

**Testimony – HB 2005 & SB 454**  
**Administrative Hearing – Oregon Sick Leave Law**  
February 2015

My name is Valerie Stinson, and I am the Director of Human Resources for The Old Spaghetti Factory restaurant. While we understand the importance of giving employees time off when they are sick or when they need to deal with domestic violence issues, we have some concerns:

- 1) The potential that employees will abuse the policy
- 2) The unrealistic accrual rate and guidelines for required documentation
- 3) The impact this law will have on our ability to continue to provide competitive prices

We have been administering paid sick leave to our non-exempt, hourly employees in Seattle since September 2012 and Portland since January 2014. We have adapted to the administrative requirements and believe we can offer some constructive suggestions to make the system more effective for other employers should this law be passed for the State of Oregon.

Below are a few challenges that we have experienced.

**Determination of Hours Missed**

In our industry, we do not typically schedule our hourly employees with an end time to their shifts. Most hourly, non-exempt employees are scheduled with start times, but their ending time is dependent upon the flow of business. This results in administrative challenges for us when paying sick time. It is difficult for us to determine how many hours to pay an employee for their sick time.

We have developed a system for our employees who work in the cities where sick pay is required, but it is very time intensive. Even when we average the number of hours an employee typically works on a certain day/shift, it varies based on season, holiday, special events, weather, etc. And the day the employee calls in sick, the conditions may have resulted in the employee only working 3 hours even though the past 4 weeks they had worked 5 hours on a Monday night. So we then have to go back and calculate how many hours the replacement worker filled in. And, if there is no replacement worker, then we have to have yet another computation.

**Replacement Worker**

The proposed law states: *Employer may not require an employee to search for or find a replacement worker as a condition of using accrued sick leave.* We would like to be able to enforce our existing policies which ask the employee to find a replacement whenever possible. If extenuating circumstances warrant, employer will assist.

**Make-Up Time**

The proposed law states: *Employer may allow an employee to work additional hours or shifts during the same or next pay period without using accrued sick time for the hours or shifts missed.* Again, this would be very difficult to administer and calculate, as our employees swap shifts regularly and don't typically work a set number of hours each week.

## **Medical Documentation**

The proposed law states: *If an employee takes more than 24 consecutive hours of paid sick time, the employer may require the employee to provide verification from a health care provider.* The number of hours (24) is unrealistic in our environment. 24 consecutive hours could translate to 6 or more missed shifts. The employer should be able to require medical documentation, at the very least, after three missed shifts and preferably after two missed shifts. Unfortunately, as we have experienced in other cities where sick time for hourly employees is mandated, employees do abuse the system.

The proposed law states: *The employee has 15 days to provide medical documentation.* Giving the employee 15 days is not realistic. And, it creates an administrative issue. For example, if we pay the employee for sick time, and then the employee never brings in a note to substantiate it, we would then need to adjust their pay to deduct sick time previously paid. We are suggesting that the employee must produce medical documentation on the day they return so we know whether they may have any restrictions that we need to accommodate and whether paid sick leave is due.

## **Entitlement**

We are concerned that employees will feel their unused sick/safe leave available time is “owed” to them when they leave our employment.

Some practical examples are:

- 1) What does the employer do if an employee resigns with 2 weeks notice and then calls in sick for their final 6 shifts? Would we be required to pay them for those shifts? How do we know how many hours to pay for each shift? Can we ask for documentation only if they have missed 24 consecutive hours? If they do not provide documentation, would we still be required to pay for all of the missed hours?
- 2) What if an employee calls in sick, misses 2 shifts, and then quits with no notice? Since they called in sick for less than 24 hours, are we then required to simply pay them the time?

## **Request for Consideration**

We are requesting the following revisions:

1. Reduce the formula for accrual to one hour of sick time for every 40 hours worked.
2. Reduce the total number of hours accrued per year down to 24 hours.
3. Allow employers to request medical documentation when an employee has missed two or three consecutive shifts (rather than being based on a total number of hours missed).

## **Conclusion**

I'd like to conclude by saying again that we understand the reasoning behind this proposed law. We certainly do not want employees working in our restaurants when they are sick. That hasn't been an issue for us, mainly because employees can already swap shifts when they are sick. A restaurant environment is very different from an office environment. Our employees have a lot more flexibility in their schedules and have much more available time to visit a doctor.