

**SUMMARY OF S.109:**

**AN ACT RELATING TO RESTAURANT SERVICE CHARGES**

**Background:**

- On January 1, 2014, the IRS began classifying automatic gratuities appearing on a restaurant, club, or hotel bill as a service charge rather than a tip. Under IRS rules, a service charge is counted as part of the employee's regular wages and not as part of his or her tipped wages.

**Section 1: Adds 21 V.S.A. § 398–Service Charges; Disclosure**

- Subsection (a) requires employers operating restaurants, hotels, motels, and other tourist places that impose a service charge related to food or beverages to specifically identify it as a service charge if it is used to pay part of the employees' hourly wages.
  - Required information includes:
    - The amount of the service charge,
    - A statement that it is used to pay the employee's base wages,
    - A statement that it is not a gratuity.
- Subsection (b) requires disclosure that the charge is used to pay wages and is not a gratuity to appear adjacent to amount of service charge on the bill, and to be in the same size type.
- Subsection (c) defines:
  - "Gratuity" as a tip or amount of money over the amount due for services that the customer gives to the employee.
  - "Service charge" as an amount that is not a gratuity and is charged in addition to the amount for the food and beverages served.

**Section 2: Effective Date**

- July 1, 2015.