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HOUSE BILL 178

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Al Park

AN ACT

RELATING TO MINIMUM WAGES; CLARIFYING THE MINIMUM WAGE FOR
TIPPED EMPLOYEES; AMENDING SECTION 50-4-22 NMSA 1978 (BEING
LAWS 1955, CHAPTER 200, SECTION 3, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955,
Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES. --

A. An employer, except as provided in Section
50-4-21 NMSA 1978, shall pay the minimum wage rate of five
dollars fifteen cents (\$5.15) an hour, except that an employer
furnishing food, utilities, supplies or housing to an employee
who is engaged in agriculture may deduct the reasonable value
of such furnished items from any wages due to the employee.

B. ~~[All employees covered by]~~ An employee subject

underscored material = new
[bracketed material] = delete

1 to Subsection A of this section who customarily and regularly
2 [~~receive~~] receives more than thirty dollars (\$30.00) a month in
3 tips shall be paid a minimum hourly wage of [~~two dollars twelve~~
4 ~~and one-half cents (\$2.125)~~] two dollars thirteen cents
5 (\$2.13). The employer may consider tips as part of wages, but
6 [~~such a wage credit~~] the tips combined with the employer's cash
7 wage shall not [~~exceed fifty percent of the minimum wage~~] equal
8 less than five dollars fifteen cents (\$5.15) per hour. All
9 tips received by such employees shall be retained by the
10 employee, except that nothing in this section shall prohibit
11 the pooling of tips among employees.

12 C. An employee [~~covered by~~] subject to the
13 provisions of Subsection A of this section shall not be
14 required to work more than forty hours in any week of seven
15 days, unless [~~he~~] the employee is paid one and one-half times
16 [~~his~~] the employee's regular hourly rate of pay for all hours
17 worked in excess of forty hours. For an employee who is paid a
18 fixed salary for fluctuating hours and who is employed by an
19 employer a majority of whose business in New Mexico consists of
20 providing investigative services to the federal government, the
21 hourly rate may be calculated in accordance with the provisions
22 of the federal Fair Labor Standards Act of 1938 and the
23 regulations pursuant to that act; provided that in no case
24 shall the hourly rate be less than the federal minimum wage. "