

1 H.811

2 Introduced by Representatives Pearson of Burlington, Deen of Westminster,

3 Gonzalez of Winooski, and Stevens of Waterbury

4 Referred to Committee on

5 Date:

6 Subject: Labor; employment practices; minimum wages; restaurant service

7 charges

8 Statement of purpose of bill as introduced: This bill proposes to require that
9 service or tipped employees earn wages equivalent to the minimum hourly
10 wage and to require restaurants to disclose how a service charge will be used.

11 An act relating to the wage rate for service or tipped employees and
12 restaurant service charges

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 21 V.S.A. § 384 is amended to read:

15 § 384. EMPLOYMENT; WAGES

16 (a) An employer shall not employ any employee at a rate of less than \$9.15.

17 Beginning on January 1, 2016, an employer shall not employ any employee at

18 a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not

19 employ any employee at a rate of less than \$10.00. Beginning on January 1,

20 2018, an employer shall not employ any employee at a rate of less than \$10.50,

1 and beginning on January 1, 2019 and on each subsequent January 1, the
2 minimum wage rate shall be increased by five percent or the percentage
3 increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally
4 adjusted, or successor index, as calculated by the U.S. Department of Labor or
5 successor agency for the 12 months preceding the previous September 1,
6 whichever is smaller, but in no event shall the minimum wage be decreased.
7 The minimum wage shall be rounded off to the nearest \$0.01. An employer in
8 the hotel, motel, tourist place, and restaurant industry shall not employ a
9 service or tipped employee at a basic wage rate less than one-half the minimum
10 wage. As used in this subsection, “a service or tipped employee” means an
11 employee of a hotel, motel, tourist place, or restaurant who customarily and
12 regularly receives more than \$120.00 per month in tips for direct and personal
13 customer service. In any week in which a service or tipped employee does not
14 receive and retain sufficient wages and tips to meet or exceed the minimum
15 wage rate for nonservice or nontipped employees, the employer of a service or
16 tipped employee shall contribute the additional amount necessary to raise the
17 service or tipped employee’s hourly earnings to at least the minimum wage
18 rate for nonservice or nontipped employees. If the minimum wage rate
19 established by the U.S. government is greater than the rate established for
20 Vermont for any year, the minimum wage rate for that year shall be the rate
21 established by the U.S. government.

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Sec. 2. 21 V.S.A. § 398 is added to read:

§ 398. SERVICE CHARGES; DISCLOSURE

(a) If an employer that operates a restaurant, hotel, motel, or tourist place imposes a service charge related to food or beverages, the employer shall provide the customer with a check, bill, invoice, or receipt that specifically identifies the charge as a “service charge” and includes the following:

(1) the amount of the service charge; and

(2) a statement explaining whether the service charge is used:

(A) to pay the service or tipped employee’s base hourly wages;

(B) to pay the employee a gratuity; or

(C) for any other purpose and specifying that purpose.

(b) The disclosures required pursuant to subsection (a) of this section shall appear adjacent to the amount of the service charge on the check, bill, invoice, or receipt and shall be printed in text that is the same size as the surrounding text.

(c) As used in this section:

(1) “Gratuity” means a tip or amount of money over and above the actual amount due for services rendered or for food or beverages sold or served to a customer at a restaurant, hotel, motel, or tourist place, which the customer

1 has paid, given to, or left for an employee who served food or beverages to the
2 customer.

3 (2) “Service charge” means a separately designated amount that is not a
4 gratuity and is in addition to the amount charged by a restaurant, hotel, motel,
5 or tourist place for food or beverages sold or served to the customer. A service
6 charge may include administrative, delivery, or other fees.

7 Sec. 3. EFFECTIVE DATE

8 This act shall take effect on July 1, 2016.