

DOL releases enforcement guidance on newly legal tip pools

Apparently no longer required to wait for formal rulemaking to be complete, the Department of Labor's Wage and Hour Division has issued a Field Assistance Bulletin describing how federal investigators will treat tip pooling practices they encounter.

An amendment attached to the consolidated spending legislation Congress approved in March made it legal for employers to pool tips received by service workers—waiters and bartenders, for example—to be divvied up with back-of-the-house workers who don't normally receive tips.

The bulletin, released April 6, states, "employers who pay the full FLSA minimum wage are no longer prohibited from allowing employees who are not customarily and regularly tipped—such as cooks and dishwashers—to participate in tip pools. The Act prohibits managers and supervisors from participating in tip pools."

The amendment gave the Wage and Hour Division the authority to impose civil money penalties not to exceed \$1,100 when employers unlawfully keep employee tips.

The field guidance notes that the amendment effectively rescinds a 2011 rule that prohibited tip pooling.

Read the bulletin at www.dol.gov/whd/FieldBulletins/fab2018_3.htm.