

HCS SCS SB 336 -- INCOME TAX WITHHOLDING ON CASH TIPS

SPONSOR: Kraus (Higdon)

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing Committee on Ways and Means by a vote of 7 to 2. Voted "Do Pass with HCS" by the Select Committee on Financial Institutions and Taxation by a vote of 10 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 or, if greater, the amount of tips received by the employer and remitted to the employee. If an employee shares tips, the employer must withhold only from the employee who actually received the shared tips. The bill specifies that an employer's withholding tax obligation to the Department of Revenue is limited to the portion of an employee's wages under the control of the employer and reported tip income required to be reported under federal law.

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 sales tips and determines the restaurant owner has under-reported tip income. The burden should be on the employee who knowingly and willfully under-reported tips and not the employer.

Testifying for the bill were Senator Kraus; Missouri Restaurant Association; Associated Industries of Missouri; Missouri Retailers Association; National Federation of Independent Business; Missouri Society of CPAs; and Justin R. Giessman, AVMATS.

OPPOSERS: There was no opposition voiced to the committee.