STATE OF NEW YORK

3041

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

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 occupations on the same day

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

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

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

§ 2. This act shall take effect immediately.

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

LBD03704-01-3