

**HOUSE BILL NO. 240**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JOHNSON BY REQUEST

Introduced: 4/18/09

Referred: Labor and Commerce, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act allowing employers to apply tip credit to the state's minimum wage."**

2   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3    \* **Section 1.** AS 23.10.065(a) is amended to read:

4                   (a) Except as provided under (b) of this section and as otherwise provided for  
5           in law, for work performed on or after January 1, 2003, an employer shall pay to each  
6           employee wages at a rate of not less than \$7.15 an hour for hours worked in a pay  
7           period, whether the work is measured by time, piece, commission, or otherwise.

8           **Except as provided in (d) of this section, an** [AN] employer may not apply tips or  
9           gratuities bestowed upon employees as a credit toward payment of the minimum  
10          hourly wage required by this section. [TIP CREDIT AS DEFINED BY THE FAIR  
11          LABOR STANDARDS ACT OF 1938 AS AMENDED DOES NOT APPLY TO  
12          THE MINIMUM WAGE ESTABLISHED BY THIS SECTION.]

13   \* **Sec. 2.** AS 23.10.065 is amended by adding a new subsection to read:

14                   (d) An employer

15                       (1) may apply tip credit, as defined by the Fair Labor Standards Act of

1 1938, as amended, to the minimum wage established by this section if, for the pay  
2 period on which the employee's pay is based,

3 (A) the employee reports tips or gratuities to the employer for  
4 federal income tax purposes and the amount reported by the employee  
5 averages at least \$7.25 an hour for the hours worked; and

6 (B) the employer provides written notice to the employee, in  
7 advance of the pay period, that the employer may elect to reduce the  
8 employee's pay, based on tips and gratuities the employee reports to the  
9 employer for federal income tax purposes, by the amount calculated under (2)  
10 of this subsection;

11 (2) shall determine tip credit when authorized by this subsection by  
12 dividing the tips and gratuities received in a pay period that the employee reports  
13 under (1) of this subsection by the number of hours the employee worked in the pay  
14 period; tip credit taken under this paragraph may not exceed the difference between  
15 the minimum wage and \$7.25 an hour.