NJ Labor Department Implements New Regulations to Protect the Rights of Tipped Workers

FOR IMMEDIATE RELEASE

August 14, 2020

TRENTON – The New Jersey Department of Labor and Workforce Development (NJDOL) has announced new regulations that will ensure protections and fair wages for tipped workers.

The regulations can be found here:
https://www.nj.gov/labor/forms_pdfs/legal/2020/52N.J.R.1562(a).pdf

The Department also has created a common-language explainer document to help employers learn their obligations to tipped workers, and tipped workers to know their rights under the law. It can be found here:
https://www.nj.gov/labor/assets/PDFs/NJDOLTippedWorkExplainer48320.pdf

“Tipped workers have been hit especially hard during the COVID-19 pandemic,” said Labor Commissioner Robert Asaro-Angelo. “These regulations guarantee these workers are paid a fair wage, which will, in turn, increase income stability for the women, immigrants, and minority workers who predominantly are employed in tipped positions.”

A “tipped employee” is defined as any employee who customarily and regularly receives more than $30 per month in tips, typically in businesses such as restaurants and catering, barbershops, hair and nail salons. More than 333,000 people, or 8 percent of the active workforce, were engaged in tipped work occupations, according to 2018 data.

An employer of a tipped worker must either pay the tipped employee the state minimum wage in full, or the employer may choose to take a “tip credit” for a portion of the employee’s tips while paying the employee a minimum cash wage. Tip credit plus cash wage must equal the state minimum wage.

For example, in New Jersey the minimum cash wage is $3.13 per hour. The state minimum wage is $11 per hour. That means employers can claim a maximum of $7.87 per hour as tip credit. (Cash minimum + tip credit = NJ minimum wage.)

The minimum cash wage is scheduled to increase along with the minimum wage over the next several years.

Below is the schedule of wage and tip credit increases:

Effective Date	**Minimum Cash Wage + Maximum Tip Credit**			**Must equal at least the State minimum wage* or employer must pay difference**	
Jan. 1, 2020	**$3.13**	**+**	$7.87	**=**	$11
Jan. 1, 2021	**$4.13**	**+**	$7.87	**=**	$12
Jan. 1, 2022	**$5.13**	**+**	$7.87	**=**	$13
Jan. 1, 2023	**$5.13**	**+**	$8.87	**=**	$14

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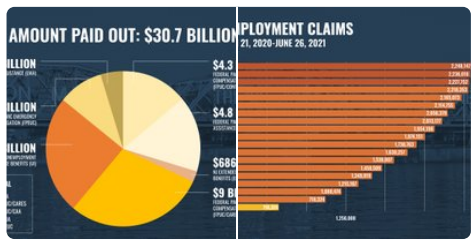
As of week ending June 26, $30.7 billion in benefits have been delivered to Garden State workers who sought assistance during the pandemic, helping to prop up our economy and providing vital income.
myunemployment.nj.gov



Jul 1, 2021

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Jan. 1, 2024	**$5.13**	**+**	$9.87	**=**	$15

If the minimum cash wage plus an employee's tips do not equal at least the state minimum wage, then the employer must pay the employee the difference.

In cases where a tipped employee spends more than 20 percent of their time doing related duties that are non-tipped, the employer is prohibited from taking a tip credit for that time and must pay the full minimum wage. This is referred to as the 80/20 rule.

Similarly, if an employee performs multiple jobs for the same employer that include tipped and non-tipped duties, the employer may take a tip credit only for the hours during which the employee performed tipped work.

Most importantly, the NJDOL's regulations specifically state that tips belong exclusively to the employee. Tips may only be used as wages or as contributions to a valid tip pool, and are not permitted to be used for any other purpose, such as paying credit card transaction fees.

These regulations are a result of a law signed by Gov. Murphy last year, increasing the state minimum hourly wage for most employees to $15 per hour incrementally over the course of five years. The law was part of the Murphy Administration's commitment to workers to earn a living wage.

For more information or required employer posters on employee rights, including the Wage and Hour Law, please visit: myworkrights.nj.gov

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