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SENATE BILL 5947

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Murray, Zarelli, Marr, Shin, Schoesler and Holmquist

Read first time 02/08/2007.                      Referred to Committee on Labor,  
Commerce, Research & Development.

1            AN ACT Relating to creating a business and occupation tax credit  
2 against state and federal payroll taxes paid by restaurateurs on  
3 employee tips; and adding a new section to chapter 82.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.04 RCW  
6 to read as follows:

7            (1) Subject to the limitations in this section, a credit is allowed  
8 against the tax imposed under this chapter for the total amount of  
9 contributions or taxes paid by the employer to any state of Washington  
10 or federal taxing authority on account of tip income of employees of  
11 the employer that are includable in wages for the purposes of RCW  
12 50.04.320(3) including, but not limited to: Contributions paid by the  
13 employer under chapter 50.24 RCW, amounts paid to the United States  
14 treasury on account of the employer's federal insurance contributions  
15 act tax obligations, or amounts paid to the United States treasury on  
16 account of the employer's federal unemployment tax act tax obligations.

17            (2) The credit or credits provided for by this section may be  
18 claimed against taxes due for the calendar year in which the employer

1 pays contributions, federal insurance contributions act tax  
2 obligations, or federal unemployment tax act tax obligations.

3 (3) Fifty percent of the dollar amount of any credit for which the  
4 employer is eligible and has actually taken under this section must be  
5 utilized for one or more of the following in the same calendar year as  
6 the credit against such taxes was actually taken:

7 (a) Health care benefits for the employer's employees;

8 (b) Additional wages for any of the employer's nontip earning  
9 employees; or

10 (c) Other increased employee benefits such as, but not limited to,  
11 employee meals and paid sick leave.

12 (4) The amount of the credit claimed for a reporting period may not  
13 exceed the tax otherwise due under this chapter for that reporting  
14 period.

15 (5) Refunds may not be given in place of credits and credits may  
16 not be carried over to subsequent calendar years or carried backward to  
17 previous calendar years.

18 (6) For the purposes of this section, the following definitions  
19 apply:

20 (a) "Contributions" are defined as provided in RCW 50.04.070.

21 (b) "Federal insurance contributions act tax obligation" means the  
22 tax imposed under 26 U.S.C. Sec. 3306 of the federal internal revenue  
23 code.

24 (c) "Federal unemployment tax act tax obligation" means the tax  
25 imposed under 26 U.S.C. Sec. 3306 of the federal internal revenue code.

26 (d) "Employer" means any "employer" as defined under RCW 50.04.080  
27 that operates a restaurant, as defined in this subsection.

28 (e) "Restaurant" means any business establishment where, in  
29 consideration of payment, either food or beverages, or both, without  
30 lodgings, is regularly furnished to the public, and some or all of the  
31 establishment's employees regularly and customarily receive tips from  
32 patrons of the establishment, but not including drug stores and soda  
33 fountains.

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