**Section 2730.105 Reporting Gratuities**

a) Each employer who employs individuals who customarily receive gratuities from persons other than the employer in the course of their work with the employer shall inform, either orally or in writing, all those individuals of their duty to report currently the amount of the gratuities to the employer, and post a notice, issued by the Director, which may be conveniently read (such as on the employer's bulletin board) by all such individuals. The notice shall be procured by an employer from the Director.

b) Each individual who customarily receives gratuities in the course of his or her work from persons other than his or her employer shall, on the day he or she is paid wages for a pay period by his or her employer, or not later than the next succeeding pay day, submit a written statement or form, in duplicate, to his or her employer concerning the amount of gratuities received during the pay period.

c) The statement or form referred to by subsection(b) shall contain the information required to be listed under Section 6053(a) of the Internal Revenue Code of 1954 (26 USC 1 et seq.). Each employer shall acknowledge the receipt of the statement or form on the duplicate copy and return the copy to the individual, who shall retain it as evidence of the fact that he or she has reported gratuities in accordance with the requirements of this Section. The employer shall retain each original statement or form for a period of three years.

d) Each employer shall include in its regular monthly or quarterly reports, as the case may be, to the Director the amount of gratuities reported to it by each individual under subsection (b); provided, however, that in the event the employer shall deem the amount so reported by the individual to be in excess of the amount of gratuities actually received by the individual, the employer shall attach to its monthly or quarterly report a statement indicating the amount reported by the individual, the amount reported by the employer, the difference between those amounts, and the basis for the employer's belief that the differences were not actually received by the individual.

e) If, for any reason, the employer fails to obtain from the individuals in its employ the amount of gratuities received by such individuals, the employer shall estimate the amounts of such gratuities. The employer shall estimate the amount of the gratuities as the greater of 8% of the gross receipts for service provided by the individual or the applicable federal minimum wage (29 USC 206 et seq.) times the number of hours worked by the individual.

(Source: Amended at 37 Ill. Reg. 7432, effective May 14, 2013)