

Initiative PetitionState of Nevada

**SUMMARY:** Prohibits employer from requiring employee to share tips or gratuities with certain other employees. Eligible tip employees defined.

**FISCAL NOTE:** Effect on local government: \_\_\_\_  
Effect on the State or on Industrial Insurance: \_\_\_\_

**FILED**

**EXPLANATION:** Matter in italics is new; matter in brackets [ ] is material to be omitted.

SEP 19 2008

AN ACT relating to labor; prohibiting employer from requiring an employee to share his tips or gratuities with certain other employees; providing penalty; and providing other matters properly relating thereto.

**SECRETARY OF STATE**

The People of the State of Nevada do enact as follows:

Section 1. NRS 608.160 is hereby amended to read as follows:

- 608.160 1. *All gratuities or tips given to an employee are the sole property of the employee.* It is unlawful for any [person] employer, department head, supervisor, or any other representative of the employer to:
- Take all or part of any tips or gratuities bestowed upon his employees.
  - Apply as a credit toward the payment of the statutory minimum hourly wage established by any law of this state any tips or gratuities bestowed on his employees.
  - Determine which employees are eligible to receive an allocation of tips from the shared pool of tips or gratuities.*
2. *It shall be lawful for an employer to require eligible employees to establish and enter into a tip pooling agreement among themselves, to divide the tips or gratuities bestowed upon them. Employees who are the actual and direct recipient of tips or gratuities shall be designated as eligible employees.*
3. *Eligible employees may establish and enter into a tip pooling agreement among themselves, to divide the tips or gratuities bestowed upon them. Eligible employees who are in the pool, shall solely decide among themselves by majority vote who may be included in the tip pool. Additionally, no eligible employee may be excluded from the pool.*
4. Nothing contained in this section shall be construed to prevent such eligible employees from entering into an agreement to divide such tips or gratuities among themselves.
5. *No part of NRS 608.160 shall apply to employees covered by a collective bargaining agreement.*
6. *In addition to any enforcement action that may be taken by the Labor Commissioner or the State of Nevada, any employee or group of employees, individually or as a class, may bring any appropriate civil action in a court of competent jurisdiction in this state to enforce the employee's rights or to address grievances resulting from an employer's violation of any of the provisions of NRS 608.160.*
7. Remedies that a court may award shall include, but not be limited to, any or all of the following:
- Injunction;
  - Declaratory relief pursuant to NRS Chapter 30;
  - Actual Money Damages;
  - Exemplary or Punitive Damages in accordance with NRS Chapter 42;
8. *Any employee or employees who prevail in an action under NRS 608.160 shall be entitled to recover reasonable attorney's fees and costs of suit.*

Description of Effect

If enacted, NRS 608.160 will be amended to:

Prohibit an employer from requiring an employee to share his tips or gratuities with certain other employees. Retain the employees' right to pool tips among themselves. Ensure that any applicable collective bargaining agreement regarding tip pooling will be permitted without interference. Permits employees to pursue civil actions in a court and delineates enforcement actions and remedies courts may impose.

County of \_\_\_\_\_. (Only a registered voter of this county may sign below)

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