

**§3224. Tips, Gratuities and Service Charges.** (a) As used in this section, the following words, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:—

“Wait staff employee”, a person, including a waiter, waitress, bus person, and counter staff, who: (1) serves beverages or prepared food directly to patrons, or who clears patrons’ tables; (2) works in a restaurant, banquet facility, or other place where prepared food or beverages are served; and (3) who has no managerial responsibility.

“Service employee”, a person who works in an occupation in which employees customarily receive tips or gratuities, and who provides service directly to customers or consumers, but who works in an occupation other than in food or beverage service, and who has no managerial responsibility.

“Service bartender”, a person who prepares alcoholic or nonalcoholic beverages for patrons to be served by another employee, such as a wait staff employee.

“Employer”, any person or entity having employees in its service, including an owner or officer of an establishment employing wait staff employees, service employees, or service bartenders, or any person whose primary responsibility is the management or supervision of wait staff employees, service employees, or service bartenders.

“Patron”, any person who is served by a wait staff employee or service employee at any place where such employees perform work, including, but not limited to,

any restaurant, banquet facility or other place at which prepared food or beverage is served, or any person who pays a tip or service charge to any wait staff employee, service employee, or service bartender.

“Service charge”, a fee charged by an employer to a patron in lieu of a tip to any wait staff employee, service employee, or service bartender, including any fee designated as a service charge, tip, gratuity, or a fee that a patron or other consumer would reasonably expect to be given to a wait staff employee, service employee, or service bartender in lieu of, or in addition to, a tip.

“Tip”, a sum of money, including any amount designated by a credit card patron, a gift or a gratuity, given as an acknowledgment of any service performed by a wait staff employee, service employee, or service bartender.

(b) No employer or other person shall demand, request or accept from any wait staff employee, service employee, or service bartender any payment or deduction from a tip or service charge given to such wait staff employee, service employee, or service bartender by a patron. No such employer or other person shall retain or distribute in a manner inconsistent with this section any tip or service charge given directly to the employer or person.

(c) No employer or person shall cause, require or permit any wait staff employee, service employee, or service bartender to participate in a tip pool through which such employee remits any wage, tip or service charge, or any portion thereof, for distribution to any person who is not a wait staff employee, service employee, or service bartender. An employer may administer a valid tip pool and may keep a record of the amounts received for bookkeeping or tax reporting purposes.

(d) If an employer or person submits a bill, invoice or charge to a patron or other person that imposes a service charge or tip, the total proceeds of that service charge or tip shall be remitted only to the wait staff employees, service employees, or service bartenders in proportion to the service provided by those employees.

Nothing in this section shall prohibit an employer from imposing on a patron any house or administrative fee in addition to or instead of a service charge or tip, if the employer provides a designation or written description of that house or administrative fee, which informs the patron that the fee does not represent a tip or service charge for wait staff employees, service employees, or service bartenders.

(e) Any service charge or tip remitted by a patron or person to an employer shall be paid to the wait staff employee, service employee, or service bartender by the end of the same business day, and in no case later than the time set forth for timely payment of wages under §3201 of this Article.

(f) Whoever violates this section shall be subject to all of the civil and criminal penalties and remedies set forth in this Article. Any person or employer who violates this section shall make restitution for any tips accepted, distributed or retained in violation of this section, together with interest thereon at the rate of twelve (12%) per cent per annum. An employee claiming to be aggrieved by a violation of this section may proceed pursuant to this Article. The Attorney General or an employee may bring an action under this section within 3 years of any violation of this Section.

(g) No employer or person shall by a special contract with an employee or by any other means exempt itself from this Section.