

HOUSE BILL REPORT

HB 2073

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to tips received in employment.

Brief Description: Prohibiting employers from requiring that tips be given to the employer.

Sponsors: Representatives McMorris, Lisk, Clements, O'Brien, Dyer, Mulliken, Chandler and Thompson.

Brief History:

Committee Activity:

Commerce & Labor: 3/3/97, 3/5/97 [DP].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 5 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements and Lisk.

Minority Report: Do not pass. Signed by 4 members: Representatives Conway; Wood; Cole and Hatfield.

Staff: Selwyn Walters (786-7117).

Background: Federal and state laws establish a minimum wage affecting full-time and part-time workers in the private and public sectors. In Washington, the minimum wage law is administered by the Department of Labor and Industries.

Federal law

The federal minimum wage is \$4.75 per hour, and will increase to \$5.15 per hour on September 1, 1997. Federal law allows an employee's tips to be counted as wages in meeting an employer's minimum wage obligation. Employers of tipped employees—must pay at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

State law

The state minimum wage is \$4.90 per hour. The department has administratively determined that the Minimum Wage Act prohibits tip credit. Therefore, an employer must pay tipped employees– a cash wage of \$4.90 per hour. All tips given to an employee are the property of the employee.

The minimum wage provisions more beneficial to employees govern, whether federal or state.

Summary of Bill: Employers of tipped employees– may count tips as wages in meeting any state minimum wage rate above \$4.90 per hour. The amount of tips considered as wages may not be greater than the value of tips actually received by the employee. The tips are the property of the employee. Tip pooling is not prohibited.

Tipped employee– means an employee engaged in an occupation in which he or she customarily and regularly receives more than \$30 per month in tips.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many tipped employees are not the class of employees the minimum wage law is intended to protect. Tipped employees are provided retirement benefits, health care, and other benefits, including child care. Non-tipped employees such as cooks are penalized because the employer must expend funds for the wages of employees who are already earning wages in the form of tips. It is unfair for the state not to recognize tips as wages for purposes of the minimum wage laws because tips are recognized as wages in other state laws and in federal law.

Testimony Against: This bill is against working families. The focus of the law should be on expanding family wages. Tips are the property of the employee and should not be used by the employer in meeting his wage obligations.

Testified: (In support) Celeste Gray; Lane Hoss; and Kit Hawkins, Washington Restaurant Association. (Opposed) Robby Stern, Washington State Labor Council.