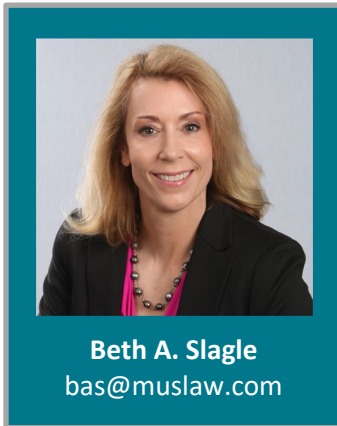


# Employment Advisory: Employers Must Prepare for new Pennsylvania Tipping Regulation



Pennsylvania restaurant owners and businesses with employees that make most of their income from tips must prepare for a new state regulation that will affect how tipped workers' pay is calculated.

Late in March, the state's Independent Regulatory Review Commission approved a rule that increases the threshold for the amount of tips an employee must make in a month to be paid below the state's minimum wage. In adjusting for inflation, the threshold moved from \$30 to \$135.

Once an employee meets the threshold, they may be paid less than the \$7.25 minimum wage per hour to as low as \$2.83 per hour. These employees must also spend at least 80% of their weekly hours performing tipped duties. Currently, Gov. Tom Wolf's administration estimates that there are many as 160,000 tipped employees in Pennsylvania who are paid below minimum wage.

The regulation also:

- Establishes rules for both traditional and non-traditional tip pooling.
- Requires employers to notify employees of tip pools and keep records regarding tip pools.
- Prohibits employers from deducting payment processing fees from tips and requires employers to inform patrons that service charges are not tips.
- Clarifies that to calculate the base hourly rate of overtime for salaried employees, employers must divide earnings in a workweek by 40.

We encourage business owners who will be affected by this rule to review it [here](#), as it will go into effect 90 days after publication in the [Pennsylvania Bulletin](#).

For now, take these steps to prepare for the regulation:

**1. Meet with professional advisors:** Implementing new regulations can be difficult for a business owner who is in the midst of busy day-to-day tasks, so a professional services team that is up to date on the latest rules can provide the necessary guidance, particularly if the business lacks a traditional human resources or payroll department. Consider consulting with legal advisors, accountants, or payroll service providers to ensure the rule is applied properly and at the right time.

**2. Adjust the employee handbook:** Business owners and managers must take care to regularly update employee handbooks, as new regulations can frequently make the document’s information outdated. For businesses that have tipped employees, it is important to provide clear information on rules and processes surrounding tips and hourly wage rates. A legal advisor with expertise in employment law can help craft an updated handbook.

**3. Inform employees directly:** Updating the handbook may not be enough. Employees may have read [news stories](#) about the rule or discussed it with coworkers and will come to their managers with questions about how their business is responding to the new rule. Direct communication, perhaps through email or a company meeting, is valuable to clarify when the changes will be enacted and what their impact is.

For more on this regulation, assistance in implementing it or other employment law matters, reach out to Meyer, Unkovic & Scott attorney Beth Slagle at [bas@muslaw.com](mailto:bas@muslaw.com).

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**Should you have questions about compensation or any other employment issues, please contact any member of our Employment Group listed below or any other Meyer, Unkovic & Scott attorney with whom you have worked.**

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