



## WE DID IT! NEW MINIMUM WAGE AND THE PRESERVATION OF THE TIP CREDIT

For a long time, we've known and worried about the Improved Workforce Opportunity Wage Act ("Wage Act"), which was set to become effective February 21, 2025. In a last-minute legislative compromise, and thanks to the MLRA and its business partners' tireless advocacy, the House and Senate passed amendments to the Wage Act with less than an hour to spare before the effective date. Prior to these amendments, the law was set to bring a higher minimum wage to our State, tied subsequent increases to the minimum wage to inflation, and shrunk the tip credit over the course of five years until the tip credit (and thus the tipped minimum wage) was totally eliminated. The bipartisan MRLA-backed Wage Act that was ultimately signed into law saves the tip credit and responsibly increases the minimum wage.

*Unfortunately, portions of the Wage Act, even as amended, are imprecisely drafted and lack clear answers to some important questions. The MRLA is actively monitoring information coming out of the State of Michigan's Department of Labor and Economic Opportunity (LEO), the agency tasked with enforcing and interpreting the Wage Act. This FAQ is based on the interpretations of MRLA's labor and employment counsel as of the date of publication.*

### Q#1: WHAT IS THE WAGE ACT THAT WENT INTO EFFECT ON FEBRUARY 21, 2025?

A: In short, the amended version of the Wage Act means:

Date	Minimum Wage	Tipped Wage
Feb. 21, 2025	\$12.48	\$4.74 <i>(38% of minimum wage)</i>
Jan. 1, 2026	\$13.73	\$5.49 <i>(40% of minimum wage)</i>
Jan. 1, 2027	\$15.00	\$6.30 <i>(42% of minimum wage)</i>
Jan. 1, 2028	TBD	<i>44% of minimum wage</i>
Jan. 1, 2029	TBD	<i>46% of minimum wage</i>
Jan. 1, 2030	TBD	<i>48% of minimum wage</i>
Jan. 1, 2031	TBD	<i>50% of minimum wage</i>

### Q#2: HOW WILL THE MINIMUM WAGE BE SET MOVING FORWARD?

A: Beginning in October 2027, the Michigan Treasury will annually increase the minimum wage by inflation, 12-month percentage increase, if any, in the Consumer Price Index for the midwest region, CPI-U, or a successor index, as published by the Bureau of Labor Statistics of the United States Department of Labor, based on the most recent 12-month period for which data are available.



**Q#3: WHAT HAPPENS IF THAT CPI DECREASES? HOW DO YOU TAKE MONEY AWAY FROM EMPLOYEES?**

A: The Wage Act contemplates only increases or pauses in the minimum wage. We expect the wage will remain the same in years where the CPI decreases.

Minimum-wage increases will *pause* when the unemployment rate is 8.5% or greater.

**Q#4: WHAT CAN I PAY TO MY TIPPED EMPLOYEES TODAY?**

A: Today, you can pay the *minimum wage* (\$12.48/hr) or the *tipped wage* ((\$4.74/hr).

**Q#5: HOW DO I TAKE THE TIP CREDIT? WHAT IF I CAN'T?**

A: The Wage Act does not significantly alter the requirements for employer eligibility to take the tip credit:

1. The employee receives tips in the course of the employee's employment.
2. The tips equal or exceed the difference between the tipped minimum hourly wage rate the regular minimum hourly wage.
3. The tips are proven gratuities as indicated by the employee's declaration for purposes of the federal insurance contribution act, 26 USC 3101 to 3128.
4. The entirety of the tips are retained by the employee who receives them.
5. The employer informed the employee of the provisions of the above, in writing, at or before the time of hire, and the employee gave written consent.

If you choose not to take the tip credit or are not eligible to take the tip credit, you simply must pay all your employees *at least* the applicable Michigan minimum wage (or youth training wage, as the case may be).

**Q#6: WHAT IS A SERVICE CHARGE?**

A: A service charge is an automatic fee added to guests' or customers' bills that is the company's property unless you decide to distribute it otherwise. You may charge service fees for extra services related to delivering food, providing room service, or catering an event, for example.

To be legal, service charges **must** be clearly listed as a service charge that must be paid and the customer should be made aware that it does not go to the employee. It will be considered taxable income to the business.

If the fee does not specifically say "service charge" or "administrative fee" (or something similar), can be removed from a bill, or has the word "gratuity," the customer could get



confused and think it an optional amount and that it goes directly to the employee. In that case, it will likely be considered a **tip** for legal purposes, which is property of the employee.

**Q#7: DO SERVICE CHARGES PAID OUT DIRECTLY TO AN EMPLOYEE COUNT TOWARD MINIMUM WAGE?**

A: No.

If you're utilizing service charges, Michigan's Wage Act also requires you to "provide employees and consumers written notice of their plan to distribute service charges." For example, if you keep the entirety of a service charge to defray food and labor costs, you must provide written notice on signage, menus, and policy indicating that the service charge will not go directly to the employee as wages and will be the property of the employer. If, in another example, some or all of the service charge is distributed to employees, this too should be written in signage, menus, policy, etc. The goal of the Act is transparency regarding service charges.

**Q#8: WHAT IF MY BUSINESS DOES NOT COMPLY WITH THE REQUIREMENTS OF THE WAGE ACT?**

A: At any time within 3 years, the employee affected by the violation may do any of the following:

- Bring a civil action for the recovery of the difference between the amount paid and the amount that, but for the violation, would have been paid the employee and an equal additional amount as liquidated damages together with costs and reasonable attorney fees as are allowed by the court. **or**
- File a claim with the State, who will investigate the claim. If the State determines there is reasonable cause to believe that the employer has violated the law and the employer does not voluntarily comply within a reasonable period of time, the commissioner must bring a civil action.

A contract or agreement between the employer and the employee or any acceptance of a lesser wage by the employee can't avoid the State's civil action.

In addition to the above, an employer who fails to pay the minimum hourly wage is subject to a civil fine of not more than \$2,500.00.