



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-0325/1  
MED:klm

## 2017 SENATE BILL 87

March 2, 2017 - Introduced by Senators L. TAYLOR, RISSER, JOHNSON and VINEHOUT, cosponsored by Representatives FIELDS, SINICKI, BERCEAU, GOYKE, CROWLEY, YOUNG, SUBECK, MILROY and BROSTOFF. Referred to Committee on Labor and Regulatory Reform.

1     **AN ACT to amend** 104.035 (3) (a) (intro.), 104.035 (3) (a) 1., 104.035 (3) (a) 2. and  
2             104.045 (1); and **to create** 104.035 (3) (a) 3. to 7. and (am) of the statutes;  
3             **relating to:** the minimum wage required to be paid to tipped employees.

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### *Analysis by the Legislative Reference Bureau*

This bill raises the separate minimum wage required to be paid to tipped employees by \$0.95 per year until it reaches \$7.08 per hour, one year after which the bill eliminates the separate minimum wage for tipped employees altogether, making tipped employees subject to the general minimum wage.

Generally under current law, every wage paid by any employer to any employee must be not less than the applicable minimum wage established under the statutes. However, if an employer of a tipped employee establishes that, when adding the tips received by the tipped employee in a week to the wages paid to the tipped employee in that week, the tipped employee receives not less than the applicable minimum wage (generally \$7.25 per hour), the minimum wage for the tipped employee is \$2.33 per hour or, with respect to an employee under 20 years of age in the first 90 consecutive days of employment with his or her employer (opportunity employee), \$2.13 per hour.

Beginning approximately six months after enactment, this bill eliminates the alternate minimum wage for tipped employees who are opportunity employees and raises the minimum wage for all tipped employees by \$0.95, to \$3.28 per hour. The bill further raises the minimum wage for tipped employees by \$0.95 per year until it reaches \$7.08 per hour. Beginning one year after it reaches \$7.08 per hour, the bill

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eliminates the separate minimum wage for tipped employees altogether, making tipped employees subject to the general minimum wage of \$7.25 per hour or, for opportunity employees, \$5.90 per hour.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 104.035 (3) (a) (intro.) of the statutes is amended to read:

2           104.035 (3) (a) *Minimum rates.* (intro.) Except as provided in par. (am) and  
3 subs. (4) to (8), if an employer of a tipped employee establishes by the employer's  
4 payroll records that, when adding the tips received by the tipped employee in a week  
5 to the wages paid to the tipped employee in that week, the tipped employee receives  
6 not less than the applicable minimum wage specified in sub. (1), (2), or (2m), the  
7 minimum wage for the tipped employee is as follows:

8           **SECTION 2.** 104.035 (3) (a) 1. of the statutes is amended to read:

9           104.035 (3) (a) 1. For wages earned before the effective date of this subdivision  
10 .... [LRB inserts date], by a tipped employee who is not an opportunity employee,  
11 \$2.33 per hour.

12           **SECTION 3.** 104.035 (3) (a) 2. of the statutes is amended to read:

13           104.035 (3) (a) 2. For wages earned before the effective date of this subdivision  
14 .... [LRB inserts date], by a tipped employee who is an opportunity employee, \$2.13  
15 per hour.

16           **SECTION 4.** 104.035 (3) (a) 3. to 7. and (am) of the statutes are created to read:

17           104.035 (3) (a) 3. For wages earned beginning on the effective date of this  
18 subdivision .... [LRB inserts date], and prior to the date that is one year after the  
19 effective date of this subdivision .... [LRB inserts date], \$3.28 per hour.

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1           4. For wages earned beginning on the date that is one year after the effective  
2 date of this subdivision .... [LRB inserts date], and prior to the date that is 2 years  
3 after the effective date of this subdivision .... [LRB inserts date], \$4.23 per hour.

4           5. For wages earned beginning on the date that is 2 years after the effective date  
5 of this subdivision .... [LRB inserts date], and prior to the date that is 3 years after  
6 the effective date of this subdivision .... [LRB inserts date], \$5.18 per hour.

7           6. For wages earned beginning on the date that is 3 years after the effective date  
8 of this subdivision .... [LRB inserts date], and prior to the date that is 4 years after  
9 the effective date of this subdivision .... [LRB inserts date], \$6.13 per hour.

10          7. For wages earned beginning on the date that is 4 years after the effective date  
11 of this subdivision .... [LRB inserts date], and prior to the date that is 5 years after  
12 the effective date of this subdivision .... [LRB inserts date], \$7.08 per hour.

13           (am) *Nonapplicability.* Paragraph (a) does not apply to wages earned  
14 beginning on the date that is 5 years after the effective date of this paragraph ....  
15 [LRB inserts date]. Except as provided in subs. (4) to (8), beginning on the date that  
16 is 5 years after the effective date of this paragraph .... [LRB inserts date], the  
17 minimum wage for tipped employees shall be the applicable minimum wage  
18 specified in sub. (1), (2), or (2m).

19           **SECTION 5.** 104.045 (1) of the statutes is amended to read:

20           104.045 (1) The counting of tips or similar gratuities toward fulfillment of the  
21 employer's obligation under this chapter. Rules promulgated under this subsection  
22 do not apply beginning on the date that is 5 years after the effective date of this  
23 subsection .... [LRB inserts date].

24           **SECTION 6. Effective date.**

