



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 607

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S.P. 194

In Senate, February 5, 2019

### **An Act To Provide Equitable Taxation for the Food and Beverage Industry**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator GUERIN of Penobscot.  
Cosponsored by Senators: FOLEY of York, LUCHINI of Hancock, POULIOT of Kennebec,  
Representatives: AUSTIN of Gray, STANLEY of Medway.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 36 MRSA §5122, sub-§2, ¶B**, as amended by PL 2005, c. 218, §52, is  
3 further amended to read:

4 B. An amount equal to the reduction in salaries and wages expense for federal  
5 income tax purposes associated with the taxpayer's federal credit for employer social  
6 security tax on employee cash tips as determined under the Code, Section 45B, work  
7 opportunity credit as determined under the Code, Section 51 or empowerment zone  
8 employment credit as determined under the Code, Section 1396;

9 **Sec. 2. 36 MRSA §5200-A, sub-§2, ¶C**, as amended by PL 2005, c. 218, §55, is  
10 further amended to read:

11 C. An amount equal to the reduction in salaries and wages expense for federal  
12 income tax purposes associated with the taxpayer's federal credit for employer social  
13 security tax on employee cash tips as determined under the Code, Section 45B, work  
14 opportunity credit as determined under the Code, Section 51 or empowerment zone  
15 employment credit as determined under the Code, Section 1396;

16 **SUMMARY**

17 This bill allows a deduction from Maine individual and corporate taxable income for  
18 the federal tax credit allowed to an employer for the employer's share of federal social  
19 security taxes paid on the portion of an employee's tips that cause the employee's wages  
20 to exceed \$5.15 per hour. Under federal tax law, the credit amount must be subtracted  
21 from the taxpayer's otherwise deductible expenses, which increases federal taxable  
22 income. Under current Maine law, when an employer takes the credit available under the  
23 federal Internal Revenue Code, the employer receives neither a Maine credit nor a return  
24 of the federal disallowed deduction for Maine taxable income purposes; such a deduction  
25 is allowed from Maine taxable income for the work opportunity credit and empowerment  
26 zone employment credit. This bill makes Maine's treatment consistent across the 3  
27 federal credits.