

**SENATE . . . . . No. 982**

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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**

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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.

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The Commonwealth of Massachusetts

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**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.