On June 28, 2022, Rhode Island Governor Daniel McKee signed into law a comprehensive tip protection bill. The law, which took effect immediately upon passage, generally prohibits employers from retaining any portion of an employee’s tips.

Under the tip protection law, employers may not retain any portion of the tips a “tipped employee” receives, with a limited exception for credit card charges. “Tipped employees” are defined as employees who “customarily and regularly” receive more than $30 per month in tips.
If a customer leaves a tip using a credit card, the employer may deduct the percentage of the sale that it must pay the credit card company from the employee’s tip, provided three conditions are met. First, the deduction cannot reduce the employee’s earnings below the minimum wage. Second, the employer must notify the employee of the deduction. Finally, the employer must pay the employee the amount due no later than the next regular pay day, even if the credit card company has not yet reimbursed the employer.

Notably, the prohibition on an employer’s retention of tips does not preclude a valid tip pool. To establish a valid tip pool, an employer must notify employees of the required contribution amount; take a tip credit only in the amount of tips that each employee receives; and limit participation to tipped employees, except that an employer who does not take a tip credit and pays its employees the full minimum wage may allow any non-exempt employee to participate in the pool.

The law provides that amounts from service charges distributed to employees do not count toward an employee’s tips. But employers may count those amounts toward satisfying their minimum wage and overtime obligations. Currently, the minimum wage in Rhode Island is $12.25 per hour. Employers must pay tipped employees at least $3.89 per hour, provided that this amount plus their tips equals or exceeds the minimum wage.

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