

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 247

EFFECTIVE June 5, 2017

WHEREAS, Under Rhode Island law, employers may pay employees who receive gratuities, such as wait staff and bartenders, a sub-minimum wage of only \$3.89 per hour, barely 40% of the minimum wage for all other employees; and

WHEREAS, While the state and national minimum wages have been increased periodically in recent decades, the federal government has not increased the sub-minimum wage for employees receiving tips since 1991; and

WHEREAS, Seven states have eliminated their sub-minimum wages, mandating that all employees, tipped or not, be paid at least the state's minimum wage; and

WHEREAS, Many other states, including our neighbors in Massachusetts, are considering measures that would incrementally increase the sub-minimum wage until it reaches either the minimum wage or a fixed percentage of the minimum wage; and

WHEREAS, According to the Economic Policy Institute, women make up the vast majority of tipped workers, at 72.9%; and

WHEREAS, Since workers living off tips rely on customers for their income rather than their employer, they must often tolerate inappropriate behavior from customer or risk loss of income; and

WHEREAS, A 2011 review of Equal Employment Opportunity Commission (EEOC) data revealed that almost 37% of all EEOC charges by women regarding sexual harassment came from the restaurant industry, even though less than 7% of employed women work in the restaurant industry; and

WHEREAS, A survey conducted by the Restaurant Opportunity Centers United and Forward Together found that female restaurant workers earning the federal sub-minimum wage are twice as likely to experience sexual harassment as women in states that pay the same minimum wage to all workers; and

WHEREAS, According to a report from the Economic Policy Institute, a tipped worker is more than twice as likely to live in poverty than workers on the whole and the poverty rate for wait staff in states with low sub-minimum wages is 19.4%, compared to just 13.6% in states without a sub-minimum wage; and

WHEREAS, If adopted, House Bill 5315 would gradually and incrementally increase Rhode Island's sub-minimum wage until it is equal to two-thirds (2/3) of the State's minimum wage.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Providence does hereby urge the General Assembly to pass H5315.

BE IT FURTHER RESOLVED, That, upon passage, copies of this resolution be sent to the Speaker of the House of Representatives, the President of the Senate, the sponsors of H5315, and the entire Providence delegation in the General Assembly.

IN CITY COUNCIL

MAY 24 2017

READ AND PASSED

Lapina Mateo

PRES.

Lori L. Hagen

CLERK

Effective without the
Mayor's Signature

Lori L. Hagen

**Lori L. Hagen
City Clerk**

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

AN ACT

RELATING TO LABOR AND LABOR RELATIONS -- MINIMUM WAGE--GRATUITIES

Introduced By: Representatives Walsh, Regunberg, Almeida, Maldonado, and Ajello

Date Introduced: February 01, 2017

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-12-5 of the General Laws in Chapter 28-12 entitled "Minimum
2 Wages" is hereby amended to read as follows:

3 **28-12-5. Employees receiving gratuities.**

4 (a) Every employer shall pay to each of his or her employees who are engaged in any
5 work or employment in which gratuities have customarily and usually constituted a part of his or
6 her weekly income, the rate as provided by §§ 28-12-3 and 28-12-3.1.

7 (b) Allowance for gratuities as part of the hourly wage rate for restaurants, hotels, and
8 other industries, except taxicabs and limited public motor vehicles, shall be an amount equal to
9 the applicable minimum rates as provided by §§ 28-12-3 and 28-12-3.1 less two dollars and
10 eighty-nine cents (\$2.89) per hour. "Gratuities" means voluntary monetary compensation received
11 directly or indirectly by the employee for services rendered.

12 (c) Each employer desiring to deduct for gratuities as part of the minimum rates as
13 provided in §§ 28-12-3 and 28-12-3.1 wages paid to an employee shall provide substantial
14 evidence that the amount shall be set out in the formula in subsection (b) of this section; however,
15 the cash wage shall not be less than two dollars and eighty-nine cents (\$2.89) per hour; provided,
16 however, that commencing January 1, 2016, the cash wage shall increase by fifty cents (\$.50) to
17 an amount not less than three dollars and thirty-nine cents (\$3.39) per hour; provided further, that
18 commencing January 1, 2017, the cash wage shall increase by fifty cents (\$.50) to an amount not
19 less than three dollars and eighty-nine cents (\$3.89) per hour; provided, further, that commencing

1 on January 1, 2018, and year to year thereafter, the cash wage shall increase by fifty cents (\$.50)
2 per year until the cash wage is not less than two-thirds (2/3) of the minimum wage provided
3 under §28-12-3, and shall thereafter increase two-thirds (2/3) proportionally with any increase in
4 the minimum wage provided under §28-12-3.

5 (d) The director of labor and training shall notify employers concerning what type of
6 proof shall be accepted as substantial evidence for the purpose of this subsection. Employees
7 involved shall be entitled to a hearing on the question of the amount of deduction if they so
8 desire.

9 (e) In cases where wages are figured by the employer on an incentive basis in such a
10 manner that an employee of reasonable average ability earns at least the minimum wage
11 established by §§ 28-12-3 and 28-12-3.1, it shall be taken that the employer has complied with
12 this statute. It shall be of no concern to the director of labor and training how the employer arrives
13 at its wage scale so long as it is not unreasonable in its demands on the employee.

14 (f) Where, in the case of the employment of a full-time student who has not attained his
15 or her nineteenth (19th) birthday engaged in the activities of a nonprofit association or
16 corporation, whose aims and objectives are religious, educational, librarial, or community service
17 in nature, the employer-employee relationship does exist, the employer shall pay to each such
18 employee wages at a rate of not less than ninety percent (90%) of the minimum wage as specified
19 in § 28-12-3. In case of any conflict between provisions of this section and those of § 28-12-3.1,
20 the provisions of § 28-12-3.1 shall govern.

21 SECTION 2. This act shall take effect upon passage.

LC001025

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- MINIMUM WAGE--GRATUITIES

1 This act would raise the minimum wage for tipped workers by fifty cents (\$.50) per year
2 commencing on January 1, 2018 until the tipped minimum wage is not less than two-thirds (2/3)
3 of the regular minimum wage.

4 This act would take effect upon passage.

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