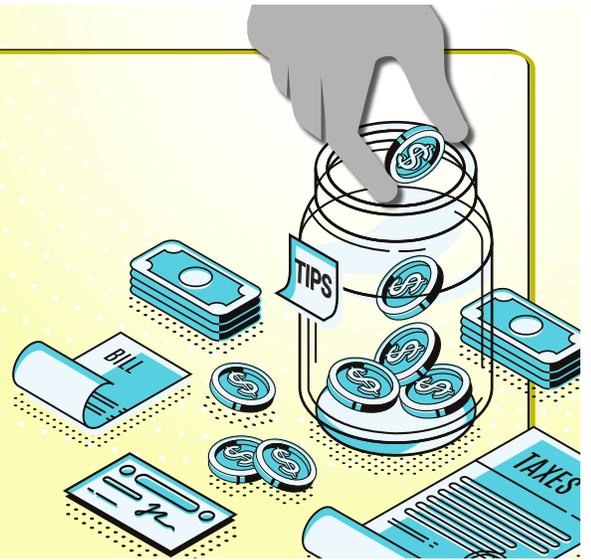


TIPPED EMPLOYEES IN NEW JERSEY: KNOW YOUR RIGHTS



The New Jersey Department of Labor & Workforce Development (NJDOL) is committed to assisting and protecting tipped workers in New Jersey, regardless of immigration status. This guide has general information that can help you understand the benefits and protections you may be eligible for, and how to get help. **Questions?** Email wage.hour@dol.nj.gov for help from our multilingual staff.

NJDOL will not share any information from an investigation with any federal immigration agency, unless legally required to do so. NJDOL employees do not ask about immigration or citizenship status and serve all workers regardless of immigration status.

IF YOUR EMPLOYER TAKES A TIP CREDIT, YOU MUST STILL RECEIVE THE FULL STATE MINIMUM HOURLY WAGE.

If the minimum cash wage plus the tip credit taken does not equal the full State minimum hourly wage, your employer **must** pay you the difference. Your employer can only take a tip credit if they notify you ahead of time of the amount of the cash wage that is to be paid to you, and the amount of tip credit to be claimed by your employer, which cannot be more than your tips received.

Effective Date	Minimum Cash Wage + Maximum Tip Credit		Must equal at least the state minimum wage* or employer must pay difference		
Jan. 1, 2020	\$3.13	+	\$7.87	=	\$11
Jan. 1, 2021	\$4.13		\$7.87		\$12
Jan. 1, 2022	\$5.13		\$7.87		\$13
Jan. 1, 2023	\$5.13		\$8.87		\$14
Jan. 1, 2024	\$5.13		\$9.87		\$15

* See nj.gov/labor/forms_pdfs/wagehour/mw-571.pdf for the minimum hourly wage schedule for small businesses, and seasonal and agricultural employees.

EXAMPLE

- Pam is a waitress. She makes an average of \$5 an hour in tips. Her hourly cash wage of \$4.13 plus \$5 an hour in tips equals \$9.13, which is below the State minimum wage of \$12 in 2021. Pam's employer must pay her the difference of \$2.87 ($\$4.13 + \$5 + \$2.87 = \12) to ensure she receives at least the State minimum wage.

MAKE A COMPLAINT AT MYWORKRIGHTS.NJ.GOV OR CALL 609-292-2305.

- You can ask a trusted person to file a complaint on your behalf
- Your identity and other personally identifiable information are protected from disclosure to your employer and others, with limited exceptions
- Keep track of your hours, pay, and employer's contact information
- If you are paid off the books, or misclassified as independent contractor, you could be improperly denied rights and benefits

UNDER NJ LAW, IT IS UNLAWFUL FOR AN EMPLOYER TO RETALIATE AGAINST YOU FOR REPORTING VIOLATIONS.

And under federal law, retaliation against workers who assert their rights is also unlawful, including alerting or threatening to contact immigration authorities. Learn more at dol.gov/dol/fact-sheet/immigration/RetaliationBasedExerciseWorkplaceRightsUnlawful.htm

YOUR EMPLOYER MUST FOLLOW CERTAIN TIP RULES.

- A service charge, such as charging customers 15 percent of the amount of the bill, is not a tip under NJ law, even if the employer eventually distributes the sum to you and your co-workers.
- All tips received by you must be retained by you, except in case of a valid tip pool arrangement.
- An employer is not allowed to use any portion of your tips to cover credit card fees.
- Your employer must notify you of any tip pooling arrangement, can only take a tip credit for the amount of tips each employee in the tip pool ultimately receives, cannot keep any of tips for any other purpose, and cannot distribute tips to non-tipped employees or have them be part of a tip pool.

IF YOU DO NON-TIPPED WORK IN ADDITION TO TIPPED WORK, OR HAVE TWO DIFFERENT JOBS WITH THE SAME EMPLOYER, CERTAIN RULES APPLY.

- **80/20 rule:** When you spend more than 20 percent of your time performing related non-tipped duties, your employer cannot take a tip credit for this time. For those hours equal or in excess of 20 percent, your employer must pay you the full State minimum wage.
- If you have two different jobs with the same employer, for the job that you receive at least \$30 per month in tips, your employer can take a tip credit for all hours worked. For the job in which you do not receive at least \$30 per month in tips, your employer cannot take a tip credit.

OVERTIME PAY MUST BE 1.5 TIMES YOUR HOURLY RATE FOR ANY HOURS WORKED OVER 40 PER WEEK.

When your employer takes a tip credit, overtime is calculated on the full minimum hourly wage, not the lower cash wage payment. Your employer cannot take a larger tip credit for an overtime hour than for a straight time hour.

For full details on tipped work, and to learn about additional worker benefits and protections see myworkrights.nj.gov



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