3–419. TIPS.

(A) SCOPE OF SECTION.

(1) THIS SECTION APPLIES TO EACH EMPLOYEE WHO:

(I) IS ENGAGED IN AN OCCUPATION IN WHICH THE EMPLOYEE CUSTOMARILY AND REGULARLY RECEIVES MORE THAN $30 EACH MONTH IN TIPS;

(II) HAS BEEN INFORMED BY THE EMPLOYER ABOUT THE PROVISIONS OF THIS SECTION; AND

(III) HAS KEPT ALL OF THE TIPS THAT THE EMPLOYEE RECEIVED.

(2) NOTWITHSTANDING PARAGRAPH (2)(III) OF THIS SUBSECTION, THIS SECTION DOES NOT PROHIBIT THE POOLING OF TIPS.

(B) COMPUTATION OF WAGE.

SUBJECT TO THE LIMITATIONS IN THIS SECTION, AN EMPLOYER MAY INCLUDE, AS PART OF THE WAGE OF AN EMPLOYEE TO WHOM THIS SECTION APPLIES:

(1) AN AMOUNT THAT THE EMPLOYER SETS TO REPRESENT THE TIPS OF THE EMPLOYEE; OR

(2) IF THE EMPLOYEE OR REPRESENTATIVE OF THE EMPLOYEE SATISFIES THE COMMISSIONER THAT THE EMPLOYEE RECEIVED A LESSER AMOUNT IN TIPS, THE LESSER AMOUNT.

(C) LIMIT.

THE AMOUNT INCLUDED UNDER THIS SECTION IN THE WAGE OF AN EMPLOYEE MAY NOT EXCEED 50% OF THE MINIMUM WAGE UNDER THIS SUBTITLE FOR THE EMPLOYEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 100, § 82(i) and the third and fourth sentences of (b).

Subsection (a) of this section is revised as a scope provision that states the employees to whom this section applies, rather than as parts of the definitions of "[t]ipped employee" and "[w]age". Since the term "tipped employee" appeared only in the provisions revised in this section, a separate definition was unnecessary. This revision also avoids including substantive limitations in a definition.