

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 653
HOUSE BILL 874

AN ACT TO REDEFINE "TIPPED EMPLOYEE" AND TO REQUIRE THAT CERTAIN CONDITIONS MUST BE MET IN ORDER FOR THE EMPLOYER TO QUALIFY FOR "TIP CREDIT".

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-86(5), as the same appears in 1975 Replacement Volume 2C, is rewritten in its entirety to read as follows:

"(5) 'Tipped employee' shall mean any employee who customarily receives more than twenty dollars (\$20.00) a month in tips.

In determining the wage of a tipped employee, the amount paid to such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of fifty percent (50%) of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the commissioner that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid to such employee by his employer shall be deemed to have been increased by such lesser amount.

An employer is not entitled to increase wages on account of tips as above provided unless the employer meets the following conditions:

The employee has been informed by the employer of the provisions of this subsection, the employee is allowed to retain all of the tips he or she has received except that tip pooling is permissible among employees who customarily and regularly receive tips, the employer maintains for a period of three years accurate and complete records of hours worked, wages paid and tips received by each employee, such tips to be certified by the employee to the employer for each pay period, and the employer does not require any employee to remit tips to the employer for the use of the employer in discharging the minimum wage requirements of this Article."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June,

1977.