

HB 754 with HCA 1 -- INCOME TAX ON CASH TIPS

SPONSOR: Hicks

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Ways and Means by a vote of 8 to 0.

Currently, Missouri follows the federal Internal Revenue Code on how to determine the amount of cash tips that is taxable. This bill limits the calculation of state income tax withholding on tips received by an employee in the course of his or her employment to the amount of total tips reported to the employer in a written statement. The bill specifies that an employer cannot be obligated to pay withholding tax to the Department of Revenue for an employee's under-reported cash tip income.

HCA 1: Makes technical changes

PROPOSERS: Supporters say that the restaurant owner should not be held responsible for an employee's under-reported tips. The Department of Revenue started an audit program where it matches credit card sales tips to reported cash sale tips and determines the restaurant owner has under-reported tip income. Tips vary between credit card sales and cash sales, with credit card tips usually higher because they are business related. The owner is assessed 6% of the amount determined under-reported. This is income that went to an employee not the owner and the owner doesn't have knowledge of the amount of under-reported cash tips. The owner must take the word of his or her employee. The burden should be on the employee who knowingly and willfully under-reported tips and not the employer.

Testifying for the bill were Representative Hicks; Greg Hunsucker, Victor Allred, Robert Bonney, II, Todd Hulse, Missouri Restaurant Association; Missouri Hotel And Lodging Association; Associated Industries Of Missouri; National Federation Of Independent Business; and Missouri Society Of CPAs.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say there is statutory authority to require income tax withholding on tips and allow the department to proceed with audits that estimate the amount of withholding tax assessed. Historically, the department checks to see that at least 8% was reported in tips on each sale. Sometimes auditors use higher standards. The department is actively engaged in this issue and is planning to meet with restaurant owners tomorrow.

Testifying on the bill was Missouri Department Of Revenue.