
Commerce & Labor Committee

HB 1795

Brief Description: Modifying employee wage and benefit provisions.

Sponsors: Representatives B. Sullivan, Condotta, Talcott, Shabro, Haler, Dunn, Nixon, Holmquist, Walsh, Bailey, Kristiansen, Kretz and Linville.

Brief Summary of Bill

- Allows employers in specified hospitality-related industries to elect to pay their tipped employees an adjusted minimum tipped wage rate.
- Requires employers who make this election to: (1) Pay their tipped employees the adjusted minimum wage rate if the employee's tips are less than the adjusted minimum wage rate; and (2) make certain contributions for employee benefits.

Hearing Date: 2/24/05

Staff: Jill Reinmuth (786-7134).

Background:

Federal and state laws require employers to pay their employees no less than certain minimum wage rates. Federal law authorizes employers to take tip credits for tips received by their employees in specific circumstances. State law is interpreted as prohibiting tip credits.

Federal Law

In general, employers covered under the federal Fair Labor Standards Act (FLSA) are required to pay their employees no less than the federal minimum wage rate. (The federal minimum wage rate is currently \$5.15 per hour.)

However, the FLSA allows employers to pay tipped employees a minimum of \$2.13 per hour so long as the total of \$2.13 and tips is not less than the federal minimum wage rate. If the total is less than the federal minimum wage rate, the employer is required to make up the difference.

Washington Law

Employers covered under the state Minimum Wage Act (MWA) are required to pay their employees no less than the state minimum wage rate. Pursuant to Initiative 688, the Department of Labor and Industries (Department) adjusts the state minimum wage rate for inflation each

year. (The state minimum wage rate is currently \$7.35 per hour.) The Department interprets the MWA as prohibiting tip credits.

Laws in Other States

Laws in other states vary. Six other states, plus Washington, do not allow tip credits. Thirty-four states and the District of Columbia allow tip credits. Seven states do not have minimum wage laws. One state sets a lower minimum wage for tipped employees, and another state exempts tipped employees from coverage under the state minimum wage law.

Summary of Bill:

Beginning July 1, 2005, employers in specified industries may elect to pay their tipped employees an adjusted minimum tipped wage rate, so long as certain requirements are met. A "tipped employee" is defined as an employee who regularly and customarily receives gratuities directly from the customer in recognition of the service performed and who is employed by an employer with certain industry codes. The standard industry codes are "58" (eating and drinking places), "70" (hotels, rooming houses, camps, and other lodging places), and "79" (amusement and recreation services). The North American industry codes are "713" (amusement, gambling, and recreation industries), "721" (accommodations), and "722" (food services and drinking places).

The Department of Labor and Industries (Department) is required to calculate an adjusted minimum tipped wage rate (the "tipped wage rate") each year. The tipped wage rate is fifty percent of the adjusted minimum wage rate.

Employers in specified industries are allowed to elect to pay their tipped employees the tipped wage rate instead of the adjusted minimum wage rate. Employers that make this election are required to:

- Pay the employee the adjusted minimum wage rate if the employee's tips are less than the adjusted minimum wage rate;
- Contribute an amount equal to fifty percent of the tipped wage rate for employee benefits, such as health care benefits, wages in excess of the adjusted minimum wage rate, or employee meals, paid leave, and other nonwage benefits specified in rule by the director of the Department; and
- Submit annual reports certifying compliance with the tipped wage rate provisions of the MWA and pay an annual fee of \$25 to the Department.

Rules Authority: The bill requires the director of the Department of Labor and Industries to establish any requirements necessary for the proper administration of the tipped wage rate provisions of the state Minimum Wage Act.

Appropriation: None.

Fiscal Note: Requested on February 22, 2005.

Effective Date: The bill contains an emergency clause and takes effect immediately.