

# STATE OF NEW YORK

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936

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

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Introduced by M. of A. PHEFFER AMATO -- read once and referred to the  
Committee on Labor

AN ACT to amend the labor law, in relation to establishing when a tip  
credit applies to employees working at tipped and non-tipped occupa-  
tions on the same day

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The labor law is amended by adding a new section 652-a to  
2 read as follows:

3 § 652-a. Working at tipped and non-tipped occupations on the same day.  
4 On any day that a service employee or food service worker works at a  
5 non-tipped occupation for more than twenty percent of his or her shift,  
6 the wages of such employee shall be subject to no tip credit for the  
7 time working at the non-tipped occupation during that day. A food  
8 service worker's customary side work that is ancillary to his or her  
9 occupation and which is regularly and customarily performed as part of  
10 his or her regular job duties shall not be considered work at a non-  
11 tipped occupation. If an employee for whom an employer improperly takes  
12 a tip credit participates in a tip pool with employees for whom a tip  
13 credit is properly taken, the employer shall only be liable to the  
14 employee for whom the tip credit was improperly taken.

15 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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