional amount on account of tips may not exceed the value of the tips actually received by an
16 employee. This paragraph shall not apply with respect to any tipped employee unless such
17 employee has been informed by the employer of the provisions of this paragraph, and all tips
18 received by such employee have been retained by the employee, except that this paragraph shall
19 not be construed to prohibit the pooling of tips among employees who customarily and regularly
20 receive tips. Furthermore, this paragraph shall not apply with respect to any tipped employee
21 employed in the hotel and restaurant industry, including in hotel restaurants, when such
22 employee is subject to the terms of a bona fide collective bargaining agreement.

23 SECTION 3. Section 7 of chapter 151 of the General Laws, as so appearing, is hereby
24 amended by striking the third paragraph and inserting in place thereof the following:-

25 In determining the wage an employer is required to pay a tipped employee, the amount
26 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
27 employee which for purposes of such determination shall be not less than \$6.00; and (2) an
28 additional amount on account of the tips received by such employee which amount is equal to the
29 difference between the wage specified in clause (1) and the wage in effect under section 1. The
30 additional amount on account of tips may not exceed the value of the tips actually received by an
31 employee. This paragraph shall not apply with respect to any tipped employee unless such
32 employee has been informed by the employer of the provisions of this paragraph, and all tips
33 received by such employee have been retained by the employee, except that this paragraph shall
34 not be construed to prohibit the pooling of tips among employees who customarily and regularly
35 receive tips. Furthermore, this paragraph shall not apply with respect to any tipped employee

36 employed in the hotel and restaurant industry, including in hotel restaurants, when such
37 employee is subject to the terms of a bona fide collective bargaining agreement.

38 SECTION 4. Section 7 of chapter 151 of the General Laws, as so appearing, is hereby
39 amended by striking the third paragraph and inserting in place thereof the following:-

40 In determining the wage an employer is required to pay a tipped employee, the amount
41 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
42 employee which for purposes of such determination shall be not less than \$8.75; and (2) an
43 additional amount on account of the tips received by such employee which amount is equal to the
44 difference between the wage specified in clause (1) and the wage in effect under section 1. The
45 additional amount on account of tips may not exceed the value of the tips actually received by an
46 employee. This paragraph shall not apply with respect to any tipped employee unless such
47 employee has been informed by the employer of the provisions of this paragraph, and all tips
48 received by such employee have been retained by the employee, except that this paragraph shall
49 not be construed to prohibit the pooling of tips among employees who customarily and regularly
50 receive tips. Furthermore, this paragraph shall not apply with respect to any tipped employee
51 employed in the hotel and restaurant industry, including in hotel restaurants, when such
52 employee is subject to the terms of a bona fide collective bargaining agreement.

53 SECTION 5. Section 7 of chapter 151 of the General Laws, as so appearing, is hereby
54 amended by striking the third paragraph and inserting in place thereof the following:-

55 In determining the wage an employer is required to pay a tipped employee, the amount
56 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
57 employee which for purposes of such determination shall be not less than \$10.50; and (2) an

58 additional amount on account of the tips received by such employee which amount is equal to the
59 difference between the wage specified in clause (1) and the wage in effect under section 1. The
60 additional amount on account of tips may not exceed the value of the tips actually received by an
61 employee. This paragraph shall not apply with respect to any tipped employee unless such
62 employee has been informed by the employer of the provisions of this paragraph, and all tips
63 received by such employee have been retained by the employee, except that this paragraph shall
64 not be construed to prohibit the pooling of tips among employees who customarily and regularly
65 receive tips. Furthermore, this paragraph shall not apply with respect to any tipped employee
66 employed in the hotel and restaurant industry, including in hotel restaurants, when such
67 employee is subject to the terms of a bona fide collective bargaining agreement.

68 SECTION 6. Section 7 of chapter 151 of the General Laws, as so appearing, is hereby
69 amended by striking the third paragraph and inserting in place thereof the following:-

70 Beginning on January 1, 2022, and no later than January 1 of each successive year, in
71 determining the wage an employer is required to pay a tipped employee, the amount paid to such
72 employee by the employer shall be an amount equal to: (1) the cash wage paid such employee
73 which for purposes of such determination shall be the minimum wage as set by section 1 of
74 Chapter 151 of this Act; and (2) an additional amount on account of the tips received by such
75 employee which amount is equal to the difference between the wage specified in clause (1) and
76 the wage in effect under section 1. The additional amount on account of tips may not exceed the
77 value of the tips actually received by an employee. This paragraph shall not apply with respect to
78 any tipped employee unless such employee has been informed by the employer of the provisions
79 of this paragraph, and all tips received by such employee have been retained by the employee,
80 except that this paragraph shall not be construed to prohibit the pooling of tips among employees

81 who customarily and regularly receive tips. Furthermore, this paragraph shall not apply with
82 respect to any tipped employee employed in the hotel and restaurant industry, including in hotel
83 restaurants, when such employee is subject to the terms of a bona fide collective bargaining
84 agreement.

85 SECTION 7. Sections 1 and 2 shall take effect on January 1, 2018.

86 SECTION 8. Section 3 shall take effect on January 1, 2019.

87 SECTION 9. Section 4 shall take effect on January 1, 2020.

88 SECTION 10. Section 5 shall take effect on January 1, 2021.

89 SECTION 11. Section 6 shall take effect on January 1, 2022.