

HOUSE BILL 467

I3, K3

4lr0708

By: **Delegates Boaf, Turner, Lehman, Acevero, Addison, Allen, Charkoudian, Embry, Fair, Fennell, Foley, Grossman, Harris, Harrison, Holmes, Ivey, A. Johnson, Kaiser, Kaufman, Kerr, R. Lewis, J. Long, Martinez, McCaskill, Palakovich Carr, Pasteur, Patterson, Pena–Melnyk, Roberson, Ruth, Shetty, Simpson, Stewart, Taveras, Taylor, Terrasa, Wells, White Holland, Wilkins, Williams, Wims, Woods, Wu, and Young**

Introduced and read first time: January 22, 2024

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Food Service Facilities and Tipped Workers – Service Fees and Tip Credits**
3 **(One Fair Wage Act of 2024)**

4 FOR the purpose of establishing consumer protections related to service fees charged by
5 food service facilities; specifying a certain tip credit amount that is in effect for
6 certain time periods; prohibiting certain employers of tipped employees, beginning
7 on a certain date, from including a tip credit amount as part of the employees' wages;
8 and generally relating to tip credits and service fees.

9 BY repealing and reenacting, with amendments,
10 Article – Commercial Law
11 Section 13–301(14)(xl)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2023 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Commercial Law
16 Section 13–301(14)(xli)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2023 Supplement)

19 BY adding to
20 Article – Commercial Law
21 Section 13–301(14)(xlii) and 14–1328
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Labor and Employment
3 Section 3–419
4 Annotated Code of Maryland
5 (2016 Replacement Volume and 2023 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Commercial Law**

9 13–301.

10 Unfair, abusive, or deceptive trade practices include any:

11 (14) Violation of a provision of:

12 (xl) Title 14, Subtitle 13 of the Public Safety Article; [or]

13 (xli) Title 14, Subtitle 45 of this article; or

14 **(XLII) SECTION 14–1328 OF THIS ARTICLE; OR**

15 **14–1328.**

16 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
17 **INDICATED.**

18 **(2) “FOOD SERVICE FACILITY” HAS THE MEANING STATED IN §**
19 **21–301 OF THE HEALTH – GENERAL ARTICLE.**

20 **(3) “SERVICE FEE” MEANS A FEE ADDED BY A FOOD SERVICE**
21 **FACILITY TO A CUSTOMER’S TOTAL CHARGE THAT IS SEPARATE FROM:**

22 **(I) THE PRICE LISTED ON THE MENU FOR FOOD, DRINKS, OR**
23 **MERCHANDISE SOLD BY THE FOOD SERVICE FACILITY; AND**

24 **(II) ANY SALES TAX THE FOOD SERVICE FACILITY IS REQUIRED**
25 **TO COLLECT.**

26 **(B) A FOOD SERVICE FACILITY MAY NOT CHARGE A SERVICE FEE UNLESS**
27 **THE FOOD SERVICE FACILITY PROMINENTLY DISCLOSES TO THE CUSTOMER ON THE**
28 **MENU OR IN A LOCATION THAT IS VISIBLE TO THE CUSTOMER BEFORE THE**
29 **CUSTOMER PLACES AN ORDER:**

1 **(1) THE AMOUNT AND PURPOSE OF THE SERVICE FEE; AND**

2 **(2) WHETHER THE SERVICE FEE IS PAID DIRECTLY TO EMPLOYEES IN**
3 **ADDITION TO THEIR WAGES.**

4 **(C) A VIOLATION OF THIS SECTION BY A FOOD SERVICE FACILITY IS:**

5 **(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN**
6 **THE MEANING OF TITLE 13 OF THIS ARTICLE; AND**

7 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
8 **CONTAINED IN TITLE 13 OF THIS ARTICLE.**

9 **Article – Labor and Employment**

10 3–419.

11 (a) (1) Except as provided in § 3–1604(d) of this title, this section applies to
12 each employee who:

13 (i) is engaged in an occupation in which the employee customarily
14 and regularly receives more than \$30 each month in tips;

15 (ii) has been informed by the employer about the provisions of this
16 section; and

17 (iii) has kept all of the tips that the employee received.

18 (2) Notwithstanding paragraph (1)(iii) of this subsection, this section does
19 not prohibit the pooling of tips.

20 (b) Subject to the limitations in this section, an employer may include, as part of
21 the wage of an employee to whom this section applies:

22 (1) an amount that the employer sets to represent the tips of the employee;
23 or

24 (2) if the employee or representative of the employee satisfies the
25 Commissioner that the employee received a lesser amount in tips, the lesser amount.

26 (c) **(1)** The tip credit amount that the employer may include under subsection
27 (b) of this section may not exceed the minimum wage established under § 3–413 of this
28 subtitle for the employee less **[\$3.63]:**

29 **(I) FOR THE 12–MONTH PERIOD BEGINNING JANUARY 1, 2025,**

1 **\$8.00; AND**

2 **(II) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2026,**
3 **\$12.00.**

4 **(2) BEGINNING JANUARY 1, 2027, AN EMPLOYER:**

5 **(I) MAY NOT INCLUDE A TIP CREDIT AS PART OF THE WAGE OF**
6 **AN EMPLOYEE SUBJECT TO THIS SUBTITLE; AND**

7 **(II) SHALL PAY AN EMPLOYEE A WAGE THAT IS AT LEAST EQUAL**
8 **TO THE STATE MINIMUM WAGE SET UNDER § 3-413 OF THIS SUBTITLE.**

9 **(3) THIS SECTION MAY NOT BE CONSTRUED AS PROHIBITING THE**
10 **PAYMENT OF TIPS TO EMPLOYEES.**

11 (d) (1) The Commissioner shall adopt regulations, in consultation with payroll
12 service providers and restaurant industry trade group representatives, to require
13 restaurant employers that include a tip credit as part of the wage of an employee to provide
14 tipped employees with a written or electronic wage statement for each pay period that
15 shows the effective hourly tip rate as derived from employer-paid cash wages plus all
16 reported tips for tip credit hours worked each workweek of the pay period.

17 (2) The Commissioner shall provide notification of the tip credit wage
18 statement regulations on the Department's website.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2024.