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# A BILL FOR AN ACT

RELATING TO TRANSPARENCY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that food, beverage, and  
2 service establishments increasingly rely on customers tipping  
3 employees to earn a reasonable wage.

4           However, the legislature further finds that a 2022 United  
5 States Department of Labor investigation discovered that  
6 employers in the State were illegally stealing tips that their  
7 employees had earned, resulting in the employers being required  
8 to pay \$117,710 in back wages and liquidated damages for seventy  
9 workers. Another illegal tip theft investigation at a local  
10 cafe resulted in fourteen workers recovering a combined \$79,000  
11 in back wages and \$79,000 in damages.

12           The Hawaii Worker Rights Center estimates that for each  
13 illegal case of tip theft discovered, countless others likely  
14 continue, depriving local workers of their earnings. However,  
15 tip theft is often difficult to identify because tips are  
16 frequently split by employers between front and back of house



1 employees without disclosing to both customers and employees how  
2 the tips are actually allocated.

3 The legislature also finds that a simple and effective  
4 solution to prevent tip theft by employers is to inform tipping  
5 customers and workers receiving tips that it is illegal for  
6 employers to retain tips and clarify who to contact regarding  
7 suspected violations.

8 Accordingly, the purpose of this Act is to require a clear  
9 and accessible notice of tip allocation in food, beverage, and  
10 service establishments.

11 SECTION 2. Chapter 388, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 "§388- Tip allocation transparency; disclosure. (a) In  
15 addition to the notification requirements provided in section  
16 388-7, each food, beverage, and service establishment that  
17 accepts tips and employs an employee subject to title 29 Code of  
18 Federal Regulations section 531.50 et seq. or a tipped employee  
19 as defined in section 387-1, shall post:

20 (1) A reasonably noticeable and easily readable sign with  
21 a simple and understandable explanation of how tips



1 are allocated, which employee positions receive tips,  
2 and the percentages or proportions of tips allocated  
3 to each position in physical locations, including  
4 brick and mortar premises, mobile vehicle, or other  
5 temporary sites of business; at each point of customer  
6 check-in, check-out, final transaction; or an  
7 otherwise publicly visible location where customers  
8 are reasonably expected to pay for their purchase or  
9 service. The sign posted pursuant to this paragraph  
10 shall include one of the following statements or a  
11 substantially similar statement:

12 (A) "Tips are kept entirely by each employee to whom  
13 they are left or given";

14 (B) "Tips are aggregated and divided equally among  
15 all employees legally allowed to receive tips  
16 from tip pools"; or

17 (C) "Tips are aggregated and allocated as follows:  
18 one third is divided among all drivers; one third  
19 is divided among all servers; and one third is  
20 divided among all the kitchen staff"; and

21 (2) A reasonably noticeable and easily readable sign with:



- 1           (A) The same text in the sign posted pursuant to  
2                           paragraph (1); and
- 3           (B) The following statement or a substantially  
4                           similar statement:
- 5                           "Federal and State laws require ALL tips  
6                           received by this establishment to be directly  
7                           distributed to employees. For questions or to  
8                           report violations, contact the Wage and Hour  
9                           Division of the U.S. Department of Labor at  
10                          1-866-487-9243, or the Wage Standards Division of  
11                          the Hawaii Department of Labor and Industrial  
12                          Relations at:
- 13                          (i) 808-586-8777 for the city and county of  
14                                   Honolulu;
- 15                          (ii) 808-274-3351 for the county of Kauai;
- 16                          (iii) 808-984-2076 or 808-984-2075 for the county  
17                                   of Maui; and
- 18                          (iv) 808-974-6464 for the county of Hawaii.",  
19                           in each physical location where other legally  
20                           required notices for employees are posted.



1       (b) In addition to the remedies available under section  
2 388-11, any employer who fails or refuses to post a clear and  
3 accessible notice of the tip allocation required under this  
4 section shall be liable to the employee for back wages and  
5 penalties for back wages in the amount that the employee should  
6 have earned if all tips had been paid directly to the employee.

7       (c) Action by an employee to recover unpaid wages,  
8 including back wages and unpaid tips, may be maintained in any  
9 court of competent jurisdiction by any one or more employees for  
10 and on behalf of oneself or themselves, or the employee or  
11 employees may designate an agent or representative to maintain  
12 the action. The court in any action brought under this section  
13 shall, in addition to any judgment awarded to the plaintiff or  
14 plaintiffs, award back wages in the amount that an employee  
15 should have earned if all tips had been paid directly to the  
16 employee by the employer."

17       SECTION 3. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun before its effective date.

20       SECTION 4. New statutory material is underscored.

21       SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

DLIR; Food, Beverage, and Service Establishments; Transparency; Tips; Allocation; Disclosure; Payment of Wages; Compensation

**Description:**

Requires under the State's wage compensation laws that food, beverage, and service establishments that accept tips and employ tipped employees post signs that include language explaining their tip allocation practices and the contact information for the Wage Standards Division of the Department of Labor and Industrial Relations and the Wage and Hours Division of the United States Department of Labor. Establishes back wages and penalties as available remedies for employees in the event of a violation. Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

