

1 **SEC. 1103. APPLICATION.**

2 Nothing in this title or an amendment made by this  
3 title affects, or supersedes or modifies the responsibility  
4 or authority of any Federal official or employee to comply  
5 with or enforce, any requirement under the Comprehensive  
6 Environmental Response, Compensation, and Liability Act  
7 of 1980 (42 U.S.C. 9601 et seq.), other than the haz-  
8 ardous substance notification requirements under section  
9 103 of that Act (42 U.S.C. 9603) with respect to air emis-  
10 sions from animal waste at farms.

11 **TITLE XII—TIPPED EMPLOYEES**

12 **SEC. 1201. TIPPED EMPLOYEES.**

13 (a) PROHIBITION ON KEEPING TIPS.—Section 3(m)  
14 of the Fair Labor Standards Act of 1938 (29 U.S.C.  
15 203(m)) is amended—

16 (1) by redesignating paragraphs (1) and (2) as  
17 clauses (i) and (ii), respectively;

18 (2) by inserting “(1)” after “(m)”;

19 (3) by striking “any employee. In determining”  
20 and inserting the following: “any employee.

21 “(2)(A) In determining”;

22 (4) in clause (ii) of paragraph (2)(A) (as so re-  
23 designated), by striking “paragraph (1)” and insert-  
24 ing “clause (i)”; and

25 (5) by adding at the end the following:

1       “(B) An employer may not keep tips received by its  
2 employees for any purposes, including allowing managers  
3 or supervisors to keep any portion of employees’ tips, re-  
4 gardless of whether or not the employer takes a tip cred-  
5 it.”.

6       (b) PENALTIES.—Section 16 of the Fair Labor  
7 Standards Act of 1938 (29 U.S.C. 216) is amended—

8           (1) in subsection (b)—

9                   (A) by inserting after the second sentence  
10 the following: “Any employer who violates sec-  
11 tion 3(m)(2)(B) shall be liable to the employee  
12 or employees affected in the amount of the sum  
13 of any tip credit taken by the employer and all  
14 such tips unlawfully kept by the employer, and  
15 in an additional equal amount as liquidated  
16 damages.”; and

17                   (B) by striking “either of”;

18           (2) in subsection (c), by adding at the end the  
19 following: “The authority and requirements de-  
20 scribed in this subsection shall apply with respect to  
21 a violation of section 3(m)(2)(B), as appropriate,  
22 and the employer shall be liable for the amount of  
23 the sum of any tip credit taken by the employer and  
24 all such tips unlawfully kept by the employer, and an

1 additional equal amount as liquidated damages.”;

2 and

3 (3) in subsection (e)(2), by adding at the end  
4 the following: “Any person who violates section  
5 3(m)(2)(B) shall be subject to a civil penalty not to  
6 exceed \$1,100 for each such violation, as the Sec-  
7 retary determines appropriate, in addition to being  
8 liable to the employee or employees affected for all  
9 tips unlawfully kept, and an additional equal amount  
10 as liquidated damages, as described in subsection  
11 (b).”.

12 (c) EFFECT ON REGULATIONS.—The portions of the  
13 final rule promulgated by the Department of Labor enti-  
14 tled “Updating Regulations Issued Under the Fair Labor  
15 Standards Act” (76 Fed. Reg. 18832 (April 5, 2011)) that  
16 revised sections 531.52, 531.54, and 531.59 of title 29,  
17 Code of Federal Regulations (76 Fed. Reg. 18854–18856)  
18 and that are not addressed by section 3(m) of the Fair  
19 Labor Standards Act of 1938 (29 U.S.C. 203(m)) (as  
20 such section was in effect on April 5, 2011), shall have  
21 no further force or effect until any future action taken  
22 by the Administrator of the Wage and Hour Division of  
23 the Department of Labor.