

109TH CONGRESS
1ST SESSION

H. R. 3732

To provide for a credit for employers of tipped employees in determining the minimum wage required in States that require employers to pay a minimum wage at a rate higher than the Federal rate.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2005

Mr. ISSA introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide for a credit for employers of tipped employees in determining the minimum wage required in States that require employers to pay a minimum wage at a rate higher than the Federal rate.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Minimum Wage Fair-
5 ness Act of 2005”.

6 **SEC. 2. MINIMUM WAGE TIP CREDIT.**

7 Section 3(m) of the Fair Labor Standards Act of
8 1938 (29 U.S.C. 203(m)) is amended—

1 (1) in paragraph (2), by inserting before the pe-
2 riod the following: “*Provided*, That the tips shall not
3 be included as part of the wage paid to an employee
4 to the extent they are excluded therefrom under the
5 terms of a bona fide collective bargaining agreement
6 applicable to the particular employee”;

7 (2) by striking “(m) ‘Wage’” and inserting
8 “(m)(1) ‘Wage’”;

9 (3) by striking “(1) the cash” and inserting
10 “(A) the cash”;

11 (4) by striking “(2) an additional” and insert-
12 ing “(B) an additional”; and

13 (5) by adding at the end the following new
14 paragraph:

15 “(2) Notwithstanding any other provision of this Act,
16 any State or political subdivision of a State which, on and
17 after the date of enactment of the Minimum Wage Fair-
18 ness Act of 2005 prohibits any portion of a tipped employ-
19 ee’s tips from being considered as wages in determining
20 if such tipped employee has been paid the minimum wage
21 rate, may not establish or enforce any such law, ordinance,
22 regulation, or order with respect to tipped employees un-
23 less such law, ordinance, regulation, or order permits a
24 tip credit in an amount not less than an amount equal
25 to—

1 “(A) the cash wage paid such employee which
2 is required under such law, ordinance, regulation, or
3 order on the date of enactment of such Act; and

4 “(B) an additional amount on account of tips
5 received by such employee which amount is equal to
6 the difference between such cash wage and the min-
7 imum wage rate in effect under such law, ordinance,
8 regulation, or order or the minimum wage rate in ef-
9 fect under section 6, whichever is higher.”.

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