A bill for an act

relating to employment; providing notice of sharing of gratuities and authorizing employers to safeguard and disburse shared gratuities; amending Minnesota Statutes 2010, section 177.24, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 177.24, subdivision 3, is amended to read:

Subd. 3. **Sharing of gratuities.** For purposes of this chapter, any gratuity received by an employee or deposited in or about a place of business for personal services rendered by an employee is the sole property of the employee. No employer may require an employee to contribute or share a gratuity received by the employee with the employer or other employees or to contribute any or all of the gratuity to a fund or pool operated for the benefit of the employer or employees. This section does not prevent an employee from voluntarily and individually sharing gratuities with other employees. ~~The agreement to share gratuities must be made by the employees free of any employer participation.~~ Employees may establish a system for the sharing or pooling of gratuities among employees provided that the employer shall not require or coerce employees to agree upon such system. If an employee agrees to participate in sharing gratuities, an employer is not precluded from administering a valid gratuity pool and may:

(1) keep a record of the amounts received for accounting, bookkeeping, or tax reporting purposes; and

(2) upon the request of employees, safeguard gratuities to be shared by employees and disburse shared gratuities to employees participating in the agreement.

Nothing in this section shall prohibit an employer from informing servers about the opportunity to participate in a gratuity-sharing program on a voluntary basis and posting a copy of this section for the information of employees. The commissioner may require the employer to pay restitution in the amount of the gratuities diverted. If the records maintained by the employer do not provide sufficient information to determine the exact amount of gratuities diverted, the commissioner may make a determination of gratuities diverted based on available evidence and mediate a settlement with the employer.