

**HOUSE . . . . . No. 2365**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Daniel M. Donahue***

*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 to improve the Commonwealth’s economy with a strong minimum wage and a strong tipped minimum wage.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/20/2017</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/30/2017</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>	<i>2/2/2017</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/25/2017</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/24/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/24/2017</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/25/2017</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>2/3/2017</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>1/25/2017</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>	<i>1/26/2017</i>
<i>Gerard Cassidy</i>	<i>9th Plymouth</i>	<i>1/31/2017</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>2/2/2017</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>	<i>2/2/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/26/2017</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/30/2017</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	<i>1/27/2017</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	<i>1/31/2017</i>

<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>2/2/2017</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/3/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/24/2017</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>1/30/2017</i>
<i>William Driscoll</i>	<i>7th Norfolk</i>	<i>2/1/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/31/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2017</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/2/2017</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>2/1/2017</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>1/26/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>2/3/2017</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/31/2017</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>2/3/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>1/24/2017</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>	<i>1/24/2017</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/3/2017</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>2/2/2017</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>2/3/2017</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>	<i>2/1/2017</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>2/1/2017</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>1/26/2017</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/23/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/3/2017</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/30/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/31/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/1/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>1/31/2017</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	<i>2/3/2017</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>	<i>2/2/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/30/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/23/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2017</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/30/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>1/30/2017</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>2/1/2017</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>	<i>1/25/2017</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>2/2/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>

<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>1/31/2017</i>
<i>Juana B. Matias</i>	<i>16th Essex</i>	<i>2/1/2017</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>1/29/2017</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>2/1/2017</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>1/25/2017</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>1/25/2017</i>
<i>Brian Murray</i>	<i>10th Worcester</i>	<i>2/3/2017</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>1/24/2017</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>1/25/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/23/2017</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/24/2017</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>	<i>1/25/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>1/26/2017</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>1/26/2017</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/24/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/26/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/24/2017</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>1/25/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/25/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/27/2017</i>
<i>Bud Williams</i>	<i>11th Hampden</i>	<i>2/1/2017</i>

**HOUSE . . . . . No. 2365**

By Mr. Donahue of Worcester, a petition (accompanied by bill, House, No. 2365) of Daniel M. Donahue and others relative to the tipped minimum wage. Labor and Workforce Development.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninetieth General Court  
(2017-2018)**

An Act to improve the Commonwealth’s economy with a strong minimum wage and a strong 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 1 of chapter 151 of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by striking, in line 1, the word “It”, and replacing it with the  
3 following words:-

4 Notwithstanding the provisions of section 27C of chapter 29 or any other general or  
5 special law to the contrary, it

6 SECTION 2. Said section 1 of chapter 151 of the General Laws, is hereby further  
7 amended by inserting, in line 1, before the word “employer”, the following words:-

8 public or private

9 SECTION 3. Said section 1 of chapter 151 of the General Laws, is hereby further  
10 amended by striking out, in line 5, the figure “11.00” and inserting in place thereof the following  
11 figure: -12.00.

12 SECTION 4. Said section 1 of chapter 151 is hereby further amended by inserting, in line  
13 5, after the word “hour”, the following words:-

14 as of January 1, 2018; \$13.00 per hour as of January 1, 2019; \$14.00 per hour as of  
15 January 1, 2020; and \$15.00 per hour as of January 1, 2021.

16 SECTION 5. Said section 1 of chapter 151 is hereby further amended by inserting, in line  
17 10 after the word “nine.”, the following sentences:-

18 On January 1, 2022 and each January 1st thereafter, the minimum wage rate that is  
19 currently conclusively presumed to be oppressive and unreasonable under this section shall be  
20 increased by the increase, if any, in the cost of living. The increase in the cost of living shall be  
21 measured by the percentage increase, if any, as of August of the previous year over the level as  
22 of August of the year preceding that of the Consumer Price Index for Urban Wage Earners and  
23 Clerical Workers (CPI-W), or its successor index as published by the U.S. Department of Labor  
24 or its successor agency, with the amount of the minimum wage increase rounded up to the  
25 nearest multiple of five cents.

26 SECTION 6. Chapter 151 is hereby further amended by inserting, after section 2B, the  
27 following section:-

28 Section 2C. Notwithstanding section 17 of chapter 15D or any general or special law to  
29 the contrary, the department of early education and care shall be deemed the employer of family  
30 childcare providers, as defined by section 17(a) of chapter 15D, and family childcare providers  
31 shall be deemed employed persons, for purposes of this chapter. Notwithstanding any general or  
32 special law to the contrary, the attorney general of the commonwealth shall determine the  
33 minimum rates to be paid by the department of early education and care to family childcare

34 providers, and promulgate any regulations necessary for purposes of determining the minimum  
35 rates, in order that the rates are substantially equivalent to the minimum wage provisions set  
36 forth in section 1 of this chapter.

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

39 In determining the wage an employer is required to pay a tipped employee, the amount  
40 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
41 employee which for purposes of such determination shall be not less than \$5.25; and (2) an  
42 additional amount on account of the tips received by such employee which amount is equal to the  
43 difference between the wage specified in clause (1) and the wage in effect under section 1. The  
44 additional amount on account of tips may not exceed the value of the tips actually received by an  
45 employee. This paragraph shall not apply with respect to any tipped employee unless such  
46 employee has been informed by the employer of the provisions of this paragraph, and all tips  
47 received by such employee have been retained by the employee, except that this paragraph shall  
48 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
49 receive tips.

50 SECTION 8. Section 7 of chapter 151 of the General Laws, is hereby amended by  
51 striking the third paragraph and inserting in place thereof the following:-

52 In determining the wage an employer is required to pay a tipped employee, the amount  
53 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
54 employee which for purposes of such determination shall be not less than \$6.75; and (2) an  
55 additional amount on account of the tips received by such employee which amount is equal to the

56 difference between the wage specified in clause (1) and the wage in effect under section 1. The  
57 additional amount on account of tips may not exceed the value of the tips actually received by an  
58 employee. This paragraph shall not apply with respect to any tipped employee unless such  
59 employee has been informed by the employer of the provisions of this paragraph, and all tips  
60 received by such employee have been retained by the employee, except that this paragraph shall  
61 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
62 receive tips.

63 SECTION 9. Section 7 of chapter 151 of the General Laws, is hereby amended by  
64 striking the third paragraph and inserting in place thereof the following:-

65 In determining the wage an employer is required to pay a tipped employee, the amount  
66 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
67 employee which for purposes of such determination shall be not less than \$8.25; and (2) an  
68 additional amount on account of the tips received by such employee which amount is equal to the  
69 difference between the wage specified in clause (1) and the wage in effect under section 1. The  
70 additional amount on account of tips may not exceed the value of the tips actually received by an  
71 employee. This paragraph shall not apply with respect to any tipped employee unless such  
72 employee has been informed by the employer of the provisions of this paragraph, and all tips  
73 received by such employee have been retained by the employee, except that this paragraph shall  
74 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
75 receive tips.

76 SECTION 10. Section 7 of chapter 151 of the General Laws, is hereby amended by  
77 striking the third paragraph and inserting in place thereof the following:-

78           In determining the wage an employer is required to pay a tipped employee, the amount  
79 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
80 employee which for purposes of such determination shall be not less than \$9.75; and (2) an  
81 additional amount on account of the tips received by such employee which amount is equal to the  
82 difference between the wage specified in clause (1) and the wage in effect under section 1. The  
83 additional amount on account of tips may not exceed the value of the tips actually received by an  
84 employee. This paragraph shall not apply with respect to any tipped employee unless such  
85 employee has been informed by the employer of the provisions of this paragraph, and all tips  
86 received by such employee have been retained by the employee, except that this paragraph shall  
87 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
88 receive tips.

89           SECTION 11. Section 7 of chapter 151 of the General Laws, is hereby amended by  
90 striking the third paragraph and inserting in place thereof the following:-

91           In determining the wage an employer is required to pay a tipped employee, the amount  
92 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
93 employee which for purposes of such determination shall be not less than \$11.25; and (2) an  
94 additional amount on account of the tips received by such employee which amount is equal to the  
95 difference between the wage specified in clause (1) and the wage in effect under section 1. The  
96 additional amount on account of tips may not exceed the value of the tips actually received by an  
97 employee. This paragraph shall not apply with respect to any tipped employee unless such  
98 employee has been informed by the employer of the provisions of this paragraph, and all tips  
99 received by such employee have been retained by the employee, except that this paragraph shall



100 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
101 receive tips.

102 SECTION 12. Section 7 of chapter 151 of the General Laws, is hereby amended by  
103 striking the third paragraph and inserting in place thereof the following:-

104 In determining the wage an employer is required to pay a tipped employee, the amount  
105 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
106 employee which for purposes of such determination shall be not less than \$12.75; and (2) an  
107 additional amount on account of the tips received by such employee which amount is equal to the  
108 difference between the wage specified in clause (1) and the wage in effect under section 1. The  
109 additional amount on account of tips may not exceed the value of the tips actually received by an  
110 employee. This paragraph shall not apply with respect to any tipped employee unless such  
111 employee has been informed by the employer of the provisions of this paragraph, and all tips  
112 received by such employee have been retained by the employee, except that this paragraph shall  
113 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
114 receive tips.

115 SECTION 13. Section 7 of chapter 151 of the General Laws, is hereby amended by  
116 striking the third paragraph and inserting in place thereof the following:-

117 In determining the wage an employer is required to pay a tipped employee, the amount  
118 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
119 employee which for purposes of such determination shall be not less than \$14.25; and (2) an  
120 additional amount on account of the tips received by such employee which amount is equal to the  
121 difference between the wage specified in clause (1) and the wage in effect under section 1. The

122 additional amount on account of tips may not exceed the value of the tips actually received by an  
123 employee. This paragraph shall not apply with respect to any tipped employee unless such  
124 employee has been informed by the employer of the provisions of this paragraph, and all tips  
125 received by such employee have been retained by the employee, except that this paragraph shall  
126 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
127 receive tips.

128 SECTION 14. Section 7 of chapter 151 of the General Laws, is hereby amended by  
129 striking the third paragraph and inserting in place thereof the following:-

130 In determining the wage an employer is required to pay a tipped employee, the amount  
131 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such  
132 employee which for purposes of such determination shall be not less than \$15.75; and (2) an  
133 additional amount on account of the tips received by such employee which amount is equal to the  
134 difference between the wage specified in clause (1) and the wage in effect under section 1. The  
135 additional amount on account of tips may not exceed the value of the tips actually received by an  
136 employee. This paragraph shall not apply with respect to any tipped employee unless such  
137 employee has been informed by the employer of the provisions of this paragraph, and all tips  
138 received by such employee have been retained by the employee, except that this paragraph shall  
139 not be construed to prohibit the pooling of tips among employees who customarily and regularly  
140 receive tips.

141 SECTION 15. Section 7 of chapter 151 of the General Laws, is hereby amended by  
142 striking the third paragraph and inserting in place thereof the following:-

143           In determining the wage an employer is required to pay a tipped employee, the amount  
144 paid to such employee by the employer shall be an amount equal to not less than the wage in  
145 effect under section 1.

146           SECTION 16. Sections 1, 2, 3, 4, 5, 6 and 7 shall take effect on January 1, 2018.

147           SECTION 17. Section 8 shall take effect on January 1, 2019.

148           SECTION 18. Section 9 shall take effect on January 1, 2020.

149           SECTION 19. Section 10 shall take effect on January 1, 2021.

150           SECTION 20. Section 11 shall take effect on January 1, 2022.

151           SECTION 21. Section 12 shall take effect on January 1, 2023.

152           SECTION 22. Section 13 shall take effect on January 1, 2024.

153           SECTION 23. Section 14 shall take effect on January 1, 2025.

154           SECTION 24. Section 15 shall take effect on January 1, 2026.