SENATE BI LL 899
47th legislature - STATE OF NEW MEXICO - first session, 2005 I NTRODUCED BY

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AN ACT
RELATI NG TO M NI MUM WAGES; CLARI FYI NG THE M NI MUM WAGE FOR TI PPED EMPLOYEES.

BE IT ENACTED BY THE LEG SLATURE OF THE STATE OF NEW MEXI CO: Section 1. Section 50-4-22 NMSA 1978 (bei ng Laws 1955, Chapter 200, Section 3, as amended) is amended to read:
" 50-4-22. M NI MUM WAGES. - -
A. An empl oyer, except as provi ded in Section 50-4-21 NMSA 1978, shal 1 pay the mi nim wage rate of five dollars fifteen cents (\$5.15) an hour, except that an employer furni shing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable val ue of such furni shed itens fromany wages due to the empl oyee.
[B. All employees covered by Subsection A of this section whe customarily and regularly receive more than thirty . 156106. 1
dollars $(\$ 30.00)$ a month in tips shall be paid a mini nom hourly
wage of two dollars twel ve and one half cents ( $\$ 2.125$ ). The
employer may consider tips as part of wages, but such a wage
eredit shall not exceed fifty percent of the minimmage. All
tips received by such employees shall be retained by the
employee, except that nothing in this section shall prohibit
the pooling of tips anfong employees.]
B. In determining the wage an empl oyer is requi red to pay a tipped empl oyee who customarily and regul arly recei ves more than thirty dollars (\$30.00) a month, the amount paid the empl oyee by the empl oyer shall be an amount equal to:
(1) the cash wage paid the empl oyee that for purposes of such determination shall be not less than two dollars thirteen cents (\$2.13) an hour; and
(2) an additional amount on account of tips recei ved by the empl oyee, whi ch amount is equal to the difference bet ween the wage specified in Paragraph (1) of this subsection and the wage specified in Subsection A of this section.
C. The additional amount on account of tips may not exceed the val ue of the tips actually recei ved by the empl oyee. The provisions of Subsection $B$ of this section shall not apply $\underline{\text { wi }}$ th respect to any tipped empl oyee unl ess the empl oyee has been inf or med by the empl oyer of the provisions of that subsection and all tips recei ved by the empl oyee have been . 156106. 1
ret ai ned by the empl oyee; provi ded that nothing in this subsection or Subsection B of this section shall be construed to prohi bit the pool ing of tips among employees who customarily and regul arly recei ve tips.
[C.] D. An empl oyee covered by the provi si ons of Subsection $A$ of this section shall not be requi red to work more than forty hours in any week of seven days, unl ess he is paid one and one-half times his regul ar hourly rate of pay for all hours worked in excess of forty hours. For an employee who is paid a fixed sal ary for fluct uating hours and who is employed by an empl oyer a maj ority of whose busi ness in New Mexi co consists of providing investigative services to the federal government, the hourly rate may be cal cul ated in accordance with the provisions of the federal Fair Labor Standards Act of 1938 and [the-regulations] rules pursuant to that act; provided that in no case shall the hourly rate be less than the federal mi ni mum wage. "

