

SENATE BILL 234

Introduced by Boylan

1/25	Introduced
1/25	Referred to Labor & Employment Relations
1/31	Hearing
2/08	Committee Report--Bill Not Passed
2/08	Adverse Committee Report Adopted

1 Senate BILL NO. 234
2 INTRODUCED BY Boyle
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "TIPPED
5 EMPLOYEE" IN THE MINIMUM WAGE LAWS; AND AMENDING SECTIONS
6 39-3-402 AND 39-3-408, MCA."
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 **Section 1.** Section 39-3-402, MCA, is amended to read:

10 "39-3-402. Definitions. As used in this part, the
11 following definitions apply:

12 (1) "Commissioner" means the commissioner of labor and
13 industry.

14 (2) "Employ" means to suffer or permit to work.

15 (3) "Employee" ~~includes~~ means any individual employed
16 by an employer.

17 (4) "Farm or ranch" ~~shall--mean~~ means any endeavor
18 primarily engaged in cultivating the soil or in connection
19 with raising or harvesting any agricultural or horticultural
20 commodity, including the raising, shearing, feeding, caring
21 for, training, and management of livestock, bees, and
22 poultry and fur-bearing animals and wildlife.

23 (5) "Farm worker" means any person employed to do any
24 service performed on a farm or ranch.

25 (6) "Occupation" means any occupation, service, trade,

1 business, industry, or branch or group of industries or
2 employment or class of employment in which employees are
3 gainfully employed.

4 (7) "Tipped employee" means any person who regularly
5 and continuously receives \$30 or more a month in tips.

6 ~~(7)~~ (8) "Wage" means compensation due to an employee by
7 reason of his employment, payable in legal tender of the
8 United States or check on banks convertible into cash on
9 demand at full face value, subject to ~~such an~~ allowance as
10 may be permitted by regulations of the commissioner under
11 39-3-403. The term "wage" includes the reasonable cost to
12 the employer of furnishing ~~such the~~ employee with board,
13 lodging, or other facilities, if ~~such~~ board, lodging, or
14 other facilities are customarily furnished by ~~such the~~
15 employer to his employees; provided, however, that in no
16 case ~~shall-such~~ may the inclusion exceed an amount equal to
17 40% of the total wage paid by ~~such the~~ employer to ~~such the~~
18 employee. ~~The-term-"wage"-does-not-include-the-value-of--any~~
19 ~~tips-received-by-an-employee-as-a-gratuity-for-service."~~

20 **Section 2.** Section 39-3-408, MCA, is amended to read:

21 "39-3-408. Provisions cumulative. (1) The provisions
22 of this part ~~shall-be~~ are in addition to other provisions
23 now provided by law for the payment and collection of wages
24 and salaries but ~~shall do~~ not apply to employees covered by
25 the Fair Labor Standards Act except as provided in

LC 1011/01

1 subsection (2).

2 (2) ~~Sections--39-3-402--and-39-3-404-shall-apply-to-an~~
3 ~~employee-covered-by-the-Fair-labor-Standards--Act--if--state~~
4 ~~law--provides-a-minimum-wage-that-is-higher-than-the-minimum~~
5 ~~wage-established-under-federal-law.~~ The provisions of the
6 Fair Labor Standards Act apply to a tipped employee."

-End-