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March 31, 2017

**Senate Committee on Workforce re: SB 828 – Employee Scheduling**

Dear Chair Taylor, Vice-Chair Knopp, Committee Members:

Plaid Pantries, Inc. and the Oregon Neighborhood Store Association oppose SB 828, including the proposed -3 amendment. It was our understanding from comments by the Chair and Committee Members that the serious questions and concerns raised by businesses at the first hearing would be addressed. We are very disappointed that this apparently has not happened.

As the current bill and amendment are written, in an ill-conceived attempt to more formally systematize what is inherently a very fluid and dynamic process, SB 828 would actually reduce flexibility in meeting employees' scheduling needs. The main problems are the required two-week advance scheduling, and penalties for employers if schedules must be changed.

It is a simple process for an employer to write a schedule, and it makes sense to allow and encourage employee input so that changes are minimized. Unfortunately it is very difficult for our employees themselves to predict what will happen in their lives two weeks in advance, and quite often even a single day in advance. Our employees regularly request schedule changes on short notice, so a schedule written two weeks in advance is virtually certain to require changes. Please refer to Exhibit 1 for examples of employee-generated schedule changes. Most of our stores have only a single employee on duty, so replacement employees are often needed on short notice.

While there are some exceptions to penalties in the bill, it still imposes a significant administrative burden on an employer and employees when a substitution is necessary. The penalties employers must pay to substitute workers under the unnecessarily complicated rules will cause them to be more restrictive in granting schedule changes.

Many of our employees volunteer for substitute shifts, particularly when it means additional overtime pay. These employees prefer working overtime at their primary job with us, rather than having to work more hours holding down multiple jobs. This bill would discourage schedule changes, restrict flexibility for employees requesting changes, and hurt employees who desire additional hours of overtime pay.

The bill also puts the burden on the employee to find a replacement when they need a schedule change, with the employer only “assisting”. Due to our density of stores in our market areas, we have stores in close proximity to each other. An employee has a much higher probability of getting a desired schedule change if the full network of management members, with many more available employees, is aware of and actively involved in finding a replacement. It also is unreasonable to expect an employee who is either sick, has a family care need, or other unplanned personal need for time off to have the added burden of attempting to find a replacement employee for their scheduled shift.

Instead of providing more flexibility and predictability for employees’ schedules, employers will focus on exceptions in the bill to minimize schedule changes that would create pay penalties. Instead of spending time and resources on administration, notices, and exceptions to deny changes, employers should be allowed to identify a replacement to cover the shift, without incurring a penalty for doing so. This is good for employers as well as employees. Many of our employees work in our industry specifically for the scheduling flexibility it offers. We already work to accommodate virtually every request for time off for any reason. Our ability to change schedules quickly is a valuable benefit for our employees that would be severely restricted by this bill.

Regarding the requirement to pay an employee for the full number of hours on a scheduled shift, particularly in the case of them having reported to work, we think this is reasonable and appropriate. However we do urge you to rethink the rest of the schedule change provisions, and not enact a law that will harm our ability to accommodate our employees’ needs.

Respectfully submitted,

A handwritten signature in blue ink that reads "WC Girard". The signature is fluid and cursive, with the initials "WC" being particularly prominent.

William C. Girard, Jr.  
CEO, Plaid Pantries, Inc.  
Chair, Oregon Neighborhood Store Association

Examples of employee-generated schedule changes on short/no notice:

Employees frequently:

- Call in sick with no or short notice.
- Schedule a doctor visit with short notice.
- Quit with no or short notice.
- Request vacation with less than 2 weeks' notice.
- Have second jobs with changing schedules that require accommodation.
- Have short-notice changes in school schedules.
- Request time off for final exams with short notice.
- Request extra work hours during school breaks.
- Require bereavement leave on short notice.
- Encounter unexpected child care issues.
- Have a spouse, partner or child illness requiring care.
- Have a spouse or partner schedule vacation after schedule is written.
- Have a child's school appointment or activity.
- Are sometimes late, requiring extending shift of employee on duty.