

## 1 SENATE BILL NO. 190

2 INTRODUCED BY T. GAUTHIER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS FOR PROVIDING FOR TIP POOLS;  
5 PROVIDING REQUIREMENTS FOR TIP POOLS; PROVIDING THAT EMPLOYERS MAY NOT PARTICIPATE  
6 IN THE TIP POOL; PROVIDING NOTICE REQUIREMENTS; DISTINGUISHING COMPULSORY CHARGES  
7 FROM TIP POOLS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8

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

10

11 NEW SECTION. **Section 1. Tip pools allowed -- requirements -- prohibitions -- compulsory**  
12 **charges distinguished.** (1) An employer may impose a tip pooling arrangement as provided in this section.

13 (2) A tip pooling arrangement may include employees involved in providing customer service or food  
14 preparation, including but not limited to servers, hosts, bussers, dishwashers, cooks, or other employees. This  
15 section does not impose a minimum or maximum contribution percentage on mandatory tip pools.

16 (3) An employer:

17 (a) shall notify its employees of any required tip pooling arrangement;

18 (b) may not participate in a tip pool;

19 (c) may not include supervisors or managers in a tip pool. However, an employer does not violate this  
20 subsection (3) if the employer, supervisors, or managers keep tips they receive directly from customers based  
21 on the service directly provided by them.

22 (d) may control an employee's tips only to distribute tips to the employee who received them or when  
23 the employer facilitates tip pooling by collecting and distributing tips to employees in a tip pool. An employer  
24 that facilitates tip pooling by collecting and redistributing employees' tips must fully distribute any tips the  
25 employer collects no later than the regular payday for the workweek in which the tips were collected. An  
26 employer that collects tips received by the employees to operate a mandatory tip pooling arrangement shall  
27 maintain and preserve payroll or other records containing information.

28 (4) For purposes of this section, the following terms apply:

1 (a) "Employer" means any employee who owns at least a 20% equity interest in the business at issue  
2 and who is actively engaged in its management.

3 (b) "Manager" or "supervisor" means any employee whose duties include controlling and managing  
4 the daily activity of other employees and who does not, as their primary job, serve customers or prepare food.

5 (c) "Tip" means a sum presented by a customer as a gift or gratuity in recognition of some service  
6 performed for the customer. It must be distinguished from payment of a charge, if any, made for the service.  
7 Whether a tip is to be given and its amount are matters determined solely by the customer.

8

9 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
10 integral part of Title 39, chapter 3, part 6, and the provisions of Title 39, chapter 3, part 6, apply to [section 1].

11

12 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

13

- END -