

Testimony of
Peter M. Gore
On Behalf of the Maine State Chamber of Commerce
In Opposition to
LD 369, An Act To Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees

February 25, 2019

Senator Bellows, Representative Sylvester and members of the Joint Standing Committee on Labor and Housing, good morning, my name is Peter Gore. I am the Executive Vice President at the Maine State Chamber of Commerce, a statewide business association representing both large and small businesses here to speak to you in opposition to **LD 369, An Act To Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees**.

L.D. 369 appears to allow full and part time workers to accrue one hour of paid sick time for every 30 hours of work, up to a limit of 40 hours in a year at any business that employs 5 or more people. The employee would also be allowed to roll over up to 40 hours of unused leave into the next year, but again, the employer is allowed to cap leave used at 40 hours. The leave begins to accrue upon initiation of work, but the employee cannot use the leave until they have been employed at least 90 days.

The employee and an impacted business would be eligible to use the leave to take care of themselves or a sick family member, or if the employee or a member of the employee's family has been the victim of domestic abuse, sexual assault, or stalking. The employee may give oral or written notice of intent to use the leave, when "foreseeable," that is not mandatory to access the leave. If an employer chooses to adopt a policy regarding the use of the leave they may do so, but the statute is clear that the leave *must* be provided, regardless of notice.

The definition of "family" or "family member" is very broad, going beyond the existing FMLA definition to include extended "family" members such as stepparents, grandparents, step grandparents, siblings – either biological or adoptive – and a person who stood in loco parentis when the individual was a minor.

In addition to requiring larger employers provide *paid* sick time, small businesses with fewer than 5 employees would be required to provide *unpaid* sick leave to their workers in the same manner as described above.

The issue of providing mandatory paid sick leave to employees who currently do not get such a benefit has been discussed and debated by previous Maine legislatures. The last time the bill saw serious consideration was in 2017. In addition, the legislature considered legislation on the issue in 2004 and again in 2007 and 2010. In each case, the Maine State Chamber of Commerce has opposed this

legislation, as has nearly every other statewide business association in Maine as adding considerably to the cost of doing business here.

Many Maine employers do provide some form of paid leave, in the form of vacation, holiday or sick time. However, many businesses do not extend those benefits to part-time, temporary and seasonal workers. Requiring employers to provide these workers with paid leave is a significant departure from current practice. Under the proposal, part-time, seasonal, and temporary workers would accrue leave time.

In 2005, the Legislature considered LD 1044, *An Act to Care for Families*. Submitted by former Senate President Beth Edmonds, the bill proposed that employers in Maine be required to allow their employees to use any type of employer-provided paid time off in order to care for a sick family member. Working with the Senate President, as well as individuals from the Maine Women's Lobby and other employee advocates, representatives of the Maine State Chamber developed compromise language that later became Public Law 2005, chapter 455. The 2005 law provided the following:

- Applied to employers with more than 25 employees;
- Defined immediate family members as the employee's child, spouse, or parent;
- Allowed the employer to cap the amount of leave an employee may use for this purpose at 40 hours in a 12-month period;
- Prohibited the employee to use any paid leave for this purpose unless leave has actually been earned;
- Gave the employee a choice of which type of paid leave to use, if they receive more than one type of paid leave – however, the employer is free to adopt a *uniform* employment policy governing which leave is to be used under this section of the bill;
- Required the employee using this leave to provide notice or verification of illness to the employer, as long as they also require such notice due to the employee's own illness; and,
- Allowed the employee to take the leave for any illness suffered by the immediate family member as they themselves may take in the case of their own illness.

With the enactment of Chapter 455, at that time Maine became one of the first states in the country to allow employees the use of their paid leave in such a flexible manner. Others have followed suit since then.

Adding mandatory paid sick leave mandates will not only increase the bottom line of many businesses due to increased paid time off, but it will also increase costs due to the very cumbersome tracking requirements that will be needed to calculate leave for full and part-time employees, as well as tracking the utilization of that leave time. The tracking of this leave time, particularly for seasonal and temporary workers, will be difficult and expensive. Currently, only seven states – Arizona, California, New York, Massachusetts, Oregon, Connecticut and Vermont – mandate such leave, making multi-state employers with operations here in Maine responsible for establishing a separate tracking system just for their Maine operations. Once again, we will be making it more expensive to do business here than in our competitor states.

The fact is, our businesses' resources are limited, and they will absolutely not be able to simply absorb the costs associated with this bill. This is particularly true in light of the recently approved minimum wage increases, as well as the recent, significant increases in health insurance premiums experienced by many Maine small businesses. Therefore, their options are less than desirable in this current economic reality: Should they eliminate or reduce other forms of leave currently, and voluntarily, provided to workers; reduce costs in other benefit areas, like employer contributions to

health care premiums; put off creating a new job or returning a laid-off worker to work; or, lay off employees to cover their costs?

The proposal before you today may be well intended. However, it will make Maine an outlier from most other states in the country if it is adopted. Furthermore, it will cost employees in this state too, either in the form of lost benefits, lost or reduced wages, or perhaps even a job

This bill will add significant and immediate cost to an employer's bottom line and create a new and burdensome tracking and reporting requirement for every effected Maine business. The Maine Chamber believes this proposal moves our state and our economy in the wrong direction, driving up the overall cost of doing business here, and creating yet another deterrent for employers to locate or expand their businesses in Maine.

This proposal could not come at a more critical time for this state or our businesses. Small businesses *today* are feeling the impact of the new wage and hour costs associated with an \$11 an hour minimum wage, and are already making adjustments to their business models, in preparation for even higher costs in this area. This is real – one need only look at the plethora of bills to increase redemption fees to help struggling redemption centers to survive. And that is only one segment of our small business community. I would ask, where and what will be done to help the corner store to ensure their viability? Passage of LD 369 will certainly not accomplish this. The question I am asked repeatedly by employers, with respect to those issues as well as to L.D. 369 is what is being done to demonstratively, verifiably lower the cost of doing business for Maine's small businesses? I am hard pressed to find them an answer.

Instead, *LD 369 takes us in exactly the opposite direction ...* making Maine an outlier from every other state in the country and potentially risking existing jobs and new opportunities for our citizens. It is for these reasons that we urge this committee to give LD 369 a unanimous "ought not to pass" report. I would be pleased to try and answer any questions you may have. Thank you."