

HOUSE No. 1971

The Commonwealth of Massachusetts

PRESENTED BY:

Tricia Farley-Bouvier and Brandy Fluker Oakley

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 requiring one fair wage.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/19/2021</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>2/19/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/19/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>2/22/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/22/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/23/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/24/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/24/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/24/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/24/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/25/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>2/25/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/25/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/26/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/26/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/26/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>2/26/2021</i>

<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/26/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/26/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/26/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/9/2021</i>
<i>Maria Duaiame Robinson</i>	<i>6th Middlesex</i>	<i>3/22/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/24/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>3/26/2021</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>3/29/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>4/8/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>4/16/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>5/6/2021</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>5/10/2021</i>

HOUSE No. 1971

By Representatives Farley-Bouvier of Pittsfield and Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 1971) of Tricia Farley-Bouvier, Brandy Fluker Oakley and others relative to determining the wage employers are required to pay tipped employees. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act requiring one fair 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 7 of said chapter 151, as appearing in the 2016 Official Edition, is
2 hereby amended by striking the third paragraph, as amended by Chapter 121 of the Acts of 2018,
3 and inserting in place thereof the following paragraph:-

4 In determining the wage an employer is required to pay a tipped employee, the amount
5 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
6 employee which for purposes of such determination shall be not less than \$6.45; and (2) an
7 additional amount on account of the tips received by such employee which amount is equal to the
8 difference between the wage specified in clause (1) and the wage in effect under section 1. The
9 additional amount on account of tips may not exceed the value of the tips actually received by an
10 employee. This paragraph shall not apply with respect to any tipped employee unless such
11 employee has been informed by the employer of the provisions of this paragraph, and all tips
12 received by such employee have been retained by the employee, except that this paragraph shall

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

15 SECTION 2. Said section 7 of said chapter 151, as so appearing, is hereby amended by
16 striking the third paragraph and inserting in place thereof the following paragraph:-

17 In determining the wage an employer is required to pay a tipped employee, the amount
18 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
19 employee which for purposes of such determination shall be not less than \$7.95; and (2) an
20 additional amount on account of the tips received by such employee which amount is equal to the
21 difference between the wage specified in clause (1) and the wage in effect under section 1. The
22 additional amount on account of tips may not exceed the value of the tips actually received by an
23 employee. This paragraph shall not apply with respect to any tipped employee unless such
24 employee has been informed by the employer of the provisions of this paragraph, and all tips
25 received by such employee have been retained by the employee, except that this paragraph shall
26 not be construed to prohibit the pooling of tips among employees who customarily and regularly
27 receive tips.

28 SECTION 3. Said section 7 of said chapter 151, as so appearing, is hereby amended by
29 striking the third paragraph and inserting in place thereof the following paragraph:-

30 In determining the wage an employer is required to pay a tipped employee, the amount
31 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
32 employee which for purposes of such determination shall be not less than \$9.45; and (2) an
33 additional amount on account of the tips received by such employee which amount is equal to the
34 difference between the wage specified in clause (1) and the wage in effect under section 1. The

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

41 SECTION 4. Said section 7 of said chapter 151, as so appearing, is hereby amended by
42 striking the third paragraph and inserting in place thereof the following paragraph:-

43 In determining the wage an employer is required to pay a tipped employee, the amount
44 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
45 employee which for purposes of such determination shall be not less than \$10.95; and (2) an
46 additional amount on account of the tips received by such employee which amount is equal to the
47 difference between the wage specified in clause (1) and the wage in effect under section 1. The
48 additional amount on account of tips may not exceed the value of the tips actually received by an
49 employee. This paragraph shall not apply with respect to any tipped employee unless such
50 employee has been informed by the employer of the provisions of this paragraph, and all tips
51 received by such employee have been retained by the employee, except that this paragraph shall
52 not be construed to prohibit the pooling of tips among employees who customarily and regularly
53 receive tips.

54 SECTION 5. Said section 7 of said chapter 151, as so appearing, is hereby amended by
55 striking the third paragraph and inserting in place thereof the following paragraph:-

56 In determining the wage an employer is required to pay a tipped employee, the amount
57 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
58 employee which for purposes of such determination shall be not less than \$12.45; and (2) an
59 additional amount on account of the tips received by such employee which amount is equal to the
60 difference additional amount on account of tips may not exceed the value of the tips actually
61 received by an employee. This paragraph shall not apply with respect to any tipped employee
62 unless such employee has been informed by the employer of the provisions of this paragraph,
63 and all tips received by such employee have been retained by the employee, except that this
64 paragraph shall not be construed to prohibit the pooling of tips among employees who
65 customarily and regularly receive tips.

66 SECTION 6. Said section 7 of said chapter 151, as so appearing, is hereby amended by
67 128 striking the third paragraph and inserting in place thereof the following paragraph:-

68 In determining the wage an employer is required to pay a tipped employee, the amount
69 paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
70 employee which for purposes of such determination shall be not less than \$13.95; and (2) an
71 additional amount on account of the tips received by such employee which amount is equal to the
72 difference between the wage specified in clause (1) and the wage in effect under section 1. The
73 additional amount on account of tips may not exceed the value of the tips actually received by an
74 employee. This paragraph shall not apply with respect to any tipped employee unless such
75 employee has been informed by the employer of the provisions of this paragraph, and all tips
76 received by such employee have been retained by the employee, except that this paragraph shall
77 not be construed to prohibit the pooling of tips among employees who customarily and regularly
78 receive tips.

79 SECTION 7. Said section 7 of said chapter 151, as so appearing, is hereby amended by
80 striking the third paragraph and inserting in place thereof the following paragraph:-

81 Beginning on January 1, 2027, and no later than January 1 of each successive year, in
82 determining the wage an employer is required to pay a tipped employee, the amount paid to such
83 employee by the employer shall be an amount equal to not less than the wage in effect under
84 section 1.

85 SECTION 8. Section 152A of Chapter 149, as appearing in the 2016 Official Edition, is
86 hereby amended by adding after the word “bartender” in line 50, the following:-

87 “;provided, however that if an employer is paying all employees a wage that is not less
88 than the full minimum wage the employer may require that wait staff employees, service
89 employees or service bartenders to participate in a tip pool through which such employee remits
90 any wage, tip or service charge, or any portion thereof, for distribution to employees that are not
91 wait staff employees, service employees or service bartenders.”

92 SECTION 9. Chapter 121 of the Acts of 2018 is hereby amended by striking sections 24-
93 26.

94 SECTION 10. Chapter 121 of the Acts of 2018 is hereby further amended by striking, in
95 section 33, the figure:- 24.

96 SECTION 11. Chapter 121 of the Acts of 2018 is hereby further amended by striking, in
97 section 35, the figure:- 25.

98 SECTION 12. Chapter 121 of the Acts of 2018 is hereby further amended by striking, in
99 section 36, the figure:- 26.

100 SECTION 13. Section 1, and 8-11 shall take effect on January 1, 2022.

101 SECTION 14. Section 2 shall take effect on January 1, 2023.

102 SECTION 15. Section 3 shall take effect on January 1, 2024.

103 SECTION 16. Section 4 shall take effect on January 1, 2025.

104 SECTION 17. Section 5 shall take effect on January 1, 2026.

105 SECTION 18. Section 6 shall take effect on January 1, 2027.

106 SECTION 19. Section 7 shall take effect on January 1, 2028.