

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4199

**FISCAL
NOTE**

By Delegate Hornbuckle

[Introduced January 14, 2026; referred to the

Committee on Finance]

1 A BILL to amend and reenact §21-5C-4 of the Code of West Virginia, 1931, as amended, relating
2 to requiring employees that receive gratuities be paid at least the established state
3 minimum wage hourly rate.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5C. MINIMUM WAGE AND MAXIMUM HOURS STANDARDS FOR
EMPLOYEES.**

§21-5C-4. Credits.

1 ~~Prior to January 1, 2015, in determining whether an employer is paying an employee~~
2 ~~wages and overtime compensation as provided in sections two and three of this article, there shall~~
3 ~~be provided in accordance with the regulations which shall be promulgated by the commissioner a~~
4 ~~credit to the employer of twenty percent of the hourly rate of the amount paid an employee~~
5 ~~customarily receiving gratuities, and a reasonable credit for board and lodging furnished to an~~
6 ~~employee: *Provided*, That after December 31, 2014, in When determining whether an employer is~~
7 ~~paying an employee wages and overtime compensation as provided in sections two and three of~~
8 ~~this article, there shall be provided in accordance with the legislative rules proposed for~~
9 ~~promulgation by the commissioner a credit to the employer of up to 70 percent of the hourly rate of~~
10 ~~the amount paid an employee customarily receiving gratuities, and a reasonable credit for board~~
11 ~~and lodging furnished to an employee: *Provided*, That an employer may take this credit up to 70~~
12 ~~percent of the minimum wage for all hours worked, contingent on the employee receiving pay and~~
13 ~~gratuities for each hour worked, equal to or above the current minimum wage.~~ The commissioner
14 shall propose legislative rules for promulgation relating to maximum allowances to employers for
15 room and board furnished to employees: *Provided*, however, That the employer shall be required
16 to furnish to the commissioner upon request, documentary evidence that the employee is
17 receiving at least ~~seventy percent of the minimum wage in gratuities or is receiving room and~~
18 ~~lodging in accordance with the rules and regulations promulgated by the commissioner.~~

NOTE: The purpose of this bill is to ensure that employees who receive gratuities as part of their wages are paid an hourly rate which, when combined with gratuities received, is not less than the state minimum wage.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.