

SENATE BILL REPORT

SB 5523

AS REPORTED BY COMMITTEE ON COMMERCE & LABOR, FEBRUARY 27, 1991

Brief Description: Providing for a minimum wage tip credit.

SPONSORS: Senators West, McDonald, Matson, Vognild, Newhouse, Anderson, McMullen, Williams, Amondson and von Reichbauer.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Matson, Chairman; Anderson, Vice Chairman; Bluechel, McCaslin, and McDonald.

Staff: Jonathan Seib (786-7427)

Hearing Dates: February 21, 1991; February 27, 1991

BACKGROUND:

Pursuant to Initiative 518, passed in 1988, Washington employers must pay their employees a minimum of \$4.25 per hour. The Department of Labor and Industries was authorized to establish the minimum wage for minors. The department set the minimum wage at \$4.25 for 16 and 17 year-olds, and at \$3.61 for those under 16.

Initiative 518 did not address tip credit. There are no provisions in current state law allowing tips to be used to satisfy the minimum wage requirement.

Current law requires the Office of Financial Management to review the minimum wage every two years and make a recommendation regarding its increase.

SUMMARY:

Tips received by tipped employees may be used, at the discretion of an employer, to satisfy up to 50 percent of the state's minimum wage requirement.

The amount of tip money used for this purpose may not exceed the amount of tips reported by the employee for federal tax purposes, or, in lieu of such reporting, the amount allocated by the employer as income of the employee for federal tax purposes. In the latter case, the tip credit may not exceed the value of tips actually received.

"Tipped employee" means an employee who customarily and regularly receives more than \$30 per month in tips.

The tip credit provisions apply only to employees who have been notified of them and who retain all tips they receive.

The minimum wage regulations for minors established by the Department of Labor and Industries are to provide for a tip credit consistent with the act.

The Office of Financial Management minimum wage report is to include recommendations regarding minimum wage for tipped employees.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

Tips are considered wages for other government purposes such as FICA taxes and industrial insurance. Federal law provides for a tip credit, as do the laws of 40 other states. This bill is essential to the viability of restaurants in this state, many of which are suffering in the face of skyrocketing payroll costs. A tip credit would allow the payroll to be distributed differently, allowing nontipped employees to be paid more equitably.

TESTIMONY AGAINST:

Tipped employees work in skilled positions for which they should be compensated accordingly. Tips are an unreliable and subjective source of income. Some tipped employees, who can rely only on their base salary, would have to turn to public assistance. There is an increasing number of new restaurants being opened, suggesting the industry is not in trouble. The bill does not require that the payroll be distributed any differently.

TESTIFIED: PRO: Rick Homer, Gary Henderson, Dick Moseanko, Ray Lindstrom, Restaurant Association of the State of Washington; Clif Finch, Association of Washington Business; CON: Chris Smith, Washington State Labor Council; Steven Aldrich, Sandra Graves