



NEW YORK STATE SENATOR

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Senate Hearing On Dept. of Labor's Proposed Employee Scheduling Regulations Shows Changes Would Have a Devastating Impact on New York's Businesses

PHIL BOYLE January 5, 2018

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The New York State Senate yesterday held a public hearing to determine the economic impact on New York's small and large businesses resulting from the New York State Department of Labor's proposed regulations concerning **employee scheduling** (call-in pay) – a practice that allows employers to schedule or cancel a worker's shift before or after it starts. The testimony received – both written and verbal – show that these regulations could cause

irreparable harm to businesses throughout the state and negatively affect New York's national and global competitiveness.

The hearing was held by Senator Phil Boyle – Chair of the Senate Commerce, Economic Development and Small Business Committee, and Senator Chris Jacobs – Chair of the Senate Administrative Regulations Review Commission (ARRC). Senators Catharine Young, Kathy Marchione, Fred Akshar, George Amedore, James Tedisco, Rich Funke, and Tim Kennedy also attended the hearing.

Senator Jacobs (R-C-I, 60th District) said, “I have heard from many businesses in my Senate district that employ hundreds of residents throughout Western New York that these regulations would be a devastating blow to the viability of their businesses in New York. Unfortunately, all the testimony I heard today reinforced those fears. Based on this hearing it is my great hope that the Department of Labor will reconsider the adoption of these proposed rules.”

Senator Boyle (R-C-I, Bay Shore) said, “The Department of Labor is leading the effort to implement one of the strictest employee scheduling rules in the nation which will result in job loss and have a negative impact on economic development and on small and large businesses throughout the state. At a time when we are working hard to reverse decades of economic hardship, we believe this is the wrong message to send.”

The hearing included testimony from businesses and business leaders across the state, including:

- Mike Durant, New York State Director, NFIB;
- Greg Biryla, Executive Director, Unshackle Upstate;

- Frank Kerbein, Director - Center for Human Resources, The Business Council;
- Matthew Cohen, Vice President of Government Affairs & Communications, Long Island Association;
- Thomas O'Connor, Vice President Government Relations, Capital Region Chamber;
- Ron Benderson, President, Delta Sonic Car Wash;
- Tom Hoffman, CEO of Hoffman Car Wash / New York State Car Wash Association;
- James Hornung, President, Elbers Landscaping;
- Steve Doheny, President, Doehny Oil Corp.;
- Daniel J. Heim, Executive Vice President, LeadingAge New York;
- Bob Muller, President of Executive Woods Childcare Albany; and
- Bryan O'Malley, Executive Director Consumer Directed Personal Assistance Association of New York State.

Senator Catharine Young (R-C-I, 57th District), Chair of the Senate Finance Committee, said, "The valuable testimony shared by business owners and advocates from across the state painted a vivid picture of just how damaging this proposed regulation would be to businesses of every size. At a time when job creation and economic growth should be our top priorities, this measure would actually move us further away from those goals by making it more difficult and costly for employers to operate in New York State. I urge the Governor and the Department of Labor to revisit this proposal."

Senator George Amedore (R-C-I, Rotterdam) said, “It is unfortunate that the Governor and his administration continue to handcuff the small businesses and employers of New York State. We have heard over and over again the burden that this will place on so many businesses, potentially forcing them to close up shop or leave the state. These regulations are an ill-advised decision that carries no depth. We should be talking about this through the legislative process and bringing everyone to the table to find a responsible solution.”

Senator Rich Funke (R-C-I, Fairport) said, “The Governor and the Department of Labor’s proposal to tie the hands of businesses with the strictest and most punitive employee scheduling regulations in the country is ill conceived, half-baked and in my view fundamentally unfair to business. It will also, sadly, hurt and not help the workers it purports to help who will see more automation, less hours and lighter paychecks. The groups that participated in the hearing were unanimous in their view that this is yet another signal that New York is not truly open for business. I urge Governor Cuomo and the Department of Labor to withdraw this harmful regulation immediately.”

Senator Kathy Marchione (R-C-I-REF, Halfmoon) said, “During our public hearing we heard compelling testimony from job creators such as Tom Hoffman, CEO of Hoffman Car Wash, as well as the NFIB, Business Council, Unshackle Upstate, the Capital Region Chamber and many others about the serious damage the State Department of Labor’s new scheduling regulation would cause our businesses and our economy if implemented as written. This new regulation is a classic example of Albany regulatory overreach that kills jobs, drives out businesses, and sends a bad message that New York isn’t open for business. The Department of Labor’s rule would be especially devastating to Upstate’s small and seasonal businesses and it must be reconsidered. If the Department of Labor doesn’t reverse course, the Legislature needs to explore any action we can take to protect job creators by trying to stop this regulation from impacting small businesses and costing more jobs.”

Senator James Tedisco (R-C-I-REF, Glenville) said, “The testimony given at yesterday’s Senate hearing was compelling and the verdict came in swiftly: the Labor Department’s proposed employee scheduling regulations are tantamount to ‘governmental malpractice’ and further tarnish New York’s business reputation. These regulations will not only negatively impact businesses large and small and lead to the loss of jobs, but also will be passed on to consumers in the form of higher prices for goods and services. I hope the Labor Department was listening to our hearing and will repeal these anti-consumer, job-killing regulations immediately.”

Senator Fred Akshar (R-C-I, Colesville) said, “It seems to me that more regulations like those we heard today are doing nothing but driving more people out of the state. I've long said that it's not government’s responsibility to create jobs. It is government’s responsibility to get out of the way and let businesses create jobs and a stronger economy. Too often, misguided regulations from Albany do just the opposite for our Upstate businesses and their workers. I strongly urge the Department of Labor to reconsider these proposed employee scheduling rules.”

Video of the entire hearing can be replayed on the Senate’s [YouTube](#) channel. These proposed regulations are currently subject to a 45-day comment period that will end at the close of business on January 8, 2018.