

By: Wu

H.B. No. 545

A BILL TO BE ENTITLED

AN ACT

relating to the payment of gratuities to tipped employees;
authorizing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 61, Labor Code, is amended
by adding Section 61.021 to read as follows:

Sec. 61.021. GRATUITIES PAID TO TIPPED EMPLOYEE; PRIVATE
CAUSE OF ACTION; CIVIL PENALTY. (a) In this section, "tipped
employee" has the meaning assigned by Section 62.052.

(b) An employer may not retain any portion of gratuity paid
to or left for a tipped employee for any purpose, regardless of
whether the employer takes a tip credit against the payment of the
minimum wage to the employee.

(c) In addition to any other remedy provided by this
chapter, an employee aggrieved by an employer's violation of this
section may bring a cause of action against the employer. An
employee who prevails in an action brought under this subsection is
entitled to recover:

(1) the amount of any tip credit taken by the employer
on the employee;

(2) the amount of the gratuity retained by the
employer;

(3) an additional amount equal to the amount described
by Subdivision (2) as liquidated damages;

1 (4) court costs; and

2 (5) reasonable attorney's fees.

3 (d) An employer who violates this section is liable for a
4 civil penalty in the amount of \$1,100 for each violation.

5 (e) An action to recover damages or a civil penalty under
6 this section must be brought not later than the second anniversary
7 of the date on which the gratuity was paid to or left for the
8 employee.

9 SECTION 2. Section 61.021, Labor Code, as added by this Act,
10 applies only to a gratuity paid to or left for an employee on or
11 after the effective date of this Act.

12 SECTION 3. This Act takes effect September 1, 2023.