

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: S3/1/07*  
**A Bill**

SENATE BILL 361

5 By: Senators Horn, T. Smith, Trusty  
6 By: Representatives Key, Berry, Edwards, Gaskill, Glidewell, Hardwick, Harris, Hawkins, Lamoureux,  
7 Pace, Reep, Rosenbaum, Sample, Saunders  
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10 **For An Act To Be Entitled**

11 AN ACT TO REVISE THE MINIMUM WAGE LAW ALLOWANCE  
12 FOR GRATUITIES; AND FOR OTHER PURPOSES.  
13

14 **Subtitle**

15 TO REVISE THE MINIMUM WAGE LAW ALLOWANCE  
16 FOR GRATUITIES.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 11-4-212 is amended to read as follows:  
22 11-4-212. Allowance for gratuities.

23 (a)(1) Every Except as provided in subdivision (a)(2) of this section,  
24 every employer of an employee engaged in any occupation in which gratuities  
25 have been customarily and usually constituted and have been recognized as a  
26 part of remuneration for hiring purposes shall be entitled to an allowance  
27 for gratuities as a part of the hourly wage rate provided in § 11-4-210 in an  
28 amount not to exceed fifty-eight percent (58%) of the minimum wage  
29 established by § 11-4-210, provided that the employee actually received that  
30 amount in gratuities and that the application of the foregoing gratuity  
31 allowances results in payment of wages other than gratuities to tipped  
32 employees, including full-time students subject to the provisions of § 11-4-  
33 210, of no less than forty-two percent (42%) of the minimum wage prescribed  
34 by § 11-4-210.

35 (2) An employer that meets the definition of an enterprise  
36 engaged in commerce or in the production of goods for commerce under 29



1 U.S.C. § 203(s) as it existed on March 1, 2006, may pay tipped employees the  
2 minimum cash wage provided under 29 U.S.C. §§ 203 and 206 as they existed on  
3 March 1, 2006, if the cash wage and the gratuities received by the employee  
4 result in payment of an hourly wage equal to or greater than the minimum  
5 wage.

6 (b) In determining whether an employee received in gratuities the  
7 amount claimed, the Director of the Department of Labor may require the  
8 employee to show to the satisfaction of the director that the actual amount  
9 of gratuities received by him or her during any work week was less than the  
10 amount determined by the employer as the amount by which the wage paid the  
11 employee was deemed to be increased under this section.

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13 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
14 General Assembly of the State of Arkansas that this act is necessary to  
15 protect jobs within the State of Arkansas, prevent an increase in costs to  
16 residents and tourists that patronize restaurants, and protect the financial  
17 stability of businesses that rely on the services provided by tipped  
18 employees. Therefore, an emergency is declared to exist and this act being  
19 necessary for the preservation of the public peace, health, and safety shall  
20 become effective thirty (30) days from and after the date of its passage and  
21 approval. If the bill is neither approved nor vetoed by the Governor, it  
22 shall become effective thirty (30) days from the expiration of the period of  
23 time during which the Governor may veto the bill. If the bill is vetoed by  
24 the Governor and the veto is overridden, it shall become effective thirty  
25 (30) days from the date the last house overrides the veto.

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27 /s/ Horn  
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