

1 A bill to be entitled
 2 An act relating to tax credits for restaurants with tipped
 3 employees; creating s. 509.073, F.S.; providing
 4 definitions; authorizing the Office of Tourism, Trade, and
 5 Economic Development to grant tax credits against sales
 6 and use tax or corporate income tax liabilities to certain
 7 businesses; specifying a rate for the credit; providing
 8 for adjusting the rate each year; providing for funding of
 9 the tax credits; limiting the amount of the credits;
 10 providing a methodology for allocating amounts of tax
 11 credits; requiring tax credit applications to be approved
 12 by the office; providing application requirements;
 13 providing responsibilities of the office in granting tax
 14 credits; requiring businesses approved for a tax credit to
 15 apply to the Department of Revenue for a refund; providing
 16 refund application requirements; requiring the office to
 17 publicize availability of the tax credit; providing
 18 criminal penalties for fraudulently claiming the credit;
 19 requiring repayment of the credit for fraudulently
 20 claiming the credit plus a mandatory penalty equal to the
 21 amount of the credit; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 509.073, Florida Statutes, is created
 26 to read:

27 509.073 Tax credit for restaurants with tipped
 28 employees.--

29 (1) As used in this section, the term:
 30 (a) "Department" means the Department of Revenue.
 31 (b) "Eligible business" means any public food service
 32 establishment licensed under s. 509.241 that employs one or more
 33 tipped employees.
 34 (c) "Office" means the Office of Tourism, Trade, and
 35 Economic Development.
 36 (d) "Tipped employee" means any person employed in a
 37 position in which he or she customarily and regularly receives
 38 more than \$30 per month in tips.
 39 (2) (a) Upon an affirmative showing by an eligible business
 40 to the satisfaction of the office that the requirements of this
 41 section have been met, the eligible business shall be granted a
 42 tax credit, the amount of which the eligible business may choose
 43 to apply to its liability for sales, storage, or use taxes as
 44 provided in s. 212.05, to its liability for corporate income tax
 45 as provided in s. 220.11, or partially to both. An eligible
 46 business shall apply to the office for the tax credit using an
 47 application adopted by the office for this purpose. Applications
 48 shall be filed with the office in February of each year,
 49 covering those hours worked by a tipped employee during the
 50 prior calendar year.
 51 (b) For those tax credit applications filed in February
 52 2010, the tax credit shall be equal to \$2.06 for each hour
 53 worked by a tipped employee during the 2009 calendar year. For
 54 tax credit applications filed in subsequent years, the tax
 55 credit shall be equal to \$2.06 for each hour worked by a tipped
 56 employee during the calendar year prior to the filing of the

HB 723

2009

57 application, increased by the same rate of inflation used by the
58 Agency for Workforce Innovation to adjust the state minimum wage
59 that took effect on January 1 of the year of filing the
60 application, as provided in s. 448.110.

61 (c) The tax credits provided under this section shall be
62 funded from surplus funds of the Hotel and Restaurant Trust Fund
63 established in s. 509.072, as certified by the director of the
64 Division of Hotels and Restaurants on January 1 of each year.

65 (d) An eligible business may not apply for or receive a
66 tax credit under this section of more than \$200,000 annually.

67 (e) If the total amount of all properly completed and
68 timely filed tax credit applications exceeds the funds available
69 under paragraph (c), all such applications requesting \$10,000 or
70 less shall be approved, with approval on a pro rata basis if
71 funds are insufficient to fully fund all such applications. Any
72 remaining funds shall be used to fund applications requesting
73 more than \$10,000, with funding on a pro rata basis if
74 necessary.

75 (3) (a) All applications for the tax credit under this
76 section must be approved by the office before the credit is
77 granted. Each business shall affirmatively demonstrate to the
78 satisfaction of the office that it meets the requirements of
79 this section.

80 (b) In order to claim the credit provided by this section,
81 an eligible business must file with the office a statement that
82 includes for each tipped employee for whom the credit is claimed
83 the employee's name and place of residence and the total number

HB 723

2009

84 of hours worked by the tipped employee during the calendar year
85 that is the subject of the application.

86 (c) The decision of the office to grant the credit must be
87 in writing, and, if the credit is approved, the notification
88 must state the amount of the tax credit approved for the
89 eligible business. A copy of the decision shall be transmitted
90 to the executive director of the department, who shall apply
91 such credit to the tax liability of the eligible business.

92 (d)1. Any eligible business that has received notification
93 from the office that a tax credit has been approved and wishes
94 to apply all or part of the tax credit against its liability for
95 the sales, storage, or use tax as provided in s. 212.05 must
96 apply to the department to receive a refund of such taxes.
97 Application must be made on the form prescribed for claiming
98 refunds of such taxes and be accompanied by a copy of the
99 notification. An eligible business may submit only one
100 application for refund to the department within any 12-month
101 period.

102 2. Any eligible business that has received notification
103 from the office that a tax credit has been approved and wishes
104 to apply all or part of the tax credit against its liability for
105 the corporate income tax as provided in s. 220.11 must claim
106 such credit on its annual return. A taxpayer who files a Florida
107 consolidated return as a member of an affiliated group pursuant
108 to s. 220.131(1) may be allowed the credit on a consolidated
109 return basis.

HB 723

2009

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

113 (f) A person who fraudulently claims the credit authorized
114 by this section commits a misdemeanor of the second degree,
115 punishable as provided in s. 775.082 or s. 775.083, and is, in
116 addition to any criminal penalty imposed, liable for repayment
117 of the credit plus a mandatory penalty of 100 percent of the
118 credit.

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