

SENATE, No. 2836

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JUNE 13, 2022

Sponsored by:

Senator JEAN STANFIELD

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Provides tax credits to restaurant owners to offset increase in State minimum wage rate.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT providing tax credits to restaurant owners to offset increase
2 in the State minimum wage rate, supplementing P.L.1945, c.162
3 (C.54:10A-1 et seq.) and Title 54A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. A taxpayer that is a restaurant owner shall be allowed a
9 credit against the tax imposed pursuant to section 5 of P.L.1945,
10 c.162 (C.54:10A-5), for a privilege period in an amount equal to:
11 (1) the minimum wage rate required to be paid to an employee of
12 the restaurant pursuant to section 5 of P.L.1966, c.113 (C.34:11-
13 56a4), following the enactment of P.L.2019, c.32, multiplied by the
14 number of hours worked by the employee during the privilege
15 period; minus (2) that minimum wage rate required to be paid prior
16 to the enactment of P.L.2019, c.32, including any periodic
17 adjustments to the minimum wage rate otherwise required by law
18 prior to the enactment of P.L.2019, c.32, multiplied by the number
19 of hours worked by the employee during the privilege period. In the
20 case of an employee who customarily and regularly receives
21 gratuities or tips, the credit shall be \$3.00 multiplied by the number
22 of hours worked by the employee during the privilege period.
23 Employees that are employed for deliveries shall not be counted in
24 the calculation of the credit.

25 b. The credit allowed pursuant to this section shall not exceed
26 \$12,500 for each employee included in the calculation prescribed by
27 this section.

28 c. If the number of employees employed by the restaurant
29 during a privilege period for which this credit is claimed is greater
30 than the number of employees employed by the restaurant on the
31 day prior to the enactment of P.L.2019, c.32, the credit allowed
32 pursuant to this section shall be calculated based on the number of
33 employees employed on the day prior to the enactment of P.L.2019,
34 c.32. If the number of employees employed by the restaurant
35 during a privilege period for which a credit is claimed is less than
36 the number of employees employed by the restaurant on the day
37 prior to the enactment of P.L.2019, c.32, the credit shall be
38 calculated based on the number of employees employed by the
39 restaurant during the privilege period for which this credit is
40 claimed.

41 d. The order of priority of the application of the credit allowed
42 pursuant to this section and any other credits allowed by law shall
43 be as prescribed by the director. The amount of the credit applied
44 under this section against the tax imposed pursuant to section 5 of
45 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
46 any other credits allowed by law shall not reduce the tax liability to
47 an amount less than the statutory minimum provided in subsection
48 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

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1 e. No tax credit shall be allowed pursuant to this section for
2 any costs or expenses included in the calculation of any other tax
3 credit or exemption granted pursuant to a claim made on a tax
4 return filed with the director, or included in the calculation of an
5 award of business assistance or incentive, for a period of time that
6 coincides with the privilege period for which a tax credit pursuant
7 to this section is allowed.

8 f. A taxpayer shall apply in a form and manner to be
9 determined by the director for the tax credit provided pursuant to
10 this section.

11 g. The credit allowed pursuant to this section shall only be
12 available to a taxpayer for the ten privilege periods that commence
13 immediately following the effective date of P.L. , c. (C.)
14 (pending before the Legislature as this bill).

15 h. A taxpayer shall be allowed to claim a credit pursuant to this
16 section for no more than three restaurant locations. The credit
17 allowed pursuant to this section shall only be available to a taxpayer
18 with five or fewer restaurants.

19 i. As used in this section:

20 "Restaurant" means an establishment in which the principal
21 business is the sale of food for consumption on or off the premises.

22 "Restaurant owner" means an individual or entity that holds title
23 to, or has a right of ownership in, a restaurant.

24

25 2. a. A taxpayer that is a restaurant owner shall be allowed a
26 credit against the tax otherwise due under the "New Jersey Gross
27 Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year in an
28 amount equal to the difference of: (1) the minimum wage rate
29 required to be paid to an employee of the restaurant pursuant to
30 section 5 of P.L.1966, c.113 (C.34:11-56a4), following the
31 enactment of P.L.2019, c.32, multiplied by the number of hours
32 worked by the employee during the taxable year; minus (2) that
33 minimum wage rate required to be paid prior to the enactment of
34 P.L.2019, c.32, including any periodic adjustments to the minimum
35 wage rate otherwise required by law prior to the enactment of
36 P.L.2019, c.32, multiplied by the number of hours worked by the
37 employee during the taxable year. In the case of an employee who
38 customarily and regularly receives gratuities or tips, the credit shall
39 be \$3.00 multiplied by the number of hours worked by the
40 employee during the taxable year. Employees that are employed for
41 deliveries shall not be counted in the calculation of the credit.

42 b. The credit allowed pursuant to this section shall not exceed
43 \$12,500 for each employee included in the calculation prescribed by
44 this section.

45 c. If the number of employees employed by the restaurant
46 during a taxable year for which a credit is claimed is greater than
47 the number of employees employed by the restaurant on the day
48 prior to the enactment of P.L.2019, c.32, the credit allowed

1 pursuant to this section shall be calculated based on the number of
2 employees employed by the restaurant on the day prior to the
3 enactment of P.L.2019, c.32. If the number of employees employed
4 by the restaurant during a taxable year for which a credit is claimed
5 is less than the number of employees employed by the restaurant on
6 the day prior to the enactment of P.L.2019, c.32, the credit shall be
7 calculated based on the number of employees employed by the
8 restaurant during the taxable year for which a credit is claimed.

9 d. The order of priority of the application of the credit allowed
10 pursuant to this section and any other credits allowed by law shall
11 be as prescribed by the director.

12 e. No tax credit shall be allowed pursuant to this section for
13 any costs or expenses included in the calculation of any other tax
14 credit or exemption granted pursuant to a claim made on a tax
15 return filed with the director, or included in the calculation of an
16 award of business assistance or incentive, for a period of time that
17 coincides with the taxable year, for which a tax credit authorized
18 pursuant to this section is allowed.

19 f. (1) A business entity that is classified as a partnership for
20 federal income tax purposes shall not be allowed a tax credit
21 pursuant to this section directly, but the amount of tax credit of a
22 taxpayer in respect to distributive share of entity income, shall be
23 determined by allocating to the taxpayer that proportion of the tax
24 credit acquired by the entity that is equal to the taxpayer's share,
25 whether or not distributed, of the total distributive income or gain
26 of the entity for its taxable year ending within or with the
27 taxpayer's taxable year.

28 (2) A New Jersey S Corporation shall not be allowed a tax credit
29 pursuant to this section directly, but the amount of the tax credit of
30 a taxpayer in respect of a pro rata share of S Corporation income,
31 shall be determined by allocating to the taxpayer that proportion of
32 the tax credit acquired by the New Jersey S Corporation that is
33 equal to the taxpayer's share, whether or not distributed, of the total
34 pro rata share of S Corporation income of the New Jersey S
35 Corporation for its privilege period ending within or with the
36 taxpayer's taxable year.

37 g. A taxpayer shall apply in a form and manner to be
38 determined by the director for the tax credit provided pursuant to
39 this section.

40 h. The credit allowed pursuant to this section shall only be
41 available to a taxpayer for the ten taxable years that commence
42 immediately following the effective date of P.L. , c. (C.)
43 (pending before the Legislature as this bill).

44 i. A taxpayer shall be allowed to claim a credit pursuant to this
45 section for no more than three restaurant locations. The credit
46 allowed pursuant to this section shall only be available to a taxpayer
47 with five or fewer restaurants.

48 j. As used in this section:

1 "Restaurant" means an establishment in which the principal
2 business is the sale of food for consumption on or off the premises.

3 "Restaurant owner" means an individual or entity that holds title
4 to, or has a right of ownership in, a restaurant.

5

6 3. This act shall take effect immediately and apply to privilege
7 periods and taxable years beginning on or after January 1 next
8 following the date of enactment.

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STATEMENT

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13 This bill allows corporation business tax (CBT) credits and gross
14 income tax (GIT) credits for restaurant owners to offset the
15 increased State minimum wage.

16 The bill provides a tax credit equal to: (1) the minimum wage
17 rate required to be paid to an employee multiplied by the number of
18 hours worked by an employee during a tax year; minus (2) the
19 minimum wage rate required to be paid on the day prior to the
20 enactment of the 2019 changes to the minimum wage law, factoring
21 in any otherwise required adjustments to the minimum wage rate,
22 such as for inflation. In the case of an employee who customarily
23 and regularly receives gratuities or tips, the credit will be \$3.00
24 multiplied by the number of hours worked by the employee during.
25 Employees that are employed for deliveries will not be counted in
26 the calculation of the credit.

27 The bill restricts the number of employees that can be used in
28 calculating the tax credit amount, caps the credit amount at \$12,500
29 for each employee included in the calculation of the credit, and
30 limits the credit's availability to the 10 years immediately following
31 the effective date of the bill. A taxpayer will be allowed to claim a
32 credit for no more than three restaurant locations, and the credit will
33 only be available to a taxpayer with five or fewer restaurants.