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MASSACHUSETTS HIGH COURT CLEARS WAY FOR ENDING THE TIP CREDIT: WHAT DO BAY STATE RESTAURANT OPERATORS NEED TO KNOW?

Insights
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Massachusetts voters will decide this November whether employers may continue taking a “tip credit” and paying tipped employees below the state’s standard minimum wage. While restaurant industry representatives fought to keep this question off the ballot, the Massachusetts Supreme Judicial Court ruled today that the attorney general properly certified the initiative petition designed to eliminate the tip credit under state law. If voters approve the initiative, there will be serious financial consequences for Massachusetts restaurants. What does your restaurant need to know about this potentially costly development?

Tip Credit 101

Massachusetts law allows employers to pay tipped employees a base wage of \$6.75 per hour – which is significantly less than the state’s standard minimum wage of \$15 per hour – so long as employees make up the difference in tips. Under this system, employers must ensure that tipped employees’ total earnings (base wage plus tips) equal at least the state’s \$15 minimum wage. If tips are insufficient, employers must cover the shortfall at the end of each shift.

The law also restricts tip pooling, limiting participation to wait staff employees, service employees, and service bartenders. Managers and most “back of the house” or other non-tipped staff members currently may not participate in a tip pool.

Ballot Proposal Would Eliminate Tip Credit

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Ballot Proposal Would Eliminate Tip Credit

If the [initiative petition](#) is approved by voters this November, the tip credit would phase out over the next five years and the base wage for service workers would gradually increase as follows:

- 64% of the state minimum wage on January 1, 2025
- 73% of the state minimum wage on January 1, 2026
- 82% of the state minimum wage on January 1, 2027
- 91% of the state minimum wage on January 1, 2028
- 100% of the state minimum wage on January 1, 2029

Assuming the state minimum wage remains at \$15.00 per hour during this period, the initiative petition would require the following base wage and tip credit amounts:

Year	Base Wage	Tip Credit
2025	\$9.60	\$5.40
2026	\$10.95	\$4.05
2027	\$12.30	\$2.70
2028	\$13.65	\$1.35
2029	\$15.00	\$0.00

If the tip credit is eliminated, employers would be permitted to pool tips among both tipped and non-tipped workers. However, sharing tips with managers and supervisors would remain prohibited. As a reminder, restaurants will still be expected to comply with [federal law concerning tip pooling](#).

What Should You Do Now?

With the potential elimination of the tip credit on the horizon, restaurant owners in Massachusetts should start to think about how they can adapt their business model to comply with the increased labor costs that will come if the initiative is approved. Here are six steps you can take now.

1. Review and Adjust Payroll Systems

Ensure your payroll systems can accommodate changes to wage structures, including the gradual increase in the base wage for tipped employees. Plan for the financial impact of paying all employees the full minimum wage by conducting thorough financial analyses and budget adjustments.

2. Revise Tip Pooling Policies

Audit your current tip-pooling policies and start to develop policies that will comply with the proposed law, allowing tips to be shared among both front-of-house and back-of-house employees once the tip credit is eliminated in 2029. Clearly communicate these changes to all employees, ensuring transparency and fairness in tip distribution.

3. Enhance Employee Training and Retention

Invest in comprehensive training programs to improve employee performance and customer service, which can lead to higher tips and better overall revenue. Develop retention strategies to keep valuable employees, such as offering benefits, career development opportunities, and a positive work environment.

4. Engage in Open Communication with Staff

Regularly communicate with your employees about potential upcoming changes and how they will be implemented. Address any concerns and provide support during the transition period. Solicit feedback from employees to ensure the new policies are effectively meeting their needs and the operational goals of the restaurant.

5. Stay Informed and Compliant

Keep abreast of legal developments related to the tip credit and minimum wage laws in Massachusetts. Consult with legal counsel to ensure compliance with all regulations and consider conducting a wage and hour self-audit.

6. Explore Technological Solutions

Utilize technology to improve efficiency and reduce labor costs. This can include implementing advanced point-of-sale (POS) systems, online ordering platforms, and scheduling software. Explore automation options for routine tasks to free up staff time for customer service and other value-added activities.

What's Next?

The potential elimination of the tip credit in Massachusetts represents a significant shift in the compensation structure for tipped employees. Restaurant owners must take proactive steps to prepare for these changes, ensuring compliance with new legal requirements while maintaining profitability and employee satisfaction.

We will continue to monitor developments as they unfold. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox. Should you have any questions on the implications of these developments and how they may impact your operations, please do not hesitate to contact your Fisher Phillips attorney or the [author](#) of this Insight for additional guidance.