

SENATE BILL REPORT

SB 5774

As of March 1, 2005

Title: An act relating to employee wages and benefits.

Brief Description: Modifying employee wage and benefit provisions.

Sponsors: Senators Poulsen and Parlette.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/24/05.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Staff: Jennifer Strus (786-7316)

Background: Employers must pay each employee who is 18 or older at least the minimum hourly wage established under RCW 49.46.020 for all hours worked. "Hours worked" includes preparation time, opening and closing the business, and required meetings and training. Any time spent by an employee in the performance of these duties must be recorded and paid. 14 and 15 year old workers may be paid 85 percent of the adult minimum wage.

The Minimum Wage Act provides that on September 30 of each year the Department of Labor and Industries must calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. This rate is calculated to the nearest cent using the Consumer Price Index (CPI-U) for urban wage earners and clerical workers (CPI-W) for the 12 months prior to each September 1 as calculated by the U.S. Department of Labor. The adjusted minimum wage rate takes effect on the following January 1.

The current state minimum wage rate is \$7.35 per hour. The minimum wage for 14 and 15 year old minors is \$6.25 per hour. The current federal minimum wage rate is \$5.15.

Summary of Substitute Bill: Employees who receive tips and are hired after the effective date of this bill, may be paid a base wage of 50 percent of the state minimum wage. Existing tipped employees' wage will be frozen at \$7.35, the current minimum wage, until such time as their wage equals 50 percent of the state minimum wage.

Employers taking advantage of the tipped wage option must ensure that their tipped employees make the minimum wage in tips alone. If the employee does not make at least the minimum wage in tips alone during any calendar month, the employer must pay a base wage equal to the number of hours worked for the month multiplied by the minimum wage minus the average tipped wage rate for the employee for that month.

Employers must demonstrate to the Department of Labor and Industries that they pay an amount equal to 50 percent of their savings from the tipped wage to the following: health care benefits; non-tipped employees; or additional non-wage benefits.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Since 1998 servers have seen a 39 percent increase in their wages, while cooks have seen a 3 percent decrease. Full service restaurants have seen their market share drop by 14 percent. Current employees are protected in this bill. The bill also addresses wage compression. Labor costs are so high that they cannot offer benefits including sick or vacation leave because they cannot afford to pay them. The wages between the servers and the back-of-the-house staff needs to be more equitable. One of the purposes of the bill is to make sure that more food service employees have benefits which is why the incentives are built into the bill. Food and labor are two of the most controllable costs in the restaurant business and this bill would help them control the labor costs.

Testimony Against: The restaurant industry is rampant with violations of current law. Although it is against federal law to force servers to tip the back of the house employees, it is a common practice in the industry. The two-tiered system created in this bill is inequitable - an employer could fire a server on Friday and rehire on Monday and pay them a lower wage according to the terms of the bill. Many servers have to work two jobs or split shifts to cobble together a full time job. Most of the work in the industry is seasonal; if the customers aren't there the servers are sent home while the cooks stay for a full 8 hour shift. The cut in pay proposed by the bill would make it even more difficult to earn a decent living. This bill is irresponsible - there is no guarantee that the extra money the employer gets will go into health care benefits for employees.

Who Testified: PRO: Senator Eric Poulsen, prime sponsor; Anthony Anton, Washington Restaurant Assoc.; Sheryl McGrath, Laskars Food and Spirits; Vince Mottola, Vince's Italian Restaurants; Dany Mitchell, Mitchelli Family Restaurants; Bill Poole, Schwartz Bros. Restaurants; Brad Clawson, Great Western Dining; Joel Starr, The Flying Pig; Larry Kennedy, Outback Steakhouse.

CON: Rick Sawyer, Unite Here, Local 8; Melody Swett, Unite Here Local 77; Eric Pars, citizen; Tim Doherty Unite Here Local 8; Steve Williamson, King County Labor Council; Linda Sartnurak, citizen; Michael Ramos Church Council of Greater Seattle; Jeff Johnson, Washington State Labor Council.