

**OREGON HB 2193
TESTIMONY AT 3/6/2017 HEARING
PAUL C. PAZ**

PAUL C. PAZ
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Dear Chairperson and Committee Members:

My name is Paul C. Paz. I am a career professional waiter who has worked in Oregon at full service restaurants for 37+ years and still counting. Two of my adult children have also worked the restaurant-bar business for 20+ years each. During my career, I have trained 10,000+ restaurant staff; been the Lead Trainer for service staff at 27-new restaurant openings and have published two books on training restaurant servers. For most of that time I have averaged 11,000 customers a year, serving over 366,000 individuals, business associates, families and friends in my lifetime career.

I am here today as a private citizen working in the restaurant business to provide testimony *AGAINST HB 2193 – Restricted Scheduling*

The flexibility for my employers and peers to move freely between shifts schedules is a primary benefit and what makes the working relationship so attractive and provides good incomes for families.

HIGHLIGHTS

ELECTONIC SCHEDUING – ADDITIONAL COSTS TO EMPLOYERS. NOT ALL EMPLOYEES HAVE INTERNET ACCESS.

4-HOUR PENALTY PAY – IT IS UNFAIR THAT EMPLOYERS BE PENALIZED FOR EMPLOYEE NO-SHOWS. IT IS VERY COMMON FOR STAFF LAST MINUTE CALLING OUT ON SHIFTS. GROUPS CANCEL OR LAST MINUTE RESERVATIONS HAPPEN. THIS WILL SHORTEN MY SHIFT/INCOME IF A CUSTOMER ARRIVES BEFORE THEIR RESERVATION OR REMAINS BEYOND MY SCHEUDLE OFF TIME. HB2193 IS DAMAGING TO SUCCESSFUL LONG TERM BUSINESS OPERATIONS.

RECORDS KEEPING – ORAL EMPLOYEE REQUESTS ARE LEGAL BUT EMPLOYERS MUST KEEP WRITTEN RECORDS – ABSURD – ONE WORD AGAINST ANOTHER. GIVEN THE INDUSTRY TURNOVER, THESE RECORD KEEPING DEMANDS LACK COMMON SENSE.

ANNUAL REVIEW OF “GOOD FAITH ESTIMATE OF SCHEDULE”– MOST EMPLOYEES DON’T KNOW WHAT’S IN STORE FOR THE NEXT 12-MONTHS OF THEIR WORKINNG LIVES. THIS IS SOMETHING NONE OF THE PARTIES CAN REASONABLY PREDICT!

“CLOPEN” – PENALIZE THOSE THAT WANT THOSE SHIFTS AS IT ALLOWS THEM TO CRAM MANY HOURS IN A SHORT PERIOD SO THEY CAN PERSUE OTHER COMMITMENTS (FAMILY, SCHOOL 2ND JOB) EMPLOYERS CAN’T USE THEM ON SHORT NOTICE WITHOUT PENALTY. ABSURD!

HAVING TO WAIT 2-3 DAYS BEFORE FILLING AN OPEN POSITION – NATIONAL RESTAURANT ASSOCIATION NOTES THAT THE 2014 INDUSTRY TURNOVER WAS 66% FOR MULTIPLE REASONS – HIGHER PROPORTIONS OF TEENS, STUDENTS AND PART-YEAR EMPLOYEES. SEASONALITY OF CONSUMER USE – FULLTIME STAFF FIND UPWARD MOBILITY BY CHANGING EMPLOYERS. THIS IS DAMAGING TO BUSINESS BEING ABLE TO QUICKLY HIRE STAFF TO MEET CONSUMER DEMANDS.

THE RESTAURANT BUSINESS IS LIKE FARMING – SO MANY UNPREDICABLES THAT IMPACT LABOR NEEDS – HARVEST WHEN THE CROPS ARE READY AND YOU PICK ALL DAY/WEEK/MONTH UNTIL THE FRUIT IS COMPLETELY HARVESTED. HB 2193 RESTRICTED SCHEDULING IS A BUREAUCRATIC BUSINESS KILLER TO THE FREE MARKET BENEFITS OF THE AMERICAN ECONOMY.

LOOKS ATTRACTIVE WHILE THE ECONOMY IS GOOD. IF THE ECONOMY GOES DOWN THIS WILL CLOSE MANY BUSINESSES AND RAISE THE SOCIAL SERVICES COSTS FOR THE UNEMPLOYED.

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JOB KILLER – OREGON IS BECOMING LESS ATTRACTIVE – MY OREGON EMPLOYER IS SHIFTING GROWTH TO OUT OF STATE.

TODAY – I TURN 70 THIS YEAR. I NEED THE HOURS FROM MY RESTUARNT JOB TO SUSTAIN MYSELF INDEPENDENTLY. THE FLEXIBLE SCHEDULING MAKES ME A “GO TO” EMPLOYEE WHO WILL GLADLY PICK UP EXTA HOURS “ON THE FLY” TO COVER THOSE SHIFTS/HOURS THAT OTHERS CAN’T OR WON’T WORK. HB 2193 WOULD PENALIZE MY EMPLOYER FOR OFFERING ME MORE WORK. AS A PERSON WHO WANTS TO WORK AS MANY HOURS POSSIBLE, HB 2193 DOES NOT LET ME OPT OUT SO I BECOME AN UNWILLING VICTIM TO ALL OF ITS LIMITATIONS.

FAMILIES

As a single parent to three children I NEEDED the ability to quickly trade or pick up shifts at random to meet the demands of running my household. This schedule flexibility became an even more important benefit when one of my teen children was treated for cancer over a 6-year period. I need the ability to work every shift I could, including adding a second job to support my family during this financially crushing time. Because me and my employers were not subject to confining scheduling regulations, I made it through this financial and family crisis. *HB 2193 would take away this important flexibility employers and families share in work schedules. HB 2193 would penalize my employer(s) for scheduling a ready, willing and able employee who wants to add hours whenever and however.*

One of my sons graduated from Portland State University in 2014. He did not immediately have a job in his field of study at graduation but he did have a wife and two small boys he had to support. I got him an introduction to a restaurant that desperately needed a part-time bartender, a professional that he has many years of experience. They hired him with a very limited schedule with the opportunity to pick up shifts as needed. He ended up working overtime quite often that summer as he filled in for the many vacation requests that the fulltime staff had requested. It was a huge win for the lifestyle needs for my son and his peers. It also benefited the employer by having fully staffed schedule with qualified talent. *HB 2193 would prevent this opportunity and all its benefits from happening. HB 2193 Restrictive scheduling creates imbalances between work/life because of decreased flexibility.*

3-PERCENTERS

My years of experience has taught me there is the “3-percenter” group of employers and employees that work the systems and take unfair advantage. They break the rules, cheat and mislead. They are the exception... in the minority of those that populate the employers and workforce. HB 2193 is well meaning, but government cannot make policy on circumstances that are the exception to the rule. Those employers that abuse their employees with schedules will not last because their bad reputation as an unattractive employer will be vetted out by the word on the street throughout the industry workforce. No one will want to work for them. The same applies to those employees who are lousy employees/peers... they call out sick or “personal emergencies” under false pretense (I saw your party picture on Facebook the night before!). Decisions on exceptional events/circumstances should made as they occur. *HB 2193 attempts to make unreasonable, unmanageable and unworkable policy on exceptions regarding workplace scheduling.*

REALITY

The nature of the restaurant business demands careful schedule planning to meet consumer expectations and to operate at a profit. There is no perfect business model for scheduling restaurant staff... there are too many variables. A perfect example was the recent weather related business losses due to snow. Customers couldn't/wouldn't dine out. Staff couldn't get to work or if they did, couldn't get home. Schools were closed that required parents to stay home and miss work that they needed. Businesses and workers were faced with an onslaught of negative choices... stay open or close... go to work or stay home. *HB 2193 would punish those same people for trying to do the right thing. HB 2193 would make an employer already losing money due to the weather by fining them for the last-minute schedule changes needed for the marketplace. HB 2193 would prevent employees from keeping themselves readily available for short notice shifts to pick up.*

“CLOPENS”

“Clopens” is a term that refers to a schedule that has the employee close a business in the evening and then return in the morning to open the business. It is often a VERY ATTRACTIVE benefit for those who are trying to crunch as many hours as possible in the shortest period of days. This is particularly useful for those managing a family, second job or attending school.

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HB 2193 would hurt those that need it the most by eliminating that opportunity with the restricted scheduling penalty of overtime pay.

PENALTY HOURS

Owners aren't going to give away hours. With HB 2193, staff should be prepared to stay those extra hours to perform additional duties. Those with families will be subject to child care costs that exceed the minimum wage they'll be paid. Those with second jobs will lose their schedule flexibility to keep that needed income. At worse, employers will do away with flexible scheduling completely because it is too expensive given the potential legal liabilities. *HB 2193 threatens the financial stability and survivability of both employers and employees.*

ADMINISTRATION & RECORD KEEPING

Because the restaurant business is so transient by employee choice, keeping three years of records on a person who worked for 2-days, weeks or months is absurd. *HB 2193 is excessive and expensive to small businesses in it records keeping demands.*

OFFER THE SHIFT TO THE FIRST AVAILABLE PERSON ON THE SCHEDULE

This would be a terrible requirement. Learning the many restaurant service concepts, skills and techniques require many years of training and experience. This requirement would mean an employer would have to use a very inexperienced staffer as a replacement on a shift. This would be disastrous. *HB 2193 forces a new person not qualified into a professional level working state that would cause this: In 10-seconds.... A 10-day new employee destroys a loyal customer relationship... that took 10-years to build!*

TODAY

I will be 70-years old on my next birthday. My current work schedule allows me to maintain a personal and professional lifestyle that supports me. I am one of those "go to" people who is usually available to help-out on shifts that need coverage "on-the-fly". It is a win-win-win relationship, first for my customers... then my employer and then myself. I also have a consulting company the has a very fluid schedule. My restaurant schedule is flexible on short so I can earn additional income as a consultant. Between the two incomes I live financially independent. *HB 2193 would eliminate the flexibility I and my employer need to survive financially.*

UNINTENDED CONSEQUENCES

In addition to the above, there will be unknown unintended consequences that will surface after the fact, if HB 2193 passes. We can be sure that those unintended consequences will make it harder for small businesses to survive and those affected workers scrambling to recover lost incomes need to support themselves and their families.

Thank you for your valuable time today.

Respectfully Submitted,

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