

STATE OF NEW YORK

4175

2021-2022 Regular Sessions

IN SENATE

February 2, 2021

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed 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 occupations on the same day

The People of the State of New York, represented in Senate and Assembly, 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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