



WYOMING LEGISLATIVE SERVICE OFFICE

Fact Sheet

INFORMATION ON MINIMUM WAGE AND TIP DISTRIBUTION

June 2024

by

Pierre Chesnais, Research Analyst

QUESTION 1: CAN YOU PROVIDE A BRIEF SYNOPSIS OF THE MOST RECENT LEGISLATIVE ATTEMPTS TO RAISE WYOMING'S MINIMUM WAGE?

ANSWER: Since 2015, members of the Wyoming House of Representatives have sponsored five bills to raise the State's minimum hourly wage. Two of the five bills were referred to a committee but subsequently failed in Committee of the Whole. The three other bills failed introduction.

2015: House Bill 24 raised the minimum hourly wage from \$5.15 to \$9.00. The bill raised the minimum wage for tipped employees from \$2.13 to \$5.50. If the combined wage plus tips received did not meet the minimum wage, the employer would pay the difference. The bill died in committee.¹

2016: House Bill 4 raised the minimum hourly wage from \$5.15 to \$9.50 and established a minimum hourly training wage of \$7.50 for employees with less than six months of employment. The bill raised the minimum wage for tipped employees from \$2.13 to \$5.50. If the combined wage plus tips did not meet the minimum wage, the employer would pay the difference. The bill failed introduction in the House (9-49-2).²

2018: House Bill 0171 resurrected the 2016 bill. The bill failed introduction.³

2019: House Bill 273 raised the minimum hourly wage from \$5.15 to \$8.50. The bill also proposed an annual minimum wage increase of 25 cents between July 1, 2019, and June 30, 2025. The bill passed the House Labor Committee (6-3) but failed to pass Committee of the Whole (23-36-1).⁴

¹ 2015 House Bill No. 0024, available at: <https://wyoleg.gov/Legislation/2015/HB0024>.

² 2016 House Bill No. 0004, available at: <https://www.wyoleg.gov/Legislation/2016/HB0004>.

³ 2018 House Bill No. 0171, available at: <https://www.wyoleg.gov/Legislation/2018/HB0171>.

⁴ 2019 House Bill No. 0273, available at: <https://www.wyoleg.gov/Legislation/2019/HB0273>.

2021: House Bill 206 raised the minimum hourly wage from \$5.15 to \$15. The bill was not considered for introduction.⁵

QUESTION 2: UNDER WHAT CIRCUMSTANCES MIGHT AN EMPLOYER BE SUBJECT TO THE WYOMING MINIMUM WAGE LAW BUT NOT THE FEDERAL MINIMUM WAGE LAW?

ANSWER: If an employer is not covered by the Federal Fair Labor Standards Act (FLSA), the employer must pay Wyoming's minimum wage rather than the federal minimum wage.⁶ Generally, the employer must have at least \$500,000 in gross receipts or engage in business across state lines to be covered by the FLSA.⁷

QUESTION 3: ARE THERE ANY LAWS IN WYOMING ABOUT HOW RESTAURANT OWNERS ARE REQUIRED TO HANDLE TIPS THAT ARE PUT ON TO CREDIT CARDS?

FEDERAL LAW

Under the Fair Labor Standards Act, when customers' tips are charged on credit cards, employers may deduct a percentage of the tip as a fee for processing the payments. For instance, if a credit card company charges a 3% fee, the employer must pay the tipped employee 97% of the tips. The employer, however, cannot reduce the tips paid to the employee by an amount exceeding the transactional fee charged by the credit card company. In addition, the transactional fee may not reduce the employee's wage below the required minimum wage.⁸

A fact sheet from the United States Department of Labor adds that "under federal law, the amount due to the employee must be paid no later than the regular pay day and may not be held while the employer is awaiting reimbursement from the credit card company."⁹

WYOMING LAW

In Wyoming, tips and gratuities received by an employee belong solely to the employee.¹⁰ Initial research did not indicate that Wyoming statutes specifically address tips charged on credit cards or credit cards' transactional fees.

⁵ 2021 House Bill No. 0206, available at: <https://www.wyoleg.gov/Legislation/2021/HB0206>

⁶ The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in federal, state, and local governments.

⁷ Email from James Delo, Program Manager, Wyoming Department of Workforce Services, to Pierre Chesnais, Research Analyst, Wyoming Legislative Service Office (June 6, 2024).

⁸ Fact Sheet #15: Tipped Employees Under the Fair Labor Standards Act (FLSA), Wage and Hour Division, U.S. Department of Labor, <https://www.dol.gov/agencies/whd/fact-sheets/15-tipped-employees-flsa#:~:text=For%20example%2C%20where%20a%20credit,tips%20without%20violating%20the%20FLSA>. The FLSA defines a tip employee as one is engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.

⁹ *Id.*

¹⁰ W.S. 27-4-507(a).

Research reveals that at least one state, Maine, specifically prohibits employers from deducting processing fees from tips. The Maine law stipulates, "[t]he employer may not deduct any amount from employee tips charged to a credit card, including, but not limited to, service fees assessed to the employer in connection with the credit card transaction."¹¹

If you have any further questions, please do not hesitate to contact LSO Research and Evaluation at 777-7881.

¹¹ Me. Stat. tit. 26, §7-664.