

Chair Holvey, committee members, thank you for allowing me to present testimony regarding paid sick leave.

My name is Mike Nesbitt and I represent Papa's Pizza Parlors, 2706 Willakenzie Rd in Eugene. I started my career as a dough roller at Papa's in 1974 and now I'm in charge of my company. I work for a great organization, and I'm very proud of Papa's Pizza.

I am here tonight in opposition to House Bill 2005 and Senate Bill 454 as written. I find this bill to be overly broad with extremely negative impacts for businesses and employees. HB 2005 attempts to provide an unnecessary benefit to part-time employees while incentivizing businesses to reduce hours, reduce employees and reduce current benefits.

Over a month ago, I emailed all of you my proposed alternative for a State sick leave law which I believe most businesses could support. A copy of that alternative proposal is included as an addendum to this testimony. The major difference between House Bill 2005 and my compromise is that I want to see paid sick leave for those who work 30 or more hours, and I would like it to be categorized as Paid Time Off.

Employees working 30 or more hours are those who suffer extreme consequences when they must miss work. Part time workers, who represent 90% of my employees, have the option to make up missed days through shift trading, and they already do this regularly.

My employees who work 30 hours or more are my key employees, and I can't get by without them. This is true in most restaurants, and in most businesses, and I'm not going to reduce their hours to avoid providing sick leave! That would be cutting my own throat. What I want a sick leave law---PTO--- to do is target those key employees as we already do with many of our current benefits (including vacation time).

HB 2005 does not address the realities of a restaurant. Most of our part time employees work flexible shifts, and those shifts might be two hours long if it's slow or five hours long if it's busy. Any sick leave law (or PTO) must have a minimum shift included, and I would suggest four hours. I can't replace an employee for just an hour---it's impractical. We schedule our staff during the times they are needed, and I can't get by without somebody for just an hour nor can I realistically cover their shift for an hour. If an employee is going to take PTO or sick leave, they need to take off a minimum of four hours.

If you make a product more expensive then less will be used of that product. Labor is no different! In the past five years, in response to continued increases in the minimum wage, our parlors have eliminated approximately 2,000 employee hours per year! Paid sick leave as proposed in HB 2005 will only result in more cuts to our labor force.

As employers are forced to raise benefits part time workers will suffer. There will be fewer jobs for high school and college students who already suffer an 18% rate of unemployment (US Bureau of Labor). More hours will be pushed on fewer employees, and all employees will suffer.

During 2014 all five Papa's Pizza Parlors had a total of **222,652** hours of hourly employee labor. A rough calculation shows that we would have to provide 7,421 hours of sick leave at an approximate cost of \$76,000 per year. We cannot afford that!

We currently provide paid vacation to all employees working over 30 hours per week, and some long-term hourly employees who work less. That benefit would be reduced because we would convert their vacation time to paid sick time.

We are a good employer, and we are extremely proud of our track record in retaining employees. In addition to paid vacation time for our employees, we offer paid bereavement leave; flexible scheduling; wage caps above minimum wage; company match 401k; employee bonuses; company events for employees; scholarships for our employees; free food; employee discounts; and service awards. 40% of our hourly employees have worked for us over 3 years, and all of our managers came from our staff. The sad reality is, though, that these benefits will be cut and vacation time will be converted to paid sick leave and the employees will be worse off than they were before this sick leave law was enacted.

Papa's believes in being a part of our local communities, and during 2014 the five Papa's parlors contributed **\$268,416** to local schools, churches, non-profits and those with medical needs. Paid sick leave will impact our ability to

continue to contribute in this manner. The money for sick leave has to come from somewhere.

I would put our employment track record up against any other in the service industry (nearly 40% of our hourly workers have been with us over three years), and our outstanding ability to retain part-time low wage workers for years and years is due, in large part, to our ability to tailor our benefits to our specific workforce. We are a great local employer, and we have the children and grandchildren of former employees working for us---they know we are a great employer!

Two issues are presented as justification for paid sick leave:

First is that employees supporting a household should not have to choose between putting food on the table or calling in sick. If that is the concern you wish to address then target your efforts towards full time employees just as the Affordable Care Act does. Have a 30 hour minimum to qualify for sick leave.

Secondly is that it's a public health issue and employees should not come to work sick. In my opinion this argument is a diversionary tactic since it is already a violation of Health Department regulations to allow sick employees to work. Part time employees who miss a day of work (for any reason) can make up the lost days through shift trading (in my 40 years with Papa's I know this for a fact) if they truly need those wages. It is only full time employees truly impacted by this problem so again you should target your efforts towards this group, and if businesses are penalizing employees for calling in sick, or allowing workers to come to work sick, than pass a law addressing those issues.

Earlier in my testimony I noted that we have cut hours in response to the increased cost of labor. That is a fact which will only get worse if we are forced to implement an across the board mandatory sick leave law. We used to slice our pork roll and salami and now we buy those items pre-sliced. The pre-sliced products are more expensive, but the labor savings outweigh that expense and our employees suffer. This is true of many items, and we have reduced our prep hours and hours of operation. If you increase the cost of

labor yet again with a paid sick leave law business will find ways to cut labor hours in order to compensate for increased taxes like mandatory sick leave:

- Reduce benefits already being offered.
- Reduce employees and implement more automation.
- On-line ordering, order kiosks, tabletop ordering stations in store are being used by major companies throughout the country in an effort to reduce labor costs. Increased use of automation will further reduce opportunities for employees and reduce hours.
- Purchase more pre-prepared products to reduce prep time

Mandated overtime pay is a standard, but paying double time on holidays is a benefit; a minimum wage is a necessary standard but dictating a “family” wage is a benefit; Social Security establishes a minimum standard for retirement but a company match 401k is a benefit; ensuring workers get time off is a standard, but paid vacation is a benefit. Passing a State Law addressing sick workers would be a standard for all businesses, but mandating paid sick leave for all employees, including part time, is a benefit which many businesses simply cannot afford.

I have attached to this email an excel document showing the breakdown of our staff at our Springfield parlor ONLY. Other Papa's parlors are similar, and this attachment shows exactly how our staffing breaks down in terms of 30 hours plus and less than 30 hours.

66 Total Employees + Three full time managers.

---One supervisor works over 40 hours per week

---Four employees work over 30 hours, one of them a student. The other three depend upon Papa's for their sole support and I would have no problem providing paid sick leave for them. They already get one or two weeks of paid vacation.

---The remaining 61 employees do not depend upon their job at Papa's to support themselves or their family. Most of them work a two or three or four hour shift, and if they miss a shift and need the money *they can trade into another shift!*

Benefits we already provide:

Papa's provides the benefits that our employees want and benefits which help us to retain staff. Those benefits include

---paid bereavement leave

---paid vacation for those working over 30 hours and for long term short hour employees

---free food to all employees working over three hours

---flexible scheduling to work around school and social activities

---flexible shift trading so employees can make up hours lost for sickness (or for going to a party or a dance or a ball game or skiing or anything else they want to do)

---wage caps above minimum wage

---yearly bonuses to all employees

---enrollment in our 401k retirement plan for all employees over 21 years of age working over 1,000 hours per year

---company picnics and holiday parties

---25% discount on up to \$100 of food per day for all employees when they are off work

---sick leave for salaried managers, paid disability leave for salaried managers, long term paid disability leave for salaried managers.

---we have set up a scholarship fund available to a limited number of employees (and children of employees) selected by the Oregon Scholarship Association.

Below is the email I sent to all State Representatives and State Senators:

Dear :

As a small business owner, I was very vocal in my opposition to the Eugene Paid Sick Leave Ordinance. Now that the issue is moving into the State legislature I hope that my voice, along with those of many other small business owners, will finally be heard as it was not in Eugene.

I believe the Oregon Legislature intends to implement some form of paid sick leave. I stand opposed to such an ordinance if it is modeled after the one-size-fits-all ordinance seen in San Francisco, Seattle, Portland, Eugene and other localities. A simplistic ordinance trying to address every worker in every situation does not achieve the ultimate goal of a sick leave ordinance and such an overly broad ordinance is extraordinarily harmful to small businesses.

As a small business owner who attended hours of testimony and meetings on this subject in Eugene, let me propose an alternative which would satisfy most business owners while still achieving the stated aim of any sick leave law:

1) Set a minimum number of hours in order to qualify for paid sick leave. Just as the Affordable Care Act does, recognize that part-time workers and those working just a few hours per week have different needs and different opportunities to make up time missed for sickness. If a part-time worker needs to go to the doctor they can trade with another part-time worker and not be hurt monetarily. We employ hundreds of part-time workers at Papa's, and we have for over 40 years, and I know with 100% certainty that part-time workers never have to suffer the short-term loss of any pay if they want to make up hours they miss for illness, family matters or just because they want to go to a movie.

If you set a 30 hour per week minimum in order to qualify for sick leave then you are truly protecting those workers who will suffer if they miss a day's work. Focus on those workers who need protection, not those who will be given an unnecessary and unneeded benefit.

2) Do not try to implement a complicated, earned by the hours worked, sick leave qualification standard. At Papa's we offer vacation time (which will become PTO) to any employee working 30 hours or more per week for one year. I know you will think a year is too long, but what's wrong with simply saying that any qualified employee earns 10 hours of sick leave (PTO) for every 360 hours worked? That would be approximately 3 months so at the end of a year the employee would have earned a total of 40 hours of sick leave and they would get that every year thereafter pro-rated if they quit in the middle of the year.

Many of the objections to existing ordinances center around the complications involved in tracking hours and front-loading and trying to keep track of hours earned. My proposal can be done with a pen and a notebook and is neither confusing nor onerous and does not require any complicated software to track.

3) As a part of your ordinance include language which makes it a violation for any employee to be allowed to work sick and a violation for any business to fire an employee for taking time off to care for a family member or themselves. This would protect part-time workers and would achieve all of the goals of a sick leave ordinance without forcing business to foot the bill for part-time workers. BOLI could be the enforcement mechanism of such an ordinance and nothing would change in terms of violations being complaint driven.

You have to understand that many, many part-time workers are young, inexperienced workers who we take pride in molding and integrating into the workforce. If you give them sick leave (PTO) *they will abuse it!* One of the most common issues we have to deal with at Papa's is employees calling in for false reasons or for missing a shift without notice (or coming in late for a scheduled shift). If you have those actions protected through a sick leave ordinance you will handcuff our efforts to train and mold these young workers and you will truly hurt their ability to move into the workforce. Proponents of sick leave always say that if any employee abuses sick leave then that would not be an employee you would want. That's just not true! Employees make mistakes, part-time young employees in particular, and the only way we can make them understand the nature of holding a job is if we have the flexibility to correct their mistakes; guide their performance; and discipline them if necessary. Most every current ordinance would completely destroys our ability to do this and these young workers would suffer.

4) During the Eugene sick leave debate, I asked Counselor Syrett a question regarding sick leave. My question was "Most of my employees work part-time flexible shifts. They might start at five pm and work until 7 pm on a slow night or 10 pm on a busy night. If that employee calls in sick, how much sick leave will they use? I might want to give them two hours and the employee would want to use six hours and neither one would be correct." To this day that question has not been resolved and I bring it up now to make the point that my compromise proposal eliminates the need to even deal with this concern. For many businesses this is one of the biggest objections to your proposed ordinance and this hurdle would disappear if you set a 30 hour minimum for your PTO ordinance.

The Oregon Legislature has an opportunity to craft a national model for sick leave! You can work with small businesses like mine and come up with a sick leave ordinance which does not harm us and which we can support, or you can choose the path of the

cities and force all businesses to suffer under an onerous sick leave mandate which will cost us thousands of dollars. I beg you stop bowing to the vocal minority of activists who ultimately want only to put more and more expensive rules and regulations on businesses. You have the chance to truly craft a compromise which could be supported by everyone involved, and you need to take this chance. I assure you that an ordinance similar to what I have proposed would be supported by many (if not most) businesses and I would be as vocal a supporter of this new compromise ordinance as I have been an opponent of the Eugene/Portland ordinance. You have the opportunity to bring business and labor together and you will be the ones who will be noted as the true champions of both labor and business.

Thank you for your time.

Respectfully,

Mike Nesbitt