

**Bixby & Company, LLC
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**Testimony of
Gordon McAleer
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Before the Joint Committee on Labor and Housing

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Senator Raffety, Representative Sylvester, and member of the Joint Committee on Labor and Housing, thank you for this opportunity to present testimony on the proposed **L.D. 607** and **L.D. 553**. My name is Gordon McAleer, Compliance Director of Bixby & Company, LLC. We respectfully express our strong opposition to the two bills.

Bixby & Co is our family business, celebrating ten years of operation in 2021. Bixby manufactures fine chocolate products that are natural and free of chemicals and preservatives. We offer certified organic, vegan, gluten free, and non-gmo products to our discerning customers. Bixby uses national distributors to bring our products to far ranging markets. Moreover, we export to Canada. Our facilities are located in Rockland, Maine. One of our lines of product is “bean to bar,” that is making chocolate products from the original cacao beans which we source from organic growers in Central America and the Caribbean. Bixby is the first and remains the sole bean to bar producer in Maine and has put Maine on the national map for premium chocolate making.

When we started Bixby ten years ago and had zero employees. None of us, my wife Donna McAleer, our daughter Kate McAleer, took a salary during the early years to conserve funds for scaling up production. We were committed to provide the “sweat equity” to launch the company and nurture it through its formulative years. Today we have a workforce of fifteen employees receiving competitive wages in manufacturing. We have been able to maneuver through the impact of COVID and remain standing and at the ready for the next exciting chapter of our company. At the outset of the pandemic Bixby was under state order to shut down our retail shop and tasting room. At this time Bixby pivoted to expand our online retail business. We are grateful for the PPP loans, an emergency disaster loan from the federal Small Business Administration and grants from Maine. It is important to note that the principals of Bixby were required to sign personal guarantees for the SBA loans.

Labor costs represent over half of our operating budget. In order to survive the initial shocking impact of the pandemic, we needed to furlough our entire production and retail staff. All orders from distributors were canceled, and our local and wholesale accounts shut down over night. Our immediate attention was to ramp up our e-commerce and pivot to curbside retail. After several weeks certain distributors and wholesalers began to renew their orders. We

carefully started rebuilding the staff by calling in those furloughed employees who wished to return to work.

Regarding **L.D.607**, this act would put Maine far out of line with the national norms, at a time when Maine has an aging population and declining manufacturing. The future economic prosperity of Mainers will be a function of the growth of good paying jobs and measured diversification of the private sector. Frankly, **L.D.607** is anti-business as it would increase the costs of operations and would put a damper on creating promotional opportunities for employees. The act is being proposed at the worst of times when businesses are just beginning to recover from the economic disruption of COVID.

L.D.553 is equally disturbing to us, as it would unduly interfere with the essential prerogatives of a small business owner. Moreover, it would impede timely actions by management to remove a poor performer or an inappropriate employee from the workforce. Permit me to cite a few case studies of Bixby. In our very small company we had an employee return from his lunch break under the influence of an unknown substance and was totally incapable of performing any tasks, let alone operating equipment powered by electricity. He was a danger to himself and the other employees. A second employee, a middle aged male, unbeknown to us in spite of reference checks, had a pattern of sexual harassment. We needed to terminate him for an incidence of groping a female employee. Both cases underscore the need for management to take immediate and definitive action for the protection of the other employees. **L.D. 553** would prohibit management to terminate disruptive employees without first going through a ponderous and time consuming process. There could be instances of outright theft from the company, workplace violence, purposeful ignorance of safety protocols, and other just causes for immediate termination. For these reasons the act represents poorly conceived and counterproductive legislation.

In summary, the business private sector is the predominant engine for Maine's economy. Small businesses, such as Bixby, are the economic backbone of our local communities. The proposed acts would undermine the intention of Maine to support a solid, diversified economy for all Mainers to have the opportunity to pursue their dreams. Therefore, we respectfully request the Committee to reject the acts.