

HOUSE BILL REPORT

HB 1498

As Passed House:
March 3, 2011

Title: An act relating to the taxation of employee meals provided without specific charge.

Brief Description: Concerning the taxation of employee meals provided without specific charge.

Sponsors: Representatives Pettigrew, Orcutt, Sullivan, Parker, Springer, Kenney, Chandler, Condotta, Santos, Billig, Kagi, Stanford and Kelley.

Brief History:

Committee Activity:

Ways & Means: 2/1/11, 2/23/11 [DP].

Floor Activity:

Passed House: 3/3/11, 96-1.

Brief Summary of Bill

- Provides business and occupation tax and sales and use tax exemptions for meals provided to restaurant employees without a specific charge to the employee.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass. Signed by 25 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer and Wilcox.

Minority Report: Do not pass. Signed by 1 member: Representative Hudgins.

Staff: Rick Peterson (786-7150).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The sales tax is imposed by the state, counties, and cities on retail sales of most items of tangible personal property and some services, including construction and repair services. The state sales rate is 6.5 percent and the local rates vary by location. The combined state/local rate is between 7 and 9.5 percent, depending on location.

Food and food ingredients purchased for human consumption are exempt from sales and use tax. However, prepared meals served for consumption on the premises, or where consumption facilities are provided, are generally subject to the retail sales or use tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. There are a number of different rates. The main rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, and activities not classified elsewhere.

Meals provided to employees are considered to be in exchange for services received from the employee and are subject to the sales tax and retailing B&O tax.

Summary of Bill:

Business and occupation tax and sales and use tax exemptions are provided to restaurants for meals provided to employees without a specific charge to the employee.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.

Staff Summary of Public Testimony:

(In support) Restaurants are small businesses providing employment. There are over 13,000 restaurants with 130,000 employees in Washington. It is a custom for many restaurants to provide meals to employees so that they do not go offsite to get a meal. When restaurants provide a meal it helps employees make ends meet. It is an important benefit for employees. Times are tight for restaurants and staff. Some earn only \$10 an hour. The Department of Revenue has been inconsistent in the application of this tax. This tax is an administrative burden on employers. The accountants have to count up the number of meals based on the shifts worked. The sales tax is applied if the restaurant offers a meal even if the employee does not take the meal. This bill eliminates an unfair tax burden on small employers and thousands of employees.

(Opposed) None.

Persons Testifying: Representative Pettigrew, prime sponsor; Bruce Beckett, Washington Restaurant Association; Shawn O'Donnell, Shawn O'Donnell's American Grill and Irish Pub

Restaurant; Bret Stewart, Auntie Anne's Pretzels; and Joe Fugere, Tutta Bella Neapolitan Pizzeria.

Persons Signed In To Testify But Not Testifying: None.