

Amendment to SB 416

1 Amend the bill by replacing all after section 1 with the following:

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3 2 Tip Pooling. RSA 279:26-b is repealed and reenacted to read as follows:

4 279:26-b Tip Pooling.

5 I. Notwithstanding any other provision of this chapter, the pooling and sharing of tips by
6 employees shall incorporate by reference the Fair Labor Standards Act of 1938, as amended, 29
7 U.S.C. section 201 et seq., and regulations promulgated under such act, including but not limited to
8 29 C.F.R. sections 531.50, 531.52, 531.54, 531.55, 531.56, 531.57 as amended and as applicable.

9 II. Notwithstanding any provision of law to the contrary, no employer shall impose a tip
10 pooling or sharing arrangement that includes employees who are not employed in an occupation in
11 which employees customarily and regularly receive tips.

12 III. Paragraph II shall not apply to employees who engage in customer service functions and
13 have direct interactions with customers in the chain of service in roles including, but not limited to,
14 bartenders, bussers, hosts, and food runners.

15 IV. Owners, managers, and supervisors of a business shall be prohibited from participating
16 in a tip pool or tip share arrangement, even if these individuals provide direct service or have direct
17 interactions with customers.

18 V. The commissioner of the department of labor may adopt rules, pursuant to RSA 541-A, as
19 may be relative to this section.

20 3 Definition of Tip Pooling. Amend RSA 279:1, XIII to read as follows:

21 XIII. "Tip pooling" means the [~~voluntary~~] practice by which the tip earnings of directly
22 tipped employees within the same job category are intermingled in a common pool and then
23 redistributed among participating employees.

24 4 Repeal. RSA 279:1, XV, relative to the definition of coercion, is repealed.

25 5 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill replaces the state restriction on tip pooling and sharing with the federal Fair Labor Standards Act rules governing tip pooling and authorizes the labor commissioner to adopt rules regarding the practice.