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SENATE BILL 899

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

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO MINIMUM WAGES; CLARIFYING THE MINIMUM WAGE FOR
TIPPED EMPLOYEES.

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 Subsection A of this
section who customarily and regularly receive more than thirty~~

underscored material = new
[bracketed material] = delete

1 ~~dollars (\$30.00) a month in tips shall be paid a minimum hourly~~
2 ~~wage of two dollars twelve and one half cents (\$2.125). The~~
3 ~~employer may consider tips as part of wages, but such a wage~~
4 ~~credit shall not exceed fifty percent of the minimum wage. All~~
5 ~~tips received by such employees shall be retained by the~~
6 ~~employee, except that nothing in this section shall prohibit~~
7 ~~the pooling of tips among employees.]~~

8 B. In determining the wage an employer is required
9 to pay a tipped employee who customarily and regularly receives
10 more than thirty dollars (\$30.00) a month, the amount paid the
11 employee by the employer shall be an amount equal to:

12 (1) the cash wage paid the employee that for
13 purposes of such determination shall be not less than two
14 dollars thirteen cents (\$2.13) an hour; and

15 (2) an additional amount on account of tips
16 received by the employee, which amount is equal to the
17 difference between the wage specified in Paragraph (1) of this
18 subsection and the wage specified in Subsection A of this
19 section.

20 C. The additional amount on account of tips may not
21 exceed the value of the tips actually received by the employee.
22 The provisions of Subsection B of this section shall not apply
23 with respect to any tipped employee unless the employee has
24 been informed by the employer of the provisions of that
25 subsection and all tips received by the employee have been

