



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-2794/1  
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## 2021 ASSEMBLY BILL 278

April 16, 2021 - Introduced by Representatives HONG, ANDERSON, BOWEN, CABRERA, CONLEY, EMERSON, GOYKE, HEBL, L. MYERS, MILROY, NEUBAUER, RIEMER, SHELTON, SINICKI, SNODGRASS, STUBBS and SUBECK, cosponsored by Senators LARSON, CARPENTER, ROYS and L. TAYLOR. Referred to Committee on State Affairs.

1     **AN ACT to repeal** 104.01 (7m), 104.035 (3) and 104.045 (1); and **to amend**  
2           104.035 (1) (b) (intro.), 104.035 (2) (b) (intro.), 104.035 (2m) (a), 104.035 (2m)  
3           (b) (intro.) and 104.045 (title) of the statutes; **relating to:** elimination of tipped  
4           minimum wage.

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### *Analysis by the Legislative Reference Bureau*

This bill eliminates the separate, tipped minimum wage for all employees.

Generally, under current law, every wage paid by any employer to any employee must be at least the applicable minimum wage established under the statutes. However, if an employer of a tipped employee establishes that, when adding the tips received by the tipped employee in a week to the wages paid to the tipped employee in that week, the tipped employee receives not less than the applicable minimum wage (generally \$7.25 per hour), the minimum wage that the employer must pay the tipped employee is \$2.33 per hour or, with respect to an employee under 20 years of age in the first 90 consecutive days of employment with his or her employer (opportunity employee), \$2.13 per hour.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**ASSEMBLY BILL 278****SECTION 1**

1           **SECTION 1.** 104.01 (7m) of the statutes is repealed.

2           **SECTION 2.** 104.035 (1) (b) (intro.) of the statutes is amended to read:

3           104.035 (1) (b) *Allowances for meals and lodging.* (intro.) Except as provided  
4 in subs. (2) (b), (2m) (b), and (4) (b) ~~and subject to sub. (3) (b)~~, if an employer furnishes  
5 an employee with meals or lodging in accordance with rules promulgated by the  
6 department under s. 104.045 (2), the employer may deduct the following amounts  
7 from the wages of the employee:

8           **SECTION 3.** 104.035 (2) (b) (intro.) of the statutes is amended to read:

9           104.035 (2) (b) *Allowances for meals and lodging.* (intro.) Except as provided  
10 in subs. (2m) (b) and (4) (b) ~~and subject to sub. (3) (b)~~, if an employer furnishes a minor  
11 employee with meals or lodging in accordance with rules promulgated by the  
12 department under s. 104.045 (2), the employer may deduct the following amounts  
13 from the wages of the employee:

14           **SECTION 4.** 104.035 (2m) (a) of the statutes is amended to read:

15           104.035 (2m) (a) *Minimum rates.* Except as provided in subs. ~~(3)~~ (4) to (8), the  
16 minimum wage for an opportunity employee is \$5.90 per hour.

17           **SECTION 5.** 104.035 (2m) (b) (intro.) of the statutes is amended to read:

18           104.035 (2m) (b) *Allowances for meals and lodging.* (intro.) Except as provided  
19 in sub. (4) (b) ~~and subject to sub. (3) (b)~~, if an employer furnishes an opportunity  
20 employee with meals or lodging in accordance with rules promulgated by the  
21 department under s. 104.045 (2), the employer may deduct the following amounts  
22 from the wages of the employee:

23           **SECTION 6.** 104.035 (3) of the statutes is repealed.

24           **SECTION 7.** 104.045 (title) of the statutes is amended to read:

25           **104.045** (title) ~~Tips, meals~~ **Meals, lodging, and hours worked.**

