

ASSEMBLY BILL NO. 141—ASSEMBLYMEN HOGAN;
MARTIN, MUNFORD AND SPRINKLE

FEBRUARY 18, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions concerning tips and gratuities received by employees. (BDR 53-183)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; prohibiting an employer from requiring an employee, as a condition of his or her employment, to enter into an agreement to divide with other employees any tips or gratuities bestowed upon the employee; revising provisions concerning agreements to divide tips and gratuities among employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, it is unlawful for an employer to take any tips or gratuities
2 bestowed upon its employees or to apply such tips or gratuities toward the payment
3 of the employee's statutory minimum hourly wage. Existing law also requires that
4 nothing in this prohibition be construed to prevent employees from entering into
5 agreements to divide such tips or gratuities among themselves, a practice commonly
6 known as "tip-pooling." (NRS 608.160) In 1983, the Nevada Supreme Court held
7 that an employer did not take employee tips in violation of existing law even though
8 it unilaterally imposed mandatory tip-pooling and required its employees to agree to
9 participate in the tip pool as a condition of their employment because the employer
10 did not retain any part of the tips for its own use or reap any direct benefit from the
11 pooling of the tips. (*Alford v. Harold's Club*, 99 Nev. 670 (1983))

12 This bill makes it unlawful for an employer to require an employee to enter into
13 a tip-pooling agreement as a condition of his or her employment. This bill also
14 revises the scope of existing law concerning tip-pooling agreements among
15 employees to provide that nothing in the bill shall be construed to prevent
16 employees who receive tips or gratuities from voluntarily entering into an
17 agreement to divide such tips or gratuities among themselves.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 608.160 is hereby amended to read as follows:
2 608.160 1. It is unlawful for any person to:

3 (a) Take all or part of any tips or gratuities bestowed upon the
4 employees of that person.

5 (b) Apply as a credit toward the payment of the statutory
6 minimum hourly wage established by any law of this State any tips
7 or gratuities bestowed upon the employees of that person.

8 (c) *Require an employee of that person, as a condition of his*
9 *or her employment, to enter into an agreement to divide with other*
10 *employees any tips or gratuities bestowed upon the employee.*

11 2. Nothing contained in this section shall be construed to
12 prevent such employees *who receive tips or gratuities* from
13 *voluntarily* entering into an agreement to divide such tips or
14 gratuities among themselves.

15 **Sec. 2.** This act becomes effective upon passage and approval.

