

Initiative Petition State 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

JAN 16 2008

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

AN ACT relating to labor; prohibiting employer from requiring an employee to share 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. It is unlawful for any [person] *employer* to:

(a) Take all or part of any tips or gratuities bestowed upon his employees. *Eligible employees receiving tips is defined as those who are the actual and direct recipient of the tips or gratuities.*

(b) 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.

2. *Eligible employees may establish and enter into a tip pooling agreement among themselves, to divide the tips or gratuities bestowed upon them. Eligible employees receiving tips, as defined in 1. (a), above, who are in the pool, shall solely decide among themselves who may be included in the tip pool. Where employees have entered into a tip pooling agreement to divide tips or gratuities among themselves, it shall be unlawful for their employer to:*

(a) *Determine which employees are eligible to receive an allocation of tips from the shared pool of tips or gratuities;*

or

(b) *Require that particular employees receive an allocation of those shared tips or gratuities, unless the provisions of an applicable collective bargaining agreement authorize the employer to make such a determination or requirement.*

3. Nothing contained in this section shall be construed to prevent such employees from entering into an agreement to divide such tips or gratuities among themselves.

4. *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 this Chapter.*

5. *Remedies that a court may award shall include, but not be limited to, any or all of the following:*

a) *Injunction;*

b) *Declaratory relief pursuant to NRS Chapter 30;*

c) *Actual Money Damages;*

d) *Exemplary or Punitive Damages in accordance with NRS Chapter 42;*

6. *Any employee or employees who prevail in an action under this section 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)

1		RESIDENCE ADDRESS ONLY		This space for office use only
PRINT YOUR NAME (first name, initial, last name,)	DATE	CITY	COUNTY	
YOUR SIGNATURE				
2		RESIDENCE ADDRESS ONLY		
PRINT YOUR NAME (first name, initial, last name,)	DATE	CITY	COUNTY	
YOUR SIGNATURE				
3		RESIDENCE ADDRESS ONLY		
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YOUR SIGNATURE				
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STATE OF NEVADA           )  
  )  
COUNTY OF \_\_\_\_\_)

I, \_\_\_\_\_, (print name), being first duly sworn under penalty of perjury, depose and say:

(1) that I reside at \_\_\_\_\_

(print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that I believe each person who signed was at the time of signing a registered voter in the county residence; (6) the number of signatures thereon is \_\_\_\_\_; and (7) that each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

\_\_\_\_\_  
Signature of Circulator

Subscribed and sworn to or affirmed before me this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public or person authorized to administer oath

Page \_\_\_\_\_ of \_\_\_\_\_