

## Connecticut Department of Labor Issues Final Regulations on State's New Tip Credit Statute

By David R. Golder and Allison P. Dearington

September 29, 2020

The Connecticut Department of Labor (CTDOL) has issued new and revised regulations regarding the state's tip credit law. The final regulations greatly clarified some aspects of the existing regulatory language that had led to many class action lawsuits against Connecticut restaurants.

The most significant revisions to the regulations are the following:

- The weekly tip credit attestation does not require an actual written signature by hand. Instead, the attestation may be obtained through an electronic acknowledgment or a Point-of-Sale (POS) system. Moreover, the attestation may be accomplished on a daily, weekly, or biweekly basis. In addition, employers may include the specific "tip credit" amount as a separate item in "a" wage record, meaning *any* wage record maintained by the employer. Furthermore, clarifying that the tip record regulations are not intended to be a litigation trap, the regulations state that an employer need only provide "substantial evidence" an employee received enough in tips to cover the tip credit.
- The duties "incidental to service" for which a tip credit may be taken have been clarified. The final regulations identify duties such as cleaning drink stations, rolling silverware, stocking side stations, garnishing and decorating dishes in preparation for serving, filling condiment containers, and setting up food stations as those "incidental to service" for which the employer may take the tip credit. Previously, the CTDOL website provided a much narrower list of such duties, and although the listed duties were meant to serve only as examples, some courts had construed the examples as being an exhaustive list.
- Segregation of service from non-service work is required only if the employee spends more than two hours per day or 20 percent of their shift (whichever is less) performing non-service work.
- Employers *must* pay full minimum wage for opening or closing sidework duties when the restaurant is closed to patrons.

Employers must follow not only these new Connecticut regulations, but also the regulations set forth under the federal Fair Labor Standards Act. Moreover, the Connecticut law on which the new regulations were established requires the Labor Commissioner, within 30 days of the adoption of the new regulations, to conduct random wage and hour audits of tipped workers in at least 75 Connecticut restaurants. Thus, employers should ensure they are in compliance immediately.

If you have any questions about the final regulations, the underlying legislation, or any other wage and hour issue, please consult the Jackson Lewis attorney(s) with whom you regularly work.

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.

### Meet the Authors



David R. Golder

Principal  
Hartford 860-522-0404  
Email



Allison P. Dearington

Associate  
Hartford 860-331-2585  
Email

---

©2020 Jackson Lewis P.C. All rights reserved. Attorney Advertising. Prior results do not guarantee a similar outcome. No client-lawyer relationship has been established by the posting or viewing of information on this website.

\*The National Operations Center serves as the firm's central administration hub and houses the firm's Facilities, Finance, Human Resources and Technology departments.