

By Senator Altman

24-01231-09

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1 A bill to be entitled
2 An act relating to tax credits for certain
3 restaurants; creating s. 509.0495, F.S.; providing
4 definitions; authorizing the Office of Tourism, Trade,
5 and Economic Development to issue tax credits for
6 certain restaurants that employ tipped employees;
7 providing application procedures; providing for annual
8 adjustment of the credit amounts; limiting the amount
9 of such credits; providing funding; providing
10 procedures for applying the credits; providing for
11 publicizing the program; providing penalties for
12 persons who file fraudulent claims; providing an
13 effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 509.0495, Florida Statutes, is created
18 to read:

19 509.0495 Tax credit for restaurants employing tipped
20 employees.-

21 (1) As used in this section, the term:

22 (a) "Department" means the Department of Revenue.

23 (b) "Eligible business" means a public food service
24 establishment, licensed pursuant to s. 509.241, which employees
25 one or more tipped employees.

26 (c) "Office" means the Office of Tourism, Trade, and
27 Economic Development.

28 (d) "Tipped employee" means a person who is employed in a
29 position in which he or she customarily and regularly receives

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30 more than \$30 per month in tips.

31 (2) (a) An eligible business, upon an affirmative showing to
32 the satisfaction of the office that the requirements of this
33 section have been met, shall be granted a tax credit that the
34 business may apply to its liability for sales, storage, or use
35 taxes as provided in s. 212.05, to its liability for corporate
36 income tax as provided in s. 220.11, or partially to both. An
37 eligible business shall apply to the office for the tax credit
38 using an application adopted by the office for this purpose.
39 Applications shall be filed with the office in February of each
40 year and must reflect the hours worked by tipped employees
41 during the prior calendar year.

42 (b) The tax credit is \$2.06 for each hour worked by a
43 tipped employee during the 2009 calendar year for applications
44 filed in February 2010. The tax credit for applications filed in
45 subsequent years shall be \$2.06 for each hour worked by a tipped
46 employee during the calendar year prior to the filing of the
47 application, adjusted by the same rate of inflation used by the
48 Agency for Workforce Innovation to adjust the state minimum wage
49 effective January 1 of the year the application is filed, as
50 provided in s. 448.110.

51 (c) The tax credits shall be funded from surplus funds of
52 the Hotel and Restaurant Trust Fund established in s. 509.072,
53 as certified by the director of the Division of Hotels and
54 Restaurants on January 1 of each year.

55 (d) An eligible business may not receive a tax credit of
56 more than \$200,000 annually.

57 (e) If the total amount of tax credits applied for in any
58 year exceeds available funds, all applications requesting

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59 \$10,000 or less shall be approved, and applications shall be
60 approved on a pro-rata basis if funds are insufficient to fully
61 fund those applications. Any remaining funds shall be used to
62 fund applications requesting more than \$10,000 on a pro-rata
63 basis, if necessary.

64 (3) (a) Applications for the tax credit require the prior
65 approval of the office. The applicant must affirmatively
66 demonstrate to the satisfaction of the office that it meets the
67 requirements for the credit.

68 (b) An applicant must file under oath with the office the
69 name and place of residence of each employee for whom the credit
70 is claimed and the number of hours worked by each tipped
71 employee during the calendar year.

72 (c) The decision of the office shall be in writing and must
73 state the amount of any tax credit approved for the eligible
74 business. A copy of the decision shall be transmitted to the
75 department, which shall apply the credit to the tax liability of
76 the eligible business.

77 (d)1. An eligible business that is notified that a tax
78 credit has been approved and that wishes to apply all or part of
79 the tax credit against its liability for sales, storage, or use
80 taxes must apply to the department on a form approved by the
81 department for a refund and must include a copy of the
82 notification. An eligible business may submit only one
83 application for refund within any 12-month period.

84 2. An eligible business that wishes to apply all or part of
85 the tax credit against its liability for corporate income tax
86 must claim the credit on its annual return. A taxpayer that
87 files a Florida consolidated return as a member of an affiliated

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88 group pursuant to s. 220.131(1) may be allowed the credit on a
89 consolidated return basis.

90 (e) The office shall, in consultation with the Department
91 of Business and Professional Regulation, publicize the
92 availability of the tax credit to eligible businesses.

93 (f) Any person who fraudulently claims a credit is liable
94 for repayment of the credit, plus a mandatory penalty of 100
95 percent of the credit, and commits a misdemeanor of the second
96 degree, punishable as provided in s. 775.082 or s. 775.083.

97 Section 2. This act shall take effect July 1, 2009.