

1999 DRAFTING REQUEST

Bill

Received: **07/16/1999**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Christine Sinicki (608) 266-8588**

By/Representing: **Jan**

This file may be shown to any legislator: NO

Drafter: **j kreye**

May Contact:

Alt. Drafters:

Subject: **Tax - sales**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

gratuities not subject to sales or use taxes

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
I?	jkreye 07/20/1999	jkeller 08/02/1999		_____			S&L
/1	jkreye 09/30/1999	jkeller 09/30/1999	jfrantze 08/02/1999	_____	lrb-docadmin 08/02/1999	lrb-docadmin 08/10/1999	S&L
/2	jkreye 10/13/1999	jkeller 10/13/1999	martykr 10/01/1999	_____	lrb-docadmin 10/01/1999	lrb_docadmin 10/01/1999	S&L
/3			hhagen 10/14/1999	_____	lrb-docadmin 10/14/1999	lrb-docadmin 10/14/1999	

FE sent
for
"1" "1/2"
& "1/3"

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/?	jkreye 07/20/1999	j geller 08/02/1999		_____			S&L
/1	jkreye 09/30/1999	j geller 09/30/1999	jfrantze 08/02/1999	_____	lrb-docadmin 08/02/1999	lrb_docadminS&L 08/10/1999	
/2		3/10/13 ; d - 3	martykr 10/01/1999	_____	lrb-docadmin 10/01/1999	lrb-docadmin 10/01/1999	

FE Sent For: ~~08/10/1999~~, 10/01/1999

<END>

1999 DRAFTING REQUEST

Bill

Received: 07/16/1999

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Christine Sinicki (608) 26643588

By/Representing: Jan

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - sales

Extra Copies:

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/?	jkreye 07/20/1999	j geller 08/02/1999		_____			S&L
/1		12 9/30 jlg	jfrantze 08/02/1999	_____	lrb-docadmin 08/02/1999	lrb-docadmin 08/10/1999	

km 10/30/1
JA km 10/1

<END>

FE Sent For (08/10/1999)

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Bill

Received: **07/16/1999**

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Wanted: **As time permits**

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By/Representing: **Jan**

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May Contact:

Alt. Drafters:

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 07/20/1999	ygeller 08/02/1999		_____			S&L
/1			j frantze 08/02/1999	_____	lrb_docadmin 08/02/1999		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

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Wanted: As time permits

Identical to LRB:

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By/Representing: Jan

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May Contact:

Alt. Drafters:

Subject: Tax - sales

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

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See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reaired</u>
1/?	jkreye	1 8/2 jlg	7/8/2	8/2 km			

FE Sent For:

<END>

7 6-99

Jan Rep Christine Simicki
6-8588

I called back at 10:45 AM — she said she would
call me back.

3:45 PM:

gratuities currently taxable (sometimes)

draft bill so that not
taxable



JK
JK

in 7-20-99

ger

1 AN ACT ...; relating to: the sales tax and the use tax on tips and gratuities.

Analysis by the Legislative Reference Bureau

Under current law, the state imposes a sales tax on all retailers at the rate of 5% of the gross receipts from the sale, lease or rental of tangible personal property, the sale of services and the rental of limousines. Under current law, a county may impose a sales tax on all retailers at the rate of 0.5% of the gross receipts from the sale, lease or rental of tangible personal property and the sale of services. A local professional baseball park district may also impose a sales tax on all retailers at the rate of 0.1% of the gross receipts from the sale, lease or rental of tangible personal property and the sale of services. In addition, a local professional baseball park district may impose a sales tax on all retailers at the rate of 0.25% of the gross receipts on the sale of food and beverages and a sales tax on all retailers at the rate of 3% of the gross receipts on car rentals. Under current law, retailers generally pass on all sales taxes to the consumer.

Under current law, for purposes of imposing a sales tax, gross receipts include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity. Under this bill, for purposes of imposing a sales tax, gross receipts do not include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity,

Under current law, the state imposes a use tax on all consumers, at the rate of 5% of the sales price, for the consumption, use or storage of goods in this state that the consumer purchases from an out-of-state retailer and the consumption or use of services in this state that the consumer purchases from an out-of-state retailer. Under current law, a county may impose a use tax, at the rate of 0.5% of the sales price, for the consumption, use or storage of goods in the county that the consumer purchases from an out-of-state retailer and the consumption or use of services in the

county that the consumer purchases from an out-of-state retailer. A local professional baseball park district may also impose a use tax, at the rate of 0.1% of the sales price, for the consumption, use or storage of goods in the district that the consumer purchases from an out-of-state retailer and the consumption or use of services in the district that the consumer purchases from an out-of-state retailer.

Under current law, for purposes of imposing a use tax, the sales price of tangible personal property includes any addition to the sales price that is charged to a customer in lieu of a tip or a gratuity. Under this bill, for purposes of imposing a use tax, the sales price of tangible personal property does not include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity.

For further information *see* the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 77.51 (4) (c) 2. ^X of the statutes is repealed.

2 SECTION 2. 77.51 (15) (c) 1. ^X of the statutes is repealed.

3 SECTION 3. 77.982 (2) of the statutes is amended to read:

4 77.982 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. ~~to~~ [✓] and 3. and (d), (14) (a)
5 to (f), (j) and (k) and (14g), 77.52 (3), (6), (13), (14), (18) and (19), 77.58 (1) to (5) and
6 (7), 77.59, 77.60, 77.61 (2), (5), (8), (9) and (12) to (14) and 77.62, as they apply to the
7 taxes under subch. III, apply to the tax under this subchapter. Sections 77.72 (1) and
8 77.73, as they apply to the taxes under subch. V, apply to the tax under this
9 subchapter.

10 SECTION 4. 77.991 (2) ^X of the statutes is amended to read:

11 77.991 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. ~~to~~ [✓] and 3. and (d) and (14)
12 (a) to (f), (j) and (k), 77.52 (4), (6), (13), (14) and (18), 77.58 (1) to (5) and (7), 77.59,
13 77.60, 77.61 (2), (5), (8), (9) and (12) to (14) and 77.62, as they apply to the taxes under
14 subch. III, apply to the tax under this subchapter. Sections 77.72 (1) and (2) (a) and
15 77.73, as they apply to the taxes under subch. V, apply to the tax under this

1 subchapter. The renter shall collect the tax under this subchapter from the person
2 to whom the passenger car is rented.

3 SECTION 5. 77.9951 (2) of the statutes is amended to read:

4 77.9951 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. ~~to~~ [✓] and 3. and (d) and
5 (14) (a) to (f), (j) and (k), 77.52 (4), (6), (13), (14) and (18), 77.58 (1) to (5) and (7), 77.59,
6 77.60, 77.61 (2), (5), (8), (9) and (12) to (14) and 77.62, as they apply to the taxes under
7 subch. III, apply to the fee under this subchapter. The renter shall collect the fee
8 under this subchapter from the person to whom the vehicle is rented.

9 SECTION 6. **Effective date.**

10 (1) This act takes effect on the first day of the [✓] 2nd month beginning after
11 publication.

12

(END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 08/02/1999

To: Representative Sinicki

Relating to LRB drafting number: LRB-3296

Topic

gratuities not subject to sales or use taxes

Subject(s)

Tax - sales

1. **JACKET** the draft for introduction

Chris Sinicki

in the **Senate** or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction

Chris Sinicki

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Joseph T. Kreye, Legislative Attorney
Telephone: (608) 266-2263

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS.

IF THERE IS A FISCAL EFFECT TO THE BILL, PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET.

TO: Eng Braun
Department of Revenue

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East Wilson Street
Administration Building, 10th Floor
Madison, WI 53707

SUBJECT: Fiscal Estimate - LRB Number 3296/1
1999 Bill Number

Un-introduced
copy to
Rep. Sinicki
09-08-99

TAB 572

Please provide the necessary information on fiscal estimate forms and return one copy to

Deborah Uecker, no later than: 18 Aug 99

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

Department of Revenue

DATE DOA SENT TO AGENCY:

11-Aug-99

DATE DOA RECEIVED FROM AGENCY:

9/7/99

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

John Stott
(Name)

266-9706
(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.

100-100000-100000
100-100000-100000
100-100000-100000
100-100000-100000
100-100000-100000

FISCAL ESTIMATE FORM

1999 Session

LRB
2

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # -3296/1

INTRODUCTION # AB 572

Admin. Rule #

Subject

Exclude Tips from the Sales and Use Tax

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others **SWBPD**
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

Under current law, tips for service at restaurants are taxable if the tip is included as a service charge with the bill for the meal. This proposal would exclude the tipping or gratuity fee from the sales and use tax.

Through data obtained from the National Restaurant Association, the U.S. Census of Retail Trade, and DRI/McGraw Hill forecasts, gross receipts for full-service restaurants are estimated at \$147 billion for 1999. Based on Wisconsin's share of personal income, receipts from full-service restaurants in Wisconsin are estimated at \$2.7 billion (\$147 billion x 1.83%) annually. The value of tips on those sales are an estimated \$405 million (\$2.7 billion x 15%). Data are not available for the proportion of full-service meals that have service charges included with the bill. However, anecdotal evidence suggests that as many as 10% of all bills may include service charges. Based on this assumption, this proposal would reduce revenues by an estimated \$2 million (\$405 million x 10% x 5%) annually.

In 1998, county and Southeastern Wisconsin Professional Baseball Park District sales tax revenues were 6.24% of state sales tax revenues. Assuming that this percentage still applies, local sales tax revenues would decline by approximately \$125,000 (\$2 million x .0624) annually.

Long-Range Fiscal implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	9/7/99

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

ORIGINAL UPDATED

LRB # - 329611

Admin. Rule #

CORRECTED SUPPLEMENTAL

INTRODUCTION # AB 572

Subject

Exclude Tips from the Sales and Use Tax

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations-Other Costs		
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR		\$ -
FED		
PRO/PRS		-
SEGISSEG-S		-
III. State Revenues-Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev
GPR Taxes	\$	\$ - 2,000,000
GPR Earned		-
FED		-
PRO/PRS		-
SEGISSEG-S		-
TOTAL State Revenues	\$	\$ - 2,000,000

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ - 2 million	\$ - 125,000

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	9/7/99



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

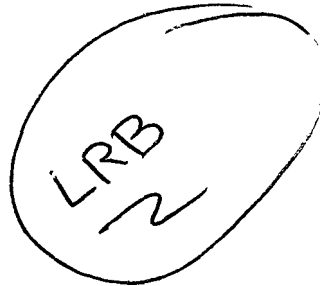
100 NORTH HAMILTON STREET
P O. BOX 2037
MADISON, WI 5370-1 -2037

LEGALSECTION
REFERENCESECTION
FAX

(608) 266-3561
(608) 266-0341
(608) 266-5648

STEPHEN R MILLER
CHIEF

September 8, 1999



MEMORANDUM

To: Representative Sinicki

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **1999 Un-Introduced** (LRB 99-3296/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

September 7, 1999

TO: Joseph T. Kreye
Legislative Reference Bureau

FROM: Yeang-Eng Braun *YEB*
Department of Revenue

SUBJECT: Technical Memorandum on LRB 3296/1, Relating to the Exclusion of Tips from the Sales and Use Tax.

The Department feels that the bill does not accomplish what appears to be the intent of the proposal, to create a sales and use tax exemption for gratuities charged by a retailer to a customer. Deleting the current provisions relating to gratuities makes the statutes silent on such charges other than a provision in sec. 77.51(4)(a)1, Wis. Stats., which provides that "gross receipts" may not be reduced by "labor or service cost." Therefore, a seller who makes a charge to a customer in lieu of a tip or gratuity to cover a labor or service cost must still pay sales tax on the 15% charge because the seller may not reduce its "gross receipts" by "labor or service cost."

The repeal of secs. 77.51 (4)(c)2 and (15)(c)1 by the bill may have further undesirable effects. A seller may argue that charges for certain services, other than tips and gratuities, are not to be included in gross receipts. Further, any provision which exempts charges that are in lieu of a tip or gratuity may cause administrative problems for both the Department and retailers in determining whether a charge is "in lieu of a tip or gratuity."

In order to accomplish the desired intent, the Department suggests that sec. 77.51(4)(b) and (15)(b), Wis. Stats., be amended by stating what is to be excluded from the definitions of "gross receipts" and "sales price." Corresponding amendments could also be made to sec. 77.51(4)(c)2, and (15)(c)1, Wis. Stats., in order to avoid the undesirable effects of the current proposal.

If you have questions regarding this technical memorandum, please contact John Stott at 266-9706.

YEB:JTS:dls
t:\fsn99-00\js\lrb32961.tec

9-27-99

redraft ^{let} 3296/11

~~#1. Exch B - later revised - add 2 decisions on conf. com.~~
6-8588

▷ not to professional baseball or country

— may still include a tip or a gratuity in a professional baseball for dirties

▷ redraft with tech changes in memo

▷ take out use tax analysis? — not related to tax on tips or gratuities?

(waiting for jacket — called Storey on 9-27)

1999 BILL

m
b
9-30-99

re gen

1 **AN ACT to repeal** 77.51 (4) (c) 2. and 77.51 (15) (c) I.; and **to amend** 77.982 (2),
2 77.991 (2) and 77.9951 (2) of the statutes; **relating to:** the sales tax and the use
3 tax on tips and gratuities.

Analysis by the Legislative Reference Bureau

Under current law, the state imposes a sales tax on all retailers at the rate of 5% of the gross receipts from the sale, lease or rental of tangible personal property, the sale of services ~~and the rental of limousines.~~ *and* Under current law, a county may impose a sales tax on all retailers at the rate of 0.5% of the gross receipts from the sale, lease or rental of tangible personal property and the sale of services. A local professional baseball park district may also impose a sales tax on all retailers at the rate of 0.1% of the gross receipts from the sale, lease or rental of tangible personal property and the sale of services. In addition, a local professional baseball park district may impose a sales tax on all retailers at the rate of 0.25% of the gross receipts on the sale of food and beverages and a sales tax on all retailers at the rate of 3% of the gross receipts on car rentals. Under current law, retailers generally pass on all sales taxes to the consumer.

Under current law, for purposes of imposing a sales tax, gross receipts include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity. Under this bill, for purposes of imposing a sales tax, gross receipts do not include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity.

Under current law, the state imposes a use tax on all consumers, at the rate of 5% of the sales price, for the consumption, use or storage of goods in this state that

. BILL

the consumer purchases from an out-of-state retailer and the consumption or use of services in this state that the consumer purchases from an out-of-state retailer. Under current law, a county may impose a use tax, at the rate of 0.5% of the sales price, for the consumption, use or storage of goods in the county that the consumer purchases from an out-of-state retailer and the consumption or use of services in the county that the consumer purchases from an out-of-state retailer. A local professional baseball park district may also impose a use tax, at the rate of 0.1% of the sales price, for the consumption, use or storage of goods in the district that the consumer purchases from an out-of-state retailer and the consumption or use of services in the district that the consumer purchases from an out-of-state retailer.

Under current law, for purposes of imposing a use tax, the sales price of tangible personal property includes any addition to the sales price that is charged to a customer in lieu of a tip or a gratuity. Under this bill, for purposes of imposing a use tax, the sales price of tangible personal property does not include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ~~SECTION 1. 77.51 (4) (c) 2. of the statutes is repealed.~~

2 ~~SECTION 2. 77.51 (15) (c) 1. of the statutes is repealed.~~

3 ~~SECTION 3. 77.982 (2) of the statutes is amended to read:~~

4 ~~77.982 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. ~~to~~ and 3. and (d), (14) (a)~~
 5 ~~to (f), (j) and (k) and (14) ~~g~~, 77.52 (3), (6), (13), (14), (18) and (19), 77.58 (1) to (5) and~~
 6 ~~(7), 77.59, 77.60, 77.61 (2), (5), (8), (9) and (12) to (14) and 77.62, as they apply to the~~
 7 ~~taxes under subch. III, apply to the tax under this subchapter. Sections 77.72 (1) and~~
 8 ~~77.73, as they apply to the taxes under subch. V, apply to the tax under this~~
 9 ~~subchapter.~~

10 ~~SECTION 4. 77.991 (2) of the statutes is amended to read:~~

11 ~~77.991 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. ~~to~~ and 3. and (d) and (14)~~
 12 ~~(a) to (f), (j) and (k), 77.52 (4), (6), (13), (14) and (18), 77.58 (1) to (5) ~~and~~ (7), 77.59,~~

BILL

1 ~~77.60, 77.61 (2), (5), (8), (9) and (12) to (14) and 77.62, as they apply to the taxes under~~
 2 ~~subch. III, apply to the tax under this subchapter. Sections 77.72 (1) and (2) (a) and~~
 3 ~~77.73, as they apply to the taxes under subch. V, apply to the tax under this~~
 4 ~~subchapter. The renter shall collect the tax under this subchapter from the person~~
 5 ~~to whom the passenger car is rented.~~

6 **SECTION 5.** 77.9951 (2) of the statutes is amended to read:

7 77.9951 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. ~~to~~ and 3. and (d) and
 8 (14) (a) to (f), (j) and 0477.52 (4), (6), (13), (14) and (18), 77.58 (1) to (5) and (7), 77.59,
 9 77.60, 77.61 (2), (5), (8), (9) and (12) to (14) and 77.62, as they apply to the taxes under
 10 subch. III, apply to the ~~fee~~ under this subchapter. The renter shall collect the fee
 11 under this subchapter from the person to whom the vehicle is rented.

12 **SECTION 6. Effective date.**

13 (1) This act takes effect on the first day of the 2nd month beginning after
 14 publication.

15 (END)

Insert 3-11 ✓

Insert 3 - 11

1 **SECTION 1.** 77.51 (4) (b) 2m. of the statutes is created to read:

2 77.51 (4) (b) 2m. Any services that are a part of the sale of tangible personal
3 property, including any fee, service charge, labor charge or other addition to the price
4 charged a customer by the retailer ^{that} ~~which~~ represents or is in lieu of a tip or gratuity.

5 **SECTION 2.** 77.51 (4) (c) 2. of the statutes is amended to read:

6 77.51 (4) (c) 2. ~~Any~~ For taxes imposed under subch. V, [✓] any services that are a
7 part of the sale of tangible personal property, including any fee, service charge, labor
8 charge or other addition to the price charged a customer by the retailer which
9 represents or is in lieu of a tip or gratuity.

10 **SECTION 3.** 77.51 (15) (b) 2m. of the statutes is created to read:

11 77.51 (15) (b) 2m. Any services that are a part of the sale of tangible personal
12 property, including any fee, service charge, labor charge or other addition to the price
13 charged a customer by the retailer ^{that} ~~which~~ represents or is in lieu of a tip or gratuity.

14 **SECTION 4.** 77.51 (15) (c) 1. of the statutes is amended to read:

15 77.51 (15) (c) 1. ~~Any~~ For taxes imposed under subch. V, ~~any~~ services that are
16 a part of the sale of tangible personal property, including any fee, service charge,
17 labor charge or other addition to the price charged a customer by the retailer which
18 represents or is in lieu of a tip or gratuity

37D:2 281

- section # out of work -

Staci

Minkii office

99-3296/2

redraft as last 1/3

▷ service charge or gratuity is to be listed separately on a bill

▷ not to be included in an estimate

cc, 71.52(5m) a retailer shall list separately on a receipt for a service any fee, service charge, labor charge or other addition to the price of the service that is charged to a customer by the retailer that represents or is in lieu of a tip or gratuity.

Staci will send the jacket back

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL, PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET

TO: Eng Braun
Department of Revenue

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East Wilson Street
Administration Building, 10th Floor
Madison, WI 53707

SUBJECT: Fiscal Estimate - LRB Number 3296/2
1999 Bill Number

AB 512

*Unintroduced
copy to
Rep. S. S-nicki
10-18-99*

Please provide the necessary information on fiscal estimate forms and return the original AND one copy of the original to

Deborah Uecker, no later than: 08 Oct 99

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs

is responsible for local government costs.

ALSO SENT TO:
Department of Revenue

DATE DOA SENT TO AGENCY:

01-Oct-99

DATE DOA RECEIVED FROM AGENCY:

10/13/99

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

John Stott
(Name)

266-9706
(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.



41214

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # - 3296/2

INTRODUCTION # AB 572

Admin. Rule #

Subject

Exclude Tips from the Sales and Use Tax

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

 Decrease Costs

Local: No Local Government Costs

- | | |
|--|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory

2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory

4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
|--|--|

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

Under current law, tips for service at restaurants are taxable if the tip is included as a service charge with the bill for the meal. This proposal would exclude the tipping or gratuity fee from the sales and use tax.

Through data obtained from the National Restaurant Association, the U.S. Census of Retail Trade, and DRI/McGraw Hill forecasts, gross receipts for full-service restaurants are estimated at \$147 billion for 1999. Based on Wisconsin's share of personal income, receipts from full-service restaurants in Wisconsin are estimated at \$2.7 billion (\$147 billion x 1.83%) annually. The value of tips on those sales are an estimated \$405 million (\$2.7 billion x 15%). Data are not available for the proportion of full-service meals that have service charges included with the bill. However, anecdotal evidence suggests that as many as 10% of all bills may include service charges. Based on this assumption, this proposal would reduce revenues by an estimated \$2 million (\$405 million x 10% x 5%) annually.

In 1998, county and Southeastern Wisconsin Professional Baseball Park District sales tax revenues were 6.24% of state sales tax revenues. Assuming that this percentage still applies, local sales tax revenues would decline by approximately \$125,000 (\$2 million x .0624) annually.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	10/12/99



1999 ASSEMBLY BILL

in 10-13-99

re gen

1 **AN ACT** to amend 77.51 (4)(c) 2. and 77.51 (15)(c) 1.; and to create 77.51 (4) (b)
2 2m. and 77.51 (15) (b) 2m. of the statutes; relating to: the sales tax and the use
3 tax on tips and gratuities.

Analysis by the Legislative Reference Bureau

Under current law, the state imposes a sales tax on all retailers at the rate of 5% of the gross receipts from the sale, lease or rental of tangible personal property and the sale of services. Under current law, retailers generally pass on all sales taxes to the consumer.

Under current law, for purposes of imposing a sales tax, gross receipts include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity. Under this bill, for purposes of imposing a sales tax, gross receipts do not include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity.

Under current law, the state imposes a use tax on all consumers, at the rate of 5% of the sales price, for the consumption, use or storage of goods in this state that the consumer purchases from an out-of-state retailer and the consumption or use of services in this state that the consumer purchases from an out-of-state retailer.

Under current law, for purposes of imposing a use tax, the sales price of tangible personal property includes any addition to the sales price that is charged to a customer in lieu of a tip or a gratuity. Under this bill, for purposes of imposing a use tax, the sales price of tangible personal property does not include any addition to the sales price of tangible personal property that is charged to a customer in lieu of a tip or a gratuity.

ASSEMBLY BILL

For further information see the state and *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1. 77.51 (4) (b) 2m.** of the statutes is created to read:

2 77.51 (4) (b) 2m. Any services that are a part of the sale of tangible personal
3 ~~property~~, including any fee, service charge, labor charge or other addition to the price
4 charged a customer by the retailer that represents or is in lieu of a tip or gratuity.

5 **SECTION 2. 77.51 (4) (c) 2.** of the statutes is amended to read:

6 77.51 (4) (c) 2. ~~Any~~ For taxes imposed under subch. V, any services that are
7 a part of the sale of tangible personal property, including any fee, service charge,
8 labor charge or other addition to the price charged a customer by the retailer which
9 represents or is in lieu of a tip or gratuity.

10 **SECTION 3. 77.51 (15) (b) 2m.** of the statutes is created to read:

11 77.51 (15) (b) 2m. Any services that are a part of the sale of tangible personal
12 property, including any fee, service charge, labor charge or other addition to the price
13 charged a customer by the retailer that represents or is in lieu of a tip or gratuity.

14 **SECTION 4. 77.51 (15) (c) 1.** of the statutes is amended to read:

15 77.51 (15) (c) 1. ~~Any~~ For taxes imposed under subch. V, any services that are
16 a part of the sale of tangible personal property, including any fee, service charge,
17 labor charge or other addition to the price charged a customer by the retailer which
18 represents or is in lieu of a tip or gratuity.

19 **SECTION 5. Effective date.**

18

19

INSERT 2-18

ASSEMBLY BILL

1 (1) This act takes effect on the first day of the 2nd month beginning after
2 publication.

3 (END)

INSERT 2-18 (B)

* # 77.52 (5m)

Sec. or; 77.52 (5m) (A retailer shall list separately on a receipt for a service any fee, service charge, labor charge or other addition to the price of the service charged to a customer by the retailer that represents or is in lieu of a tip or gratuity.