

SUBJECT: Prohibiting employers from taking employee tips to pay credit card fees

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Martinez Fischer, Darby, Beckley, Collier, Landgraf, Moody, Parker

0 nays

2 absent — Patterson, Shine

WITNESSES: For — Rene Lara, Texas AFL-CIO; Ana Gonzalez, Workers Defense Action Fund; (*Registered, but did not testify:* Anna Bocchini, Equal Justice Center; Montserrat Garibay, Texas AFL-CIO; Edward Sills)

Against — (*Registered, but did not testify:* Kenneth Besserman, Texas Restaurant Association; Jay Gopal)

BACKGROUND: Labor Code sec. 62.052 defines a "tipped employee" as an employee engaged in an occupation in which the employee customarily and regularly receives more than \$20 a month in tips.

DIGEST: HB 133 would 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 paying a credit or debit card issuer for any financial services rendered on account of the gratuity.

The bill would take effect September 1, 2019, and would apply only to a gratuity paid to or left for an employee on or after the effective date.

SUPPORTERS SAY: HB 133 would ensure that tipped employees kept all the tips they had worked to earn, including the swipe fee that some employers currently deduct when customers pay using a credit card or debit card. The decision to accept cards is up to the business, so the business should bear this cost.

OPPONENTS
SAY:

HB 133 could harm businesses that did not have the financial means to shoulder the burden of paying transaction fees associated with employees' tips. It is fair and allowable under federal law for an employer to charge tipped employees for the portion of swipe charges attributable to their tips.