

AN ACT

To amend 13 PNC § 1025 to ensure all employees earn minimum wage, and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:

Section 1. Legislative findings. The Olbil Era Kelulau finds that some employers in the service industries of the Republic of Palau have used tips and service charges as a credit toward minimum wage. This bill closes that loophole to ensure that all workers earn minimum wage at all times, regardless of tips or gratuities earned.

Section 2. Amendment. 13 PNC § 1025 as amended by RPPL No. 9-1 and RPPL No. 9-14 is amended as follows:

“§ 1025. Minimum wage.

(a) On October 1, 2013 every employer in the Republic shall pay a minimum wage of \$2.75 per hour. On October 1 of each subsequent year, the minimum wage shall increase by \$0.25 per hour until it reaches \$3.50 per hour. Except as provided in subsection (b) of this section, all employers shall pay the minimum wage to their employees, including employers in the hotel, motel, tourist, restaurant, or other industries whose employees may customarily and regularly receive tips for direct and personal customer service. Service charges, tips and other gratuities given to an employee shall not be used as payment or credit toward payment of the minimum hourly wage. The minimum wage increase shall not apply to contracts in existence prior to October 1, 2013, but any contract made on or after that date must observe the applicable minimum wage in place at that time.

(b) ...

(c) ...

(d) ...

(e) Employers may not keep any part of a service charge, tip, or other gratuity left by customers. Employers must let employees keep any such service charge, tip or other gratuity left for or given to those employees and must distribute any such service charge, tip, or other gratuity to employees if not given directly to the employees by the

customer, including any paid by credit or debit card. This section does not preclude employers from establishing rules on the fair distribution of service charges, tips, or other gratuities to employees.

(f) Penalties. An employer who violates the requirements of this section shall be subject to a civil penalty of one thousand dollars (\$1,000) per violation and a penalty of the equivalent of all unpaid taxes and social security contributions plus interest on the wages not paid to the employee, for each violation. Violations of this section include the payment by an employer of less than the minimum wage to any employee performing work other than that described by the employees exempted from the minimum wage requirements under subsection (b).

(g) Civil cause of action.

(1) Any employee entitled to the minimum wage established in subsection (a) of this section who does not receive it shall have a civil cause of action in any court of appropriate jurisdiction, either through the Office of the Attorney General, or through the aggrieved employee's choice of private representation or self-representation.

(2) The aggrieved employee must notify the Bureau of Labor or the Attorney General of the alleged violation. The Bureau of Labor and the Bureau of Customs, Revenue and Taxation must report to the Office of the Attorney General in writing any known or suspected violation of this section within fourteen (14) days of such knowledge or suspicion. The Attorney General may initiate a civil proceeding based on the information received from the aggrieved employee, the Bureau of Labor or the Bureau of Customs, Revenue and Taxation. If the Attorney General does not take action within ninety (90) days of the date of the notice, the aggrieved employee may initiate his or her own court action.

(3) An employee who does not receive the minimum wage shall be entitled to receive damages and such other remedies as may be appropriate, including punitive damages from the employer in an amount not to exceed one

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thousand five hundred dollars (\$1,500) in the court's discretion. Any employee who prevails in a suit brought pursuant to this section shall be entitled to recover reasonable attorney's fees incurred in prosecuting the action."

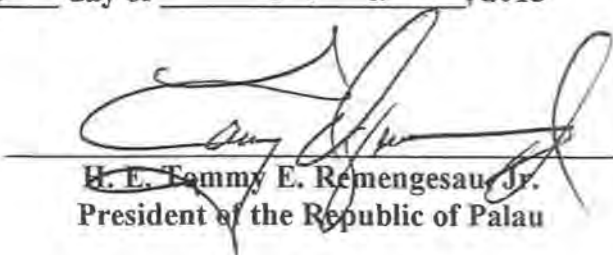
Section 3. Effective date. This Act shall take effect upon its approval by the President of the Republic of Palau, or upon its becoming law without such approval.

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PASSED: October 14, 2015

Approved this 30<sup>th</sup> day of October, 2015

  
H. E. Tommy E. Remengesau, Jr.  
President of the Republic of Palau