

## **BILL ANALYSIS**

C.S.H.B. 1215  
By: Canales  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that, while current law prohibits merchants from passing debit card and credit card transaction fees on to consumers, nothing expressly prohibits an employer from withholding a portion of an employee's tip to pay for these card transactions. While these transaction fees are a small percentage of the overall bill, the parties note that they quickly add up for employees who often rely on such tips for a significant portion of their income. C.S.H.B. 1215 seeks to address this issue by amending the applicable law.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1215 amends the Labor Code to prohibit an employer from collecting or receiving any portion of a gratuity paid to or left for a tipped employee, including for the purpose of compensating a credit or debit card issuer for any financial services rendered on account of the gratuity. The bill establishes that the gratuity is the property of the tipped employee.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1215 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Subchapter B, Chapter 61, Labor Code, is amended by adding Section 61.021 to read as follows:

Sec. 61.021. GRATUITIES PAID TO CERTAIN TIPPED EMPLOYEES. (a) In

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subchapter B, Chapter 61, Labor Code, is amended by adding Section 61.021 to read as follows:

Sec. 61.021. GRATUITIES PAID TO TIPPED EMPLOYEES.

this section:

(1) "Restaurant" means an establishment that derives 75 percent or more of its gross revenue from the sale of food and beverages, not including alcoholic beverages, for on-premises consumption. The term does not include a hotel or motel, except that a restaurant operated at a hotel or motel is included in the term.

(2) "Tipped employee" has the meaning assigned by Section 62.052.

(b) An employer may not collect or receive any portion of a gratuity paid to or left for a tipped employee employed at a restaurant, including for the purpose of compensating a credit card company for any financial services rendered on account of the gratuity. The gratuity is the property of the tipped employee.

SECTION 2. Section 61.021, Labor Code, as added by this Act, applies only to a gratuity paid to or left for an employee on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2015.

(a) In this section, "tipped employee" has the meaning assigned by Section 62.052.

(b) An employer may not collect or receive any portion of a gratuity paid to or left for a tipped employee, including for the purpose of compensating a credit or debit card issuer for any financial services rendered on account of the gratuity. The gratuity is the property of the tipped employee.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.