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MADIGAN: LET ILLINOIS WORKERS KEEP THEIR TIPS***AG Madigan & 16 AGs Oppose Federal Government's Effort to Rescind Rule Allowing Hourly Workers to Keep Their Tips***

Chicago — Attorney General Lisa Madigan today filed comments in opposition to a proposal by the federal government that would rescind a rule protecting hourly workers' tips.

Madigan and the attorneys general from California and Pennsylvania led a coalition of 17 attorneys general in filing [the comments](#) with the U.S. Department of Labor against the Department's proposed rescission of the 2011 rule. The rule had clarified that tips earned are the sole property of employees in all circumstances. Under the Department's proposed rule change, employers would be allowed to keep tips earned by employees who are paid the federal minimum wage – currently \$7.25 per hour.

In Illinois, an estimated half a million workers could see their tips taken by the federal government's action, according to the Bureau of Labor Statistics. Nationwide, the Economic Policy Institute estimated it could result in employers taking up to \$5.8 billion of workers' earned tips.

"The Department of Labor's proposal is outrageous," Madigan said. "Not only do workers deserve the money they have earned for the service they provided, but millions of customers who leave tips expect that money to go to the employee who helped them. Hardworking people will see their earnings essentially stolen by their employer."

The proposal could also have a disproportionate impact on women, as the National Women's Law Center reports that over 65 percent of tipped workers in Illinois are women. Women in tipped occupations also experience a high wage gap in Illinois, making 84 cents for every dollar their male counterparts make. In addition, 17 percent of Illinois women in tipped occupations are living in poverty.

Under the Fair Labor Standards Act (FLSA), employers are required to pay their hourly employees the federal minimum wage. Employers can meet this requirement either by paying employees the full cash federal minimum wage or by paying a lower cash wage, no less than \$2.13 per hour, and making up the difference with the tips that the employee earns. The latter practice is known as a "tip credit." The Department's proposed rescission of the 2011 rule would allow employers who pay employees the federal minimum wage to take the employees' tips.

The comments by Madigan and the other attorneys general state, in part:

"The Notice of Proposed Rulemaking asserts that, by providing employers with greater flexibility to allocate tips among tipped and non-tipped workers, such as cooks and dishwashers, the primary beneficiaries of rescinding the 2011 rule will be the workers themselves. Yet, absent concrete definitions of or limitations on valid tip pool participants, the rescission would permit employers to share in such tip pools or even collect all employee tips as their own. In fact, the Notice itself acknowledges that rescinding the 2011 rule would permit employers to use gratuities left for servers to 'make capital improvements' or 'lower restaurant menu prices' and notes that tips may be 'utilized in part (or in full) by the employer.' As currently drafted, nothing in the rule would prevent employers from simply pocketing gratuities as additional profit. The results could be devastating for tipped employees and misleading to consumers."

The U.S. Department of Labor, in its work spearheading the rule change, [reportedly](#) decided to shelve an economic analysis that highlighted the billions of dollars in tip earnings that workers could lose.

Joining Madigan in filing today's comments were the attorneys general of: California, Connecticut, the District of Columbia, Delaware, Iowa, Maine, Maryland, Massachusetts, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Washington, Vermont, and Virginia.

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