SENATE No. 1213

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 requiring one fair wage.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Patricia D. Jehlen	Second Middlesex	
Paul W. Mark	2nd Berkshire	2/24/2021
Jack Patrick Lewis	7th Middlesex	2/24/2021
Harriette L. Chandler	First Worcester	2/26/2021
Michael J. Barrett	Third Middlesex	2/26/2021
Erika Uyterhoeven	27th Middlesex	2/26/2021
Michael O. Moore	Second Worcester	3/2/2021
Walter F. Timilty	Norfolk, Bristol and Plymouth	3/9/2021
Maria Duaime Robinson	6th Middlesex	4/6/2021
Thomas M. Stanley	9th Middlesex	4/6/2021
Sal N. DiDomenico	Middlesex and Suffolk	6/11/2021
Jason M. Lewis	Fifth Middlesex	6/11/2021
Joanne M. Comerford	Hampshire, Franklin and Worcester	8/25/2021
Adam G. Hinds	Berkshire, Hampshire, Franklin and Hampden	12/13/2021
Sonia Chang-Diaz	Second Suffolk	12/28/2021
Rebecca L. Rausch	Norfolk, Bristol and Middlesex	12/28/2021

SENATE DOCKET, NO. 1811 FILED ON: 2/18/2021

SENATE No. 1213

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 1213) of Patricia D. Jehlen, Paul W. Mark, Jack Patrick Lewis, Harriette L. Chandler and other members of the General Court for legislation to require one fair wage. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION SEE SENATE, NO. *1082* OF 2019-2020.]

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:-

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

SECTION 2. Said section 7 of said chapter 151, as so appearing, is hereby amended by
 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.

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

In determining the wage an employer is required to pay a tipped employee, the amount paid to such employee by the employer shall be an amount equal to: (1) the cash wage paid such employee which for purposes of such determination shall be not less than \$9.45; and (2) an

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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.

SECTION 4. Said section 7 of said chapter 151, as so appearing, is hereby amended by
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.

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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.

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

Beginning on January 1, 2027, and no later than January 1 of each successive year, in determining the wage an employer is required to pay a tipped employee, the amount paid to such employee by the employer shall be an amount equal to not less than the wage in effect under 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 89 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 2493 26.

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

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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.