



FOR THE RECORD

OFFICE OF THE MAYOR  
THE CITY OF NEW YORK

March 22, 2013

MICHAEL BEST  
COUNSELOR TO THE MAYOR

Honorable Michael Nelson  
Chair  
Civil Service & Labor Committee  
New York City Council  
City Hall  
New York, NY 10007

Dear Chair Nelson,

I write to express the Administration's opposition to Introductory 97-A, which creates a new mandate for sick leave for employees in New York City. The bill generally requires that businesses with five or more employees who work more than eighty hours a year provide their employees with one hour of paid sick leave for every thirty hours worked, and employees who are not entitled to paid sick leave under the bill would be entitled to unpaid sick leave. The bill contains extensive and burdensome recordkeeping and notice requirements for employers, and it would establish a broad and multi-faceted enforcement role for the Department of Health and Mental Hygiene. Employees claiming violations of the bill's requirements would also have the ability not only to file complaints with DOHMH that could result in reinstatement and financial penalties but also to file lawsuits for declaratory and injunctive relief and compensatory damages.

While the motivation behind the bill is laudable, Introductory 97-A is misconceived as a matter of policy. In attempting to provide a benefit to some workers, it would—unintentionally but with real effect—harm not only the businesses that employ them but the workers themselves. The bill's bureaucratic enforcement structure is cumbersome and would reside in an agency, DOHMH, that does not have the capacity to enforce employment laws. The bill's legal protections have the potential to generate an avalanche of new litigation. And many of the bill's provisions are unclear—leaving employers and employees to wonder about how to navigate the new and detailed requirements set forth in the bill. In sum, the costs of this bill will far outweigh its benefits.

In considering an employment policy such as paid sick leave, it is important to be mindful of the impact the policy will have on businesses throughout the City and on the economic gains we have worked so hard to accomplish. In partnership with the City Council, this Administration has taken aggressive steps to stimulate the economy and mitigate unemployment throughout the City, including the Department of Small Business Services' aggressive expansion of workforce development and job placement efforts through the City's

Workforce One centers. Our efforts, along with investments in infrastructure and economic development activities in all five boroughs, have allowed New York City's economy to significantly outperform the rest of the country. Since the onset of the national recession, the United States has gained back only 54% of the private sector jobs it lost; by comparison, New York City has now recovered more than 215% of the private sector jobs we lost. And New York City now has more private sector jobs – 3.3 million – than at any point in its history. For individuals without a high school diploma, the City's unemployment rate remains less than it is in the country, as it has been since 2007.

There can be no doubt, however, that this bill will increase costs for employers throughout the City, and particularly for small businesses. Faced with this increase in costs, it is predictable that employers will seek to offset them in any number of ways, including reducing other benefits employees receive, such as health insurance; reducing the number of hours employees work; and laying them off altogether. Employers may also become less willing to hire new employees, as this bill would make hiring them more expensive. Furthermore, given that higher wage jobs typically come with paid leave, it is likely that entry-level and lower wage workers—the very people this bill is intended to help—will suffer these effects disproportionately.

We also have serious concerns about the enforcement scheme proposed by the bill, which is entirely unworkable. This bill is an employment bill, in that it regulates the employment relationship between workers and their employers. Yet the amended bill contains extensive new provisions assigning responsibility for enforcement of its requirements to DOHMH, which would have to accept and investigate complaints, audit employers, and file enforcement actions in an administrative tribunal. DOHMH is a public health agency, not an agency that regulates labor or employment matters. It does not have the staff, experience, or expertise to accomplish what this bill would require. Moreover, the bill contemplates what appears to be a large new bureaucracy within DOHMH to carry out these responsibilities. At a minimum, DOHMH will have to create new units to receive, monitor and audit employers' records; to accept and investigate complaints; to prosecute administrative cases against employers; and to create online resources about the law and its requirements. And this effort of course will involve virtually every employer in the City. This will require large numbers of new administrators, lawyers, and support staff, and it will undoubtedly cost many millions of dollars on a recurring basis to implement.

Indeed, the scope of the “broad powers” this legislation would confer upon the Health Department is worrisome. The bill would give the Health Department the ability, for instance, to subpoena internal personnel records of both local businesses and any corporation that has even just one office in New York City and to interrogate any company employees in private. This authority would directly impact companies that already provide paid sick leave—even unlimited paid sick leave—but whose personnel paperwork does not align perfectly with the bill's requirements. If an employer loses paperwork, even after a natural disaster, the bill creates a legal presumption of a violation. While existing Health Department authority extends only to companies that directly affect New Yorkers' health like restaurants and food production facilities, the new proposed law applies to every type of business in New York City, from technology companies to auto repair garages to fashion designers to media companies—even if

Honorable Michael Nelson  
Re: Intro. 97-A

they have absolutely nothing to do with health or food. DOHMH would become the arbiter of personnel disputes, including evaluating the adequacy of employers' leave policies and overseeing private employers' time and leave accrual practices. The bill's requirements, including the new paperwork requirements, would also apply to every New Yorker who personally employs domestic help to care for their children or clean their home. The legislation's proposed increase in DOHMH's enforcement and oversight responsibility in an area outside its area of expertise is unprecedented in City history.

Curiously, despite the extensive administrative enforcement apparatus the bill contemplates, the bill would also authorize individual lawsuits by anyone claiming a violation of the bill's provisions. Indeed, an employee would have the ability both to file a complaint with DOHMH and to file a lawsuit over the same alleged violation. There is no requirement that an employee exhaust administrative remedies before filing suit. And the bill authorizes the award of not only compensatory damages but also attorneys' fees. Thus, the bill creates a structure that not only encourages litigation but that encourages potentially *duplicative* proceedings. The potential torrent of litigation resulting from these provisions will only further increase costs on employers and thereby exacerbate the negative effect of the bill on the City's economy.

The bill is also rife with vague, confusing, and sometimes contradictory provisions. For instance, the bill's definition of "retaliation" is entirely unclear. Under the bill, "retaliation" includes "denial of any right" conferred by the bill, so that any time an employer is found to violate the sick leave requirements of the bill, the employer would also have automatically committed retaliation. And later in the bill, there is a section on "retaliation" that appears to define the term differently than the definition section of the bill does. In another area, the bill requires unpaid sick leave for all employees who are not entitled to paid sick leave, but it does not explain how unpaid sick leave accrues. Meanwhile, some of the bill's requirements will lead to absurd results. For example, because the bill includes a household employing a domestic worker as a covered "employer," people employing a domestic worker will have to post signage explaining the bill's requirements on the walls of their homes.

Finally, an employment matter such as this one is not an appropriate matter for local legislation. Enacting this bill would harm New York City's competitive position by adding to the already high cost of doing business in New York City. If Introductory 97-A became law, Nassau, Suffolk and Westchester counties as well as New Jersey would enjoy a further cost advantage than they already do, undermining the hard work we have done to ensure that the City's economic recovery has been stronger and faster than the rest of the nation's. This bill, which will impose significant new costs on employers and create a vast new bureaucracy, is bad for the City's economy, and it will harm the very people it seeks to help.

Sincerely,



Michael Best

cc: Honorable Christine Quinn

TESTIMONY: PAID SICK LEAVE LEGISLATION, INTRO 97-A-2010

RUTH MESSINGER, MARCH 22, 2013

I am pleased to be here—back in the Council Chambers where I was privileged to serve for 12 years—to testify in favor of an important piece of legislation that will make a difference for tens of thousands of New Yorkers.

You all know the story. Paid sick leave is a benefit that protects the health and safety of the individual worker, her or his family, her or his co-workers and the broader community. It is an employment benefit but also an important public health measure, particularly because many of the uncovered employees in New York City work with children and the elderly or work in the food service sector.

Paid sick leave is a benefit that would matter most to New York City's lower income workers, and it is a benefit that is increasingly being made available elsewhere in the United States. This is an opportunity for our city to join with others and help set the standard for employment that will help workers and advance public health without over burdening the city's smallest businesses, all of which are protected in the current version of the legislation.

Let me add here only that in the 14 years since I left public life I have been privileged to direct a not-for-profit, non-governmental organization that has grown substantially. I am very certain that one of the factors in our success as an employer is that we stretch a limited budget judiciously to provide benefits, including paid sick leave, that are responsive to the life realities of employees who need to protect their own health and the health of their families as well as to invest their energies in their work.



## Testimony to City Council Regarding

### Provision OF Paid Sick Time Earned By Employees, Int 0097

Thank you for this opportunity to testify today about how the New York City Paid Sick Time Bill will impact my business. My name is Lisa Davis, and along with Marilyn Rosee, I own Therapeutic Resources, a professional staffing agency specializing in the placement of occupational, physical and speech/language pathologists. I am part of an industry which includes dozens of smaller and larger such companies. I am here both to lend my support to the legislation and to request the creation of an exemption in the bill for "hourly professional employees" who are licensed by the New York State Education Department.

#### **Background Information**

1. Therapeutic Resources has been in business in NYC for 29 years, and today employs over 600 therapists along with an in house staff of 35 who work from our Long Island City office. Our company services over 2000 special needs children through our longstanding NYC and NYS contracts as well as serving disabled adults and children through our contracts with area hospitals, nursing homes and home care agencies.
2. Therapists working for us are paid extremely competitive and generous rates. For example, occupational and physical therapy assistants, who possess a two year degree earn between \$30 to \$55 per hour. Therapists, who are now required to have Master's and Doctorate level educations, earn between \$52 to \$85 per hour.
3. Due to controversy over the classification of independent contractors, we have elected to treat our professionals as employees, This decision increases our costs by 14% but ensures compliance with the ambiguous regulations of the Department of Labor and the Internal Revenue Service. Like us, most of our competitors treat their independent providers as employees.
4. Even though our providers are treated as employees for tax purposes, they remain completely independent. They supervise their own work, set their own schedules, manage their own time and choose their own work assignments. TR only serves as a conduit for payment. We simply refer therapists to open positions as per their specifications . We do not make hiring decisions, supervise, or make guarantees about the length of the assignment, which is often transitory and temporary. We have no

**Testimony to City Council Regarding**  
**Provision OF Paid Sick Time Earned By Employees, Int 0097**

control over what our professional staff do, their schedules, how long the assignment will last and the means of completing the work.

5. Due to very strong demand for therapists, our providers have ample opportunity to accept salaried positions with benefits, but have chosen to work with us as independent providers because they prefer the improved earning potential, flexibility and autonomy. The benefits they miss from a more traditional employment relationship is compensated by the premium rates being paid to them which amounts to about 35% over what they could expect as a traditional employee . It is also important to note that the majority of our affiliating providers work part time with us. These providers often receive benefits from their primary employer and enjoy the extra income and flexible scheduling options we offer.
6. We agree that workers need protection from health and family emergencies, and we proudly provide generous benefits including sick time for our office staff, Yet, our business model cannot feasibly absorb the cost of such coverage for our professional employees. Such a mandate would create an extreme financial hardship for us forcing us to reconsider the feasibility of continuing our operation, jeopardizing the livelihood of our 35 administrative staff members as well as our professional staff.<sup>1</sup>

**The Substance Of the Exemption**

Knowing that paid sick time would not work for professional staffing agencies, we have researched how other municipalities handle the issue of professional, per diem employees. We have identified two examples of enacted legislation that includes carve outs or exemptions for circumstances and classification of professionals similar to what is found in our industry.

- **Washington, DC's Paid Sick Leave law** exempts all premium pay health care workers (such as our providers).

<sup>1</sup> Illustration: For a six hour day we would pay the therapist \$330. Payroll expenses are \$43. The client is billed \$402. Profit before overhead is \$29. If the therapist is out for the day, we cannot bill, but under the Sick Leave Bill we could be obligated to pay for the day off, the cost of which would amount to \$373. Our profit, before overhead (rent, office salaries and benefits, phones, advertising, etc) would amount to \$29. Thus, paying for one sick day would assume the entire profit of 13 days of billing for that therapist. Five days would assume 65 days or three months (@ five days per week) of billing.

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- **Connecticut's Paid Sick Leave law** exempts all temporary workers and per diem employees (who can accept or refuse work at will). Additionally employees must be "not exempt from minimum wage and overtime requirements" to qualify for paid sick leave. As our professionals are "exempt" under the Federal government's Fair Labor Standards Act this language could be another route toward carve out.

We propose a solution that is very specific to New York law which will exempt "hourly professional employees", who (i) are professionally licensed by the New York State Education Department, under the direction of the New York State Board of Regents; (ii) call in for work assignment at will; determine their own work schedule; have no obligation to provide services; and can reject or accept any assignment referred to them and (iii) earn an average hourly wage which is four (4) times the Federal minimum wage for hours worked during the calendar year.

After sharing our industry specific concerns with Gale Brewer's office and Sherry Leiwant, the lawyer who is drafting the bill, they have expressed a willingness to incorporate our proposed language (or something comparable) into the bill to protect our industry. These additions would not alter the intended purpose or design of the bill.

While we support the concept of paid sick time, we respectfully request that we work together to identify a solution to exempt professionally licensed health care professionals who, while technically employees have opted for an independent practice where autonomy and earning potential are maximized and benefits are built into the rates.

We want to thank Gale Brewer's office, Sherry Liewant and all of the City Council members who have met with and spoken to us to hear our concerns. We anticipate that should the bill be presented for a vote, it will include language which exempts our class of employee, while still protecting the workers who need protection. Thank you for giving me the opportunity to address the City Council.

Respectfully submitted,

Lisa Davis, MA, OTR  
Marilyn Rosee, MS, OTR  
Executive Directors



## **Coalition of Professional Placement Agencies Concerned About the Impact of the New York City Paid Sick Leave Act (Intro 97)**

The agencies listed below provide rehabilitation staffing to nursing homes, hospital schools, home care (pediatric and adult), out-patient and developmental centers within the New York City area. All treat their independent providers as employees for tax purposes. All are in support of the Paid Sick Leave legislation for non-professional, low income staff and all provide paid sick leave and comprehensive benefits to their non-professional staff. All are concerned about the financial impact of providing paid sick time to their highly reimbursed professional health care staff. They are all seeking an exemption of these benefits for their premium pay employees.

Lisa Davis, MA, OTR/ Marilyn Rosee, MS, OTR, Owners  
Therapeutic Resources  
Long Island City, New York

RCM Health Care Services  
Michael Saks / Marc Chafetz  
New York, New York

Susan Gursky, PT  
Owner, Rehab Alternatives  
Roslyn, New York

Rick Lacourse, President  
VTA a division of Rehab Care  
Brooklyn, New York

Dr. Jonathan Mawere, MD, PT Owner  
Apex Therapeutic Services  
Whitestone, New York

Mark Haber, PT, Owner  
Horizon Healthcare Staffing  
Hicksville, New York

Feige Halberstram, SLP, Owner  
FTH Audiology and Speech Pathology, PC  
Brooklyn, New York

John Calderon, President  
TheraCare  
New York, NY



IWPR# B318

March 2013

## Valuing Good Health in New York City: The Costs and Benefits of Earned Sick Days

Legislators in New York City are considering the “Earned Sick Time Act,” a bill that will allow New York City private sector workers take time off from work to recuperate from illness, to take care of their own health needs, or to take care of a sick member of their immediate family (spouse, child, parent, or domestic partner). Earned sick time can also be used if schools or businesses are closed due to a public health emergency.

Using the parameters of the bill and publicly available data, the Institute for Women’s Policy Research (IWPR) estimated the anticipated costs and some of the anticipated benefits of the proposed legislation using data collected by the U.S. Bureau of Labor Statistics, the Centers for Disease Control and Prevention, the New York City Department of Health and Mental Hygiene, and the U.S. Census Bureau.<sup>1</sup> The current proposed bill states that workers in businesses with fewer than five employees will receive job protection for up to five *unpaid* sick days and workers in businesses with five or more employees will be able to earn up to five *paid* sick days per year.

Workers earning leave under the “Earned Sick Time Act” are estimated to take an average of 2.2 days annually out of a maximum of five that may be accrued.<sup>2</sup> The cost of implementing this law to provide modest sick leave benefits is equivalent to an increase in wages of 18 cents per hour for employees receiving new leave, or about \$6.31 per week (in 2012 dollars) for the average New York City worker.<sup>3</sup> Providing earned sick days is also expected to yield benefits to business from savings due to reduced turnover, increased productivity, and reduced contagion of communicable diseases in the workplace.

Updated IWPR estimates quantifying the savings gained by providing access to paid sick days and thereby preventing some emergency department visits for working adults and their dependent children in New York City reveal that the community will save approximately \$70 million annually in health care expenditures.<sup>4</sup> Of these savings, about \$56 million are estimated savings for public health insurance programs.

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<sup>1</sup> Miller and Williams (2009) estimated the costs and benefits for an earlier proposal and this fact sheet is an update to that analysis reflecting changes made to the proposed bill.

<sup>2</sup> Miller and Williams (2009) estimate that workers employed by businesses with 5 or more employees would take an average of 2.7 days out of a maximum of nine days and workers employed by businesses would take an average of 2.2 days out of a maximum of five days.

<sup>3</sup> Miller and Williams (2009) estimate these costs as 22 cents per hour or about \$8.05 per week (2009 figures inflated to 2012 dollars) before the bill was amended.

<sup>4</sup> Miller and Williams (2012) estimated that New York City would save \$39.5 million dollars as a result of reduced emergency department visits. That analysis only estimated the savings from reduced emergency department visits for working adults.

The estimates presented in this fact sheet assume that all workers eligible for leave under the new policy would know about their new earned sick days. On the contrary, during the early years of the program, it is likely that many workers will be unaware of their new leave benefits and not take any time off under the new law. In particular, workers may not be aware of the multiple uses allowed by the law. Thus, both costs and benefits in the early years of a new program may be considerably lower than these estimates.

## References

Miller, Kevin and Claudia Williams. 2009. *Valuing Good Health in New York City*. Washington, DC: Institute for Women's Policy Research.

Miller, Kevin and Claudia Williams. 2012. *Paid Sick Days in New York City Would Lower Health Care Costs by Reducing Unnecessary Emergency Department Visits*. Washington, DC: Institute for Women's Policy Research

TESTIMONY OF QBBA AND BIANYC ON. INT. NO. 97-A,  
MARCH 22, 2013

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My name is Robert Altman and I represent the Queens & Bronx Building Association and the Building Industry Association of New York City. I am here to testify in opposition to Intro. 97-A.

Many businesses in New York City provide paid sick leave. Others provide it as part of a collective bargaining agreement. And others do not provide it at all. Why is this the case? It all depends on the variety of businesses that exist within New York City and the question is does New York want to provide for all types of businesses or only cater to the those that can afford policies that fit a paradigm that meets the approval of the Council and basically invite the others to move out of the City and leave certain classes of New Yorkers unemployed.

Paid sick leave is not like the living wage bill. At least with the living wage bill, the Council could argue that extra pay should be given to receive a tax break, even if that logic totally ignored the competitiveness of New York City versus the rest of the nation. With the paid sick leave bill, the Council and the City offer nothing back in return other than higher costs, more bureaucracy and additional paperwork. No wonder the business community opposes the bill.

It is amusing that in certain parts of the bill, the language of the bill states one thing but then later on provides for a direct contradiction. For example, a business can require an employee to give notice regarding the use of the sick leave. But if the employee fails to give notice, there is no punishment as this would be considered illegal retaliation under the bill and subject to fines and penalties. Moreover, the bill even condones bad behavior, allowing a hung-over employee to call in sick and receive no discipline despite the fact that such behavior may endanger fellow employees.

And the law is anything but simplistic. More than half the substantive portion of the law is devoted to government bureaucracy including, notices, postings, employee record keeping, rule formulation, confidentiality, coordination with current policies, coordination with collective bargaining agreements, enforcement, fines, reimbursements and more. Even if you give employees a hundred sick days a year, you can run afoul of the law and be subject to fines due to all its bureaucratic requirements. Even if you have fewer than five employees and do not need to give any paid sick leave, you can still get entangled with all the bureaucracy. And what set of experts is enforcing all this bureaucracy. Is it a labor department with expertise in that area? No, the Council has chosen the Department of Health as the agency having the knowledge and expertise to enforce this all. What a nightmare, especially when the Department has to learn this all on the business sector's nickel.

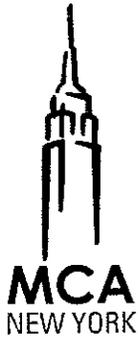
Ultimately, the Council assumes that it can force lower-end businesses to stay in New York and some must. But as the Council keeps passing laws designed to "improve" the plight of the worker, there will be a tipping point and businesses will leave. And then the

TESTIMONY OF QBBA AND BIANYC ON. INT. NO. 97-A,  
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plight of the worker will be improved to the point of unemployment. This bill is good intentioned, but it costs and when it costs, it has consequences. And ultimately, those consequences will be bad.

Despite its good intentions, Intro. 97-A should be rejected, and since its logic is beyond repair, it should not even be further amended in an attempt to repair something incapable of it.



**TESTIMONY OF SHANE MCMORROW ON INTRO 97A**

**BEFORE THE CITY COUNCIL COMMITTEE ON CITY**

**SERVICE AND LABOR**

**MARCH 22, 2013**

I am Shane McMorrow, Assistant Executive Vice President for the Mechanical Contractors Association of New York, Inc. Our Association, consisting of both large contractors and many smaller firms, makes up a majority of the Mechanical and Fire Suppression Contractors who employ the members of Steamfitters Local 638 in New York City and Long Island.

The MCA of New York strongly supports the spirit of Intro 97-A, as we endorse the idea that employers should provide paid sick leave days. However, we ask that an amendment be added to make an exception for Union employers who already provide paid sick leave or its equivalent.

Our members are signatory to a Collective Bargaining Agreement ("CBA") with Enterprise Association Local Union 638 Steamfitters, which requires employers to contribute \$14.00 an hour into multiemployer funds for the benefit of individual steamfitters that can be used for vacation and sick pay. Since these funds are based on hours worked, the benefit varies from person to person. For example, if a journeyman steamfitter works just 1750 hours (218 days) per year, those

dedicated funds for use by the employee amounts to \$24,500. These funds are then available to compensate the steamfitter for hours he or she did not work for any number of reasons including illness. Intro 97-A would require our contractors to provide up to an additional 5 days of paid sick leave.

The bill's current language requiring an "express waiver" would insert the Council into private sector collective bargaining processes. The "express waiver" would upset the balance of the negotiation process by forcing contractors to either provide an additional \$4000 per employee per year or concede to other demands in order to secure the waiver.

As previously stated, we support required paid sick leave. Our industry provides New York City with thousands of middle class jobs with standard-setting benefit packages. We simply request that the bill be amended to provide that paid sick leave is NOT required if its equivalent is already provided for in a CBA with no "express waiver". As written, the bill would essentially require our contractors to pay for paid sick leave twice, significantly increasing the cost of construction in New York City, and in effect, penalizing not only Union contractors, but also the developers and owners who utilize Union labor on their projects.

NCA Comments re: INT 97-A

My name is Nora Nealis and I represent the NYC members of the National Cleaners Association, and I'd like to thank you for this opportunity to offer our thoughts and comments on INT 97-A.

While we applaud the noble intent of this proposal, we believe that it is ill timed and in many respects has the potential to do more harm than good to both the employees of NYC's small businesses and their owners.

There are many here today who will tell you that the current precarious economic climate, in concert with a host of federal and state government actions that will increase the cost of doing business in the coming year, make it the wrong time to impose yet another economic burden on the city's struggling entrepreneurs. And they are right. No single one of these looming changes is enough to signal a business's death knell, but in combination they surely become a slow death by a thousand cuts.

The tendency of those who work for someone else is to assume that the business owner and boss is successful, lives in a wonderful, beautifully appointed house in a nice neighborhood, takes enviable vacations, drives luxury cars, is free from money worries and can easily bear the burden of any and all increased labor and government costs. Sadly, at least in the dry cleaning industry, this is not usually the case. You have only to form a mental picture of your own neighborhood dry cleaner, to know I speak the truth.

He is open and on premises 52 weeks a year, six days a week, from starting up the boiler at 6 AM to closing the store 12 or 13 hours later. Though his costs of doing business – insurance, fuel, rent, compliance with government regulation – have risen during this economic down turn, and his sales volume has dropped, he has not raised his prices to keep pace. He is afraid if he increases prices he will lose even more business. He has certainly lost more than one night's sleep worrying about how he is going to make payroll or pay the rent on his store or his home. He regularly thinks about selling, or closing or moving or laying someone off.

He is in survival mode. Stretched to his limits to such an extent that he cannot even afford to take the time off to attend this hearing. And for many of them, this proposal could well be the straw that breaks the camel's back. At the very least, it could be the straw that drives him out of our city in search of a friendlier environment.

He operates a time sensitive service business. Unlike an office, his work cannot wait to be completed until an employee returns from a day out. He has a commitment to his customer that won't wait. So, when someone is out he either has to work longer hours to cover or he has to pay another employee for the extra hours to produce the work. This proposal will have him paying twice for the work done. If he has 10 employees taking 40 such hours a year off – that's up to 400 hours (2 and a half months of full time productive labor) which, though he wishes it was otherwise, he doesn't have the money to pay for. I say 'up to' because most cleaners have some type of fixed policy in place or use their judgment and compassion on a case-by-case basis to protect valued workers who are forced to take time off.

The last time I was here for a hearing on this issue, I listened to workers give testimony in favor of the proposal. Many shared stories that both moved and appalled me. There was a hard working young man who told of being mugged while making deliveries. He incurred medical costs, lost wages during his recovery and then when he was ready to return to work, learned that he'd been replaced and had no job. A kitchen worker, hurt on the job, developed an infection from the injury because she wasn't permitted time off to

seek proper treatment. And they were not alone or wrong in asking for protection from this type of behavior by employers.

But the fact is, though no one said it to them during the hearings, these workers are already protected under NYS Workers Compensation laws, and the fact that their employers were flouting that law, should not be cause for yet another law and financial and bureaucratic burden on business to be enacted.

Frankly, several of the more financially successful among my members, - higher priced cleaners who can afford and do currently have paid time off policies in place that meet or exceed the requirements of this proposal, can't understand why I'm here today in opposition. Some believe these struggling cleaners are the ones who keep prices artificially low, and that this measure will help to cull the herd and force them out of business. But there are also those members with generous Paid Time Off policies in place who remember their own early days of struggling and compromise or their days as a worker in danger of losing their job during tough times— and they, along with the effected cleaner, want us to oppose this measure.

They want us to oppose it because they recognize the harm it will do.

The number of workers who will lose their jobs because an employer has been 'carrying' them out of compassion, an emotion that the employer will no longer be allowed to sway him

The number of workers whose hours will be cut as owners are forced to operate leaner.

The number of record keeping challenged cleaners who will be paying fines they can ill afford at John Street because of paperwork snafus.

The increased number of hours an employer will have to give to their business without recompense or reward in order to keep those records and avoid fines.

The number of consumers who will be put at risk because a cleaner cut their cost by dropping bailee or other insurance coverage.

These cleaners cannot personally afford to cover this new cost. He is afraid to raise his prices to off set it. Where will the money come from? Cost cutting is his only answer if he wants to stay in business in the city, and after 5 years of belt tightening the opportunities for cost cutting will mostly be found in payroll and the employees you are looking to protect are the very ones who will suffer the most.

The other option will be to move the production facility out of the City and maintain a small-staffed drop store here. The City has already lost a host of production jobs because of other similar legislative and regulatory initiatives. Sadly, three of the area's biggest dry cleaning operations began with production facilities in the City, but today, they operate outside the five boroughs, with drop stores and delivery trucks serving their NYC clientele. Don't add to that exodus.

Now is not the time to enact INT 97-A in its current form. 40 hours is an unfair benefit for part time workers as opposed to full time workers. The right to ask for medical back up from day one needs to be addressed. 120 days is an excessively short time frame to access time earned. 5 employees is too small a staff to warrant being subject to this proposal. And these are just a few problems that exist in the current proposal.

While well intentioned, INT 97 A is not ready to be adopted as part of our City's code. We urge you to reconsider the measure as currently proposed.



**NEW YORK  
PAID LEAVE COALITION**

Testimony of the New York Paid Leave Coalition

Before the New York City Council Committee on Civil Service and Labor

Hearing on Intro 97-A 2012: A Local Law to amend the administrative code of the city of New York in relation to the provision of paid sick time earned by employees.

March 22, 2013

Good Afternoon. My name is Donna Dolan. I chair the New York Paid Leave Coalition which is part of the Family Values at Work Multi- State Consortium- 20 states working together on paid sick time, family leave insurance/paid family leave and workplace flexibility. Earned Paid Sick Time Laws have been passed by coalitions in San Francisco, Washington DC, Connecticut, Seattle, and Portland and Philadelphia and there are bills pending in many other jurisdictions. There is tremendous momentum for earned sick time across the country with elected officials passing bills to establish this basic minimum workplace standard, that is good for both small businesses and workers and their families.

We are here today to urge you to make New York City the sixth city in the nation to pass earned paid sick time. The New York City Paid Sick Days Coalition kicked off back in March 2009 with 20 organizations signed on in support of earned paid sick time. The Paid Sick Time Bill was first introduced in August 2009. Since then we have had tremendous interest in paid sick days and our coalition has grown to over 600 organizations and individuals. New York City Paid Sick Days Campaign Supporters include Women, Labor, Public Health, Economic Justice, Small Businesses and Business Associations, Faith-Based, LGBT and HIV/AIDS, Senior Advocacy, Immigrants Rights, Civil Rights, Research, Economists, Educators and Children's Advocates.

As you have been made aware by the speakers in favor of this bill, there are 1.2 million workers in this city without paid sick time. They are forced to agonize when they or their child gets sick- do I stay home to recover from my own illness or to be with my sick child and lose a day's pay or worse yet, get fired, or go to work sick spreading my germs on the subway and at my workplace. In the case of their child, do they send them to school, where they will infect their classmates, teacher and the school nurse? Because employers in this city have fired so many workers who have gotten sick for even 1 day, workers chose to work sick so they won't place themselves in job jeopardy. You have heard the Doctors testify that delaying getting treatment for an illness is the worst thing workers could possibly do for their health, since they don't seek treatment until too late and in many cases damage their health. This past summer Felix Trinidad lost his life at age 34, because he did not get his stomach cancer diagnosed and treated as soon as he had symptoms. He was worried that if he took off to see a Doctor he would lose his job and not be able to support his wife and children.

So many workers have been fired or lost pay because they needed a few days off to recover from the flu or other illnesses. As elected representatives of the people of the city of New York you have a moral obligation to end this horrific treatment of the workers, who prepare and serve our food in restaurants, provide home care to Seniors, provide child care to our children, work in retail, and provide security in our buildings.

We urge you to do the right thing. Get this bill to the floor and pass it. These workers have been waiting for your action since August 2009 and after three and a half years they have waited long enough. Passage of the Paid Sick Time Act will not only help businesses by reducing turn-over but will put more money in the pockets of workers, thereby giving the economy a boost. The Paid Sick Time Act Deserves a VOTE NOW.

Thank you for your consideration.

Donna Dolan

My name is Tyi Jones. I live in Brooklyn and I'm a member of the Retail Action Project. I have worked in retail for several years and I have never had a paid sick day. When I've sick, I've always been forced to go to work sick or find someone to replace me. My last job was at American Apparel, where I was shocked to learn we have no paid sick days. I always went in sick ... no matter how awful I felt. Clearly, since I worked while sick, it took me longer to get better. Companies that don't provide paid sick days not only put workers at risk for getting more sick but this also affects customers that can easily catch our germs.

We desperately need paid sick days in New York City. Retail workers are counting on the leadership of the New York City Council to grant us just a few days of paid sick time a year.

March 22, 2013

**TESTIMONY TO THE NEW YORK CITY COUNCIL IN SUPPORT OF  
Earned Sick Time Act**

My name is Ronald Regins and I am a Community Member Advocate who works for under-served people living with AIDS (PLWA) in the boroughs of Brooklyn, Manhattan and the Bronx. I also participate in many Community Based Organizations as a volunteer and event organizer.

One fulfilling community group I participate in is the Action Center at GMHC. It is the "gold standard" of programs for those who are infected and affected by HIV and AIDS. In the Action Center, which is overseen by GMHC's Public Policy Department, I have been introduced to the processes of city government and its legislative processes and protocols. Being involved in actions on behalf of PLWA has been liberating, educational and cathartic. The altruistic approach of fighting injustice, regardless of demographic or socio-economic status, has been most rewarding.

This brings me to the issue of sick pay for all workers. A former action member introduced us to many of these voiceless and faceless men and women who struggle daily with providing for their individual families on limited incomes and medical coverage. I have witnessed the realities of this horror when I spoke with a man who was fired from his job as a deli worker for taking a day off from work so he could see a doctor. Mind you, this was after his boss gave him verbal consent to do so.

As a man who lives with HIV and AIDS daily, and has survived over two decades through compliance and adherence to my prescriptions and doctor's care, my health and wellness is a priority. Many of these disenfranchised workers have jobs that put them directly in the face of people like me, exposing us and everyone else to all types of cross contamination. Something as simple as a cold left unattended exposes the public, and the worker's family, to sickness and disease.

I feel that it is morally wrong for someone to be confronted with the dilemma of income and personal and public health each and every day. Childcare, medical care, dental care, inoculations and vaccines should not be relegated to an afterthought, neither should the decision to work or lose the opportunity to work.

With profound regret, I watch as this injustice is ignored and I vow to not to rest until this matter is amicably resolved. As a member of the Action Center and humanity, I will represent and support any and everyone who is not afforded this moral right.

Ron Regins / Community Member Advocate (Action Center GMHC)



**NOW - New York State, Inc.  
1500 Central Avenue  
Albany, New York 12205**

**518.452.3944**

**518.452.3861**

Good afternoon, I am Heidi Siegfried, Esq., Legislative Vice President for NOW- NYS. The National Organization for Women is a national organization with chapters in each of the 50 states. NOW is an activist organization that seeks to effect change through lobbying, advocacy, education and protest. NOW-New York State (NOW-NYS) is the statewide Chapter of NOW in New York State. It is the largest women's political action organization in New York, representing over 40,000 women and men in 24 chapters. The chapter is dedicated to fighting for women's equality, and to improving the status of women in New York.

Paid sick days are an important economic issue for the women of New York. That is why NOW-NYS has long supported paid sick days legislation at both the State and City levels. For the more than 1 million New York City workers who lack paid sick days, this legislation is long overdue. Paid sick days are a human right, and the men and women of New York should no longer have to make the impossible choice between keeping their jobs and the income they need to pay their bills, and staying healthy or caring for sick children. We need work-family policies that will help our city thrive – we need paid sick days now.

Paid sick time is a public health issue. It reduces recovery time and decreases the likelihood of spreading illness to other members of the workforce and to the public. Paid sick time allows parents to provide personal care to their children. When parents don't have paid sick time, they are more than twice as likely to send a sick child to school or to daycare spreading illness, and five times as likely to report taking their child or family member to an emergency room because they were unable to take time off work during normal work hours.

In drafting the bill, the office of Prime Sponsor Manhattan Councilwoman Gale Brewer, listened to many different communities, including the business community, and it has been amended to address some of the concerns that have been raised. The bill is cosponsored by 38 Councilmembers, a supermajority. New York City should join its sister cities – San Francisco, Washington, D.C., Milwaukee, Philadelphia, Seattle, and now Portland in passing this important legislation. It is time to bring it to a vote. NOW-NYS calls upon Speaker Quinn to allow a vote on this bill.

Planned Parenthood of New York City

**\*\*\*OFFICIAL STATEMENT\*\*\***

**March 22<sup>nd</sup>, 2013**

**PLANNED PARENTHOOD OF NEW YORK CITY SUPPORTS PAID SICK DAYS**

Planned Parenthood of New York City urges the New York City Council to ensure that all New Yorkers have access to paid sick days.

As a leading reproductive health care provider in New York City, we know all too well the realities faced by uninsured and underinsured New Yorkers. Our doors are open to everyone regardless of their immigration status, gender, or ability to pay. We see our clients make difficult decisions about how to best manage resources to care for themselves and their families every single day. Paid sick days will provide some of the hardest working New Yorkers with a sense of security during these times of economic uncertainty. It will mean so much to so many.

The New Yorkers who currently lack paid sick days resemble our clients – young women, working mothers, and low income New Yorkers. We know that paid sick days are especially critical for single working mothers, a group of New Yorkers who face impossible choices between taking home a full paycheck and caring for themselves and their children. Access to paid sick days would prevent a woman from having to decide between her health and her livelihood.

As a healthcare provider, we recognize the intersection of economic security and reproductive health. Access to the time-sensitive services that we provide, for example, should not be forsaken out of fear of retaliation from an employer or result in lost wages.

###

Since 1916, Planned Parenthood of New York City (PPNYC) has been an advocate for and provider of reproductive health services and education for New Yorkers. Serving more than 50,000 clients annually, PPNYC's health care centers in Manhattan, Brooklyn, the Bronx and Staten Island offer reproductive health services, including gynecological care, life-saving cancer screenings, male reproductive health services, contraception, pregnancy testing, abortion, testing and treatment for sexually transmitted infections, and HIV testing and counseling. Through a threefold mission of clinical services, education, and advocacy, PPNYC is bringing better health and more fulfilling lives to each new generation of New Yorkers. As a voice for sexual and reproductive health equity, PPNYC supports legislation and policies to ensure that all New Yorkers—and, in fact, people around the world—will have access to the full range of reproductive health care services and information.

# American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™



TO: Speaker Quinn and the City Council

March 22, 2013

Susan Vierczhalek, MD, FAAP  
American Academy of Pediatrics NY Chapter 3  
NYC Breastfeeding Leadership Council

Paid sick leave is an important pediatric policy issue because it serves to strengthen families and ensures access to timely health care for children. Lack of paid sick leave disproportionately impacts disadvantaged economic, racial and ethnic groups and increases health disparities.

In my work as a pediatrician and newborn nursery director at Bellevue Hospital and Associate Professor of Clinical Pediatrics at NYU I care for many needy children from low-income families whose parents struggle to provide for their families. I see the impact of lack of paid sick leave on families everyday.

Without paid sick leave:

- Parents are often unable to take time off from work for regular pediatric visits resulting in missed immunizations and preventive care
- Children who get delayed care are often sicker when they finally do see a doctor
- Children are frequently taken to emergency rooms late at night because it is the only time parents can bring them for medical care
- Chronic problems like asthma, attention deficit disorder, obesity, autism, cerebral palsy become worse because of inconsistent management
- Kids are being sent to school when ill because parents are not able to miss work and finding emergency childcare is financially and logistically impossible
- Health care costs increase when neglected problems become more complex and care is provided sporadically
- Hospitalization of a sick child often devastates families financially as they struggle to support the hospitalized child and care for the rest of the family
- The scientific evidence on the importance of breastfeeding is rock solid. Breastfeeding is now regarded as an important public health measure rather than a lifestyle choice, because of its potential to improve the health of women and children. New mothers often do not initiate breastfeeding or breastfeed for very short duration because they must return to work very soon after giving birth. This deprives many women and children of the health benefits of breastfeeding and ultimately results in higher health care expenditures. The CDC, OWH, HHS, NYCDOHMH and NYSDOH have all undertaken major initiatives to address this. Research demonstrates great disparities in breastfeeding success based on economic status. It also shows that when efforts are made to support low-income mothers, these disparities are reduced.

# American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™



The lack of paid sick leave for New York 's working parents is an important public health issue with wide ranging consequences for families and children. Implementing a paid sick leave policy would help ease the burden of choosing between a paycheck and their family's health for many. It would help make caring for their children easier for working parents and help make breastfeeding easier for new mothers. It would contribute to lower medical care expenditures.

A paid sick leave policy might go a long way in helping to reduce some health disparities. A family leave insurance program would go even further in addressing health disparities, providing paid family leave and strengthening families in New York.

We applaud the Council in considering this bill and urge Speaker Quinn to bring it to a vote as soon as possible.

This is an important public health issue that weighs most heavily on socioeconomically disadvantaged families. Please remember our most vulnerable citizens, the children, as you consider this bill.

Testimony of Robert Bookman, Counsel, NYC Hospitality Alliance  
Intro 97-A. March 22, 2013

The New York City Hospitality Alliance “The Alliance” is a broad-based membership association founded in 2012 to foster the growth and vitality of the industry that has made New York City the Hospitality Capital of the World. It is the first association ever formed in New York City representing all facets of this diverse industry: restaurants, bars, lounges, destination hotels and major industry suppliers.

Advocating on behalf of our members at all levels of government, The Alliance supports pro-growth public policy, encourages investment in and promotion of NYC’s hospitality industry, and evaluates the development, implementation and fairness of relevant government regulations.

A recent piece in Crain’s New York as well as an Op-Ed from your very own Councilman Jim Gennaro, really says it all. So I have attached both articles to my testimony. Let me just read from a few highlights.:

In summary, there are limits to the powers of local governments. NYC has no agency capable of handling this new massive mandate. And no legal infrastructure to enforce it. It may be a nice idea, but the adults in the room need to acknowledge that it will be a disaster to expand the powers of the Health Dept, of all agencies, in this way. You think you get a lot of complaints about their inspections and hearings now, just wait until every business in the City is under their jurisdiction.

And in San Francisco, a City that has less people than NYC has businesses, Federal data clearly shows that the paid sick leave ordinance

hurt employment in San Francisco. From 2006-10, quick service restaurant employment, a sector that did not have paid sick leave for the most part before the law in San Francisco declined 7.8%, while the five surrounding counties without paid sick leave saw their quick service employment gain 2.5%. . Overall employment in this sector declined by 1,300 jobs, which hires lots of low skilled workers, while overall employment added 2,300 jobs.

This is an issue that calls for Federal or State action, not a different mandate for White Plains from Whitestone, for Cortland from Canarsie, from dozens of localities around the State from NYC. Lets put this bill aside and work together in Albany where there is the Dept of Labor, there is the authority to pass a fair law, with contributions from workers and employers administered by the State, without placing more expenses on NYC businesses as compared to similar business in the State.



# New sick-leave bill is the worst yet

By JAMES F. GENNARO

*Last Updated:* 11:34 PM, March 21, 2013

*Posted:* 10:51 PM, March 21, 2013

For three years now, proponents of a paid-sick-leave bill have pressed for a one-sided mandate on already overburdened business owners. More recently, they've touted amendments that they say address the concerns of business interests still struggling after the longest and deepest economic downturn in recent memory.

In fact, this latest amended version of the bill is the worst — by far.

Rather than making this costly bill more accommodating to businesses, the proponents have offered complicated conditions, large penalties and a smothering expansion of Health Department powers.

I believe the laudable intent of the bill's sponsors has been crystallized into legislation that takes the wrong approach at the wrong time. I applaud Speaker Christine Quinn and other council colleagues of mine for recognizing this and salute their resolute posture in the face of withering, yet misguided, criticism.

New York City doesn't have a Labor Department, which is why such legislation should be discussed at the state level. But proponents are trying to fit a square peg into a round hole by granting the Health Department unprecedented legal powers over every business in the city.

Fines range from \$1,000 for a first violation to \$2,000 for a second, plus a possible determination of "bad moral character." Other fines range up to \$5,000 — a huge sum for most small-business owners.

This enforcement mechanism is even more burdensome than the original scheme, thereby making the latest version of the bill even more problematic than earlier ones.

Further, the current bill is a litigator's dream, as it also provides an 18-month private

right of action for any claim against an employer — a provision sure to result in an explosion of nuisance lawsuits.

This bill can also interfere with existing leave policies that might even be more generous if they are earned or used in different ways or for reasons other than what is called for in the legislation, notwithstanding the assertions by the bill's backers that existing policies won't be impacted. As a result, many companies may choose to change or scale back their current leave policies to comply with the new law.

If the point is to cover the employees who now lack paid sick leave of any kind, then the bill clearly overreaches by forcing changes in existing leave policies, even if they are so-called "bucket policies" that comprise vacation, personal and paid-sick-leave days.

This bill — unlike such other safety-net programs as unemployment insurance, Social Security and worker's compensation — places the entire cost on the employer. There is no employee contribution and no insurance plan that the employer can pay into to reduce the significant costs of this new mandate. For smaller businesses operating on thin margins, these new costs can be difficult if not impossible to absorb, even if they would like to provide these benefits.

This will force a few options: Freeze hiring, or even do layoffs, at time of high unemployment; raise prices on goods or cut other employee benefits — all significant, negative unintended consequences.

The comparison between existing paid-sick-leave laws in Connecticut and Washington, DC, further illustrates why this bill is the wrong approach. First, each has a Labor Department to enforce and monitor its legislation. And Connecticut's law covers only employers with 50 or more employees, while DC exempts seven categories of workers, and even provides for a financial-hardship exemption.

This bill kicks in if you have just *five* employees. Even employees of businesses exempt from the bill are still entitled to five unpaid sick days, which would force businesses to record and monitor the employee's time, find a replacement worker and be subject to the Health Department's purview.

So while I support the laudatory intentions behind this measure, it still is the wrong time and the wrong bill.

*James F. Gennaro (D-Fresh Meadows) has served on the City Council since 2002.*

# Meet the sick-days police

Gulp: The city's Department of Health would audit businesses.

**Crain's Published:** March 18, 2013

You may have heard something in the news last week about a modest initiative from the New York City Department of Health that called for limiting sales of sugary drinks to 16-ounce portions. Well, guess which city agency would be responsible for enforcing the City Council's proposed paid-sick-days law? That's right: the DOH, which under the latest rewrite of the sick-days legislation is given incredible policing powers over any city business with five or more employees.

Family shop or Fortune 500 HQ, it matters not: The bureaucrats who brought you the beverage ban would have the power to subpoena and examine your employment records. Has anyone outside a union hall actually read this law? Better take a big gulp. DOH investigators can show up at your store or office demanding a compliance audit with no more evidence than a claim of wrongdoing by a kvetcher whose identity you may never learn. Woe to the business that does not have three years' worth of paperwork documenting the hours worked and sick time accrued and taken by each employee—full-time, part-time or even seasonal. Under this law, failure to maintain proper records is presumed to be evidence of a violation. First violation: \$1,000. A second violation within the next five years: at least \$2,000.

Been incorporated as a business here for all of 12 months? Congratulations. You must now comply. Multilingual written notice must be given to all employees and similarly worded posters displayed. Personnel manuals and orientation materials must reflect the many provisions of the new law, which include rules governing the swapping of shifts to cover for last-minute employee absences and the accumulation of unused paid sick days into future years.

Interestingly, the sick employee must provide little beyond his or her word. An employer may not demand a physician's note until the third day out. Even then, the note need not specify the nature of an employee's or family member's claimed illness or condition. Naturally, the employer cannot withhold pay or deny the sick days if the worker fails to produce even such minimal documentation.

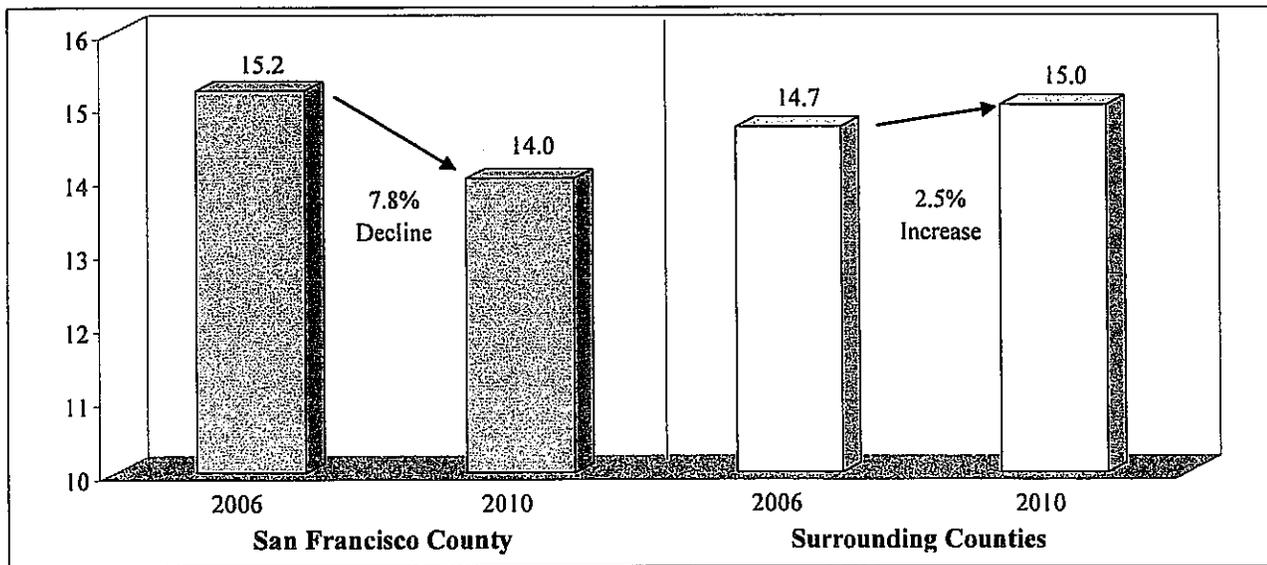
A fired employee who persuades a DOH-approved tribunal that he or she was wronged by the employer who dared dismiss a ne'er-do-well for abusing the newly prescribed right to call in sick five times a year without a moment's warning, well, he or she can be awarded at least \$5,000 and other relief—"including reinstatement and promotion."

All this in the name of DOH "protecting and improving public health." No council member or candidate for high office in this city who claims to care about businesses and the jobs they create can want passage of this bill as written.

### Restaurant Employment Impact of San Francisco's Paid Sick Leave Mandate

- Effective February 5, 2007, San Francisco's paid sick leave ordinance required employers to allow their employees to earn one hour of paid sick leave for every 30 hours worked. Employees in small businesses (fewer than 10 employees) can accrue a maximum of 40 hours of paid sick leave, while employees in larger businesses (10 or more employees) can accrue a maximum of 72 hours.
- In the National Restaurant Association's March 2012 nationwide survey of 600 restaurant operators, 55 percent of respondents said they would reduce the number of employees in their business as a result of a paid sick leave mandate, while 24 percent said they would add labor-saving equipment. These actions are typically more likely to occur in the quickservice segment, where there are more options to substitute technology for labor, as compared to the fullservice segment.
- Indeed, these anticipated actions on the national level were illustrated by the actual experiences in San Francisco's quickservice restaurant segment following the imposition of the paid sick leave ordinance.
- According to data from the Bureau of Labor Statistics, quickservice restaurants in San Francisco employed an average of 15.2 workers per establishment in 2006, the year before the paid sick leave ordinance went into effect. By 2010 (most recent data available), quickservice restaurants employed only 14.0 workers per establishment, a decline of 7.8 percent.
- In comparison, quickservice restaurants in the five counties surrounding San Francisco employed 15.0 workers per establishment in 2010, up 2.5 percent from an average of 14.7 workers in 2006.
- The net result was a decline of 1,300 quickservice employees in San Francisco between 2006 and 2010. During the same four-year period, San Francisco's overall private sector added 2,300 jobs.

**Average Number of Employees Per Quickservice Restaurant  
San Francisco County versus Five Surrounding Counties\***



Source: National Restaurant Association analysis of Bureau of Labor Statistics data: QCEW Program ([www.bls.gov/cew/](http://www.bls.gov/cew/))

\*Surrounding counties include Alameda, Contra Costa, Marin, San Mateo and Santa Clara

# FOR THE RECORD

## Testimony Before the New York City Council Committee on Civil Service and Labor in favor of the Earned Paid Sick Time Act, Int. 97A

Submitted by Margee Weiss,

March 22, 2013

My name is Margee Weiss and my company does the bookkeeping for small businesses and not for profits. I appreciate the opportunity to submit testimony on the ease with which businesses will be able to comply with the paid sick time law as currently introduced in the New York City Council.

My company has worked with many small businesses and non-profits providing bookkeeping services. I understand that under the Earned Paid Sick Time Act, hourly workers earn an hour of paid sick time for every 30 hours worked up to a total of 40 hours per year. For exempt salaried workers the assumption is that they work 40 hours per week. The only "bookkeeping" function, therefore, with respect to keeping track of paid sick time under this statute is keeping track of how much sick time is earned and how much is taken. As a bookkeeper with considerable experience, I cannot imagine how this could be a problem. Anyone doing payroll must keep track of hours worked so figuring out the amount of sick time accrued will not involve any more than is already done. And keeping track of when a worker is out should also not be a problem. That is tracking that anyone doing payroll already does. Under the new law, the worker will be paid for being absent for sick leave reasons and the amount of time taken will be subtracted from his "bank." This is not an hard thing to do. My understanding, further, is that both payroll companies and bookkeeping software that some small businesses purchase can easily keep track of all of both accrual and use if the proper information is input.

I have been told that the proposed law contains a provision that specifically states that businesses do not need to change their bookkeeping methods to comply with the law. Since normal payroll practices will easily support keeping track of accruals

and use, there will be no need to change bookkeeping practices and businesses using their normal practices will easily comply with the recordkeeping requirements of the law.

In sum, based on my experience, it is hard to imagine how the paid sick time act would be an administrative problem for any business.



**Brooklyn Chamber  
of Commerce**



The Staten Island Chamber of Commerce

### **5 Boro Chamber of Commerce Testimony**

INT 0097-A Hearing March 22, 2013

Submitted by:

Lenny Caro, Bronx Chamber of Commerce, Linda Baran, Staten Island Chamber of Commerce, Carlo Scissura, Brooklyn Chamber of Commerce, Jack Friedman, Queens Chamber of Commerce & Nancy Ploeger, Manhattan Chamber of Commerce

On behalf of the 5 Borough Chambers of Commerce and the 5000+ businesses we represent, I would like voice our strong opposition to Intro 97-A.

A Paid Sick Leave Mandate is not healthy for NYC Small Businesses. Many of the most affected small businesses are not hear today for they are running their businesses and are also hesitant to testify for fear of retaliation (which has happened when several spoke out over the past year). So we are here representing their voices.

In a survey conducted by Thumbtack.com (in partnership with the Kaufman Foundation) NYC's overall grade for its friendliness to small business was a D+, ranking it among the least friendly cities nationwide in 2012 because of its tax code and burdensome regulations.

You will hear today from many organizations representing business industries and from small businesses themselves about many of the onerous details in this bill which will be costly and require additional time-consuming paperwork. Although the proponents believe this version of the bill is a better version, lightening the load for small businesses, it is not - and in fact, affects all businesses, large or small with regard to the reporting structure, private right of action and the inability to claim a hardship exemption.

Access to paid sick leave varies by size of the firm, with larger firms more financially able to support providing benefit. In companies with more than 500 employees, 88% of the workers have paid sick leave. But for businesses with less than 50 employees, that drops to 62%. And these small businesses are much more vulnerable than their larger counterparts. Between 2007 and 2010 the national economy lost 288,000 small businesses with less than 50 employees. Over the same period it gained 175,000 businesses with more than 50 employees.

The "death rate" of small businesses over the last 4 years is 30.8%. That means that approximately three out of every ten businesses are not surviving. And the NFIB reports that small businesses are still in recessionary stages today, leaving them in a vulnerable financial state. And now, faced with minimum wage increases and who-knows-what costs for the new Affordable Care Act, you want to add even more costs?

Mandated benefits like Intro 97-A affect small businesses disproportionately. They do not have the infrastructure to support such measures from time consuming reporting regulations to the financial capacity to comply. Small businesses don't have their own Human Resources Departments and they certainly don't have attorney's on retainer. Even the CT bill exempts small businesses with less than 50 employees, understanding the burdens. And even the Affordable Care Act exempts businesses with less than 50 employees from penalties.

And the ability to manage a business with workers out is dramatically different for a small business vs. a larger business. In a 10 person small business, if one worker is out that means they are operating with 10% of their workforce missing. The chance in a business of 100 employees that 10% of your workforce is out is statistically close to 0.

We ask why those who have proposed this have not considered it as other "rights" issues are, as a shared cost? There are no proposed shared costs or tax credits-nothing to defray the significant added costs of doing business this mandate represents.

One of the most flawed aspects of this bill is that the Health Department will have full authority as the enforcement agency. What does the city's Department of Health have to do with regulating labor issues? This is a department who many of the council members claim is over regulating and charging exorbitant fines on restaurants to the tune of \$52 million in 2012.

Businesses will be subject to audits, inspections, and on-site investigations by the Health Department. Small Businesses will be saddled with onerous compliance and expensive lawsuits

And this bill has costly penalties that can be levied for up to \$5,000 and even gives the Department of Health the ability to reinstate an employee who was let go. Should anyone be able to force a small business owner to rehire anyone for any reason? What type of atmosphere does that then create in that company? NYC does not have a Department of Labor – only the state has this department which has jurisdiction over all businesses in the state. Should this paid sick leave not then be a State issue?

In this economy, hourly wages are not going up but they rarely go down. Small businesses are trying harder and harder not to let people go and keep wages and benefits in place. Faced with new costs, however, businesses do not typically raise wages and if they do, they do so at a much slower pace.

And we cannot overlook the fact that in NYC, thousands of businesses impacted by Sandy continue to struggle. Many are unable to afford to reopen. Where did those jobs go? NYC's unemployment is at 8.8%. How many more jobs do we want to lose by putting these burdens on the backs of the job creators?

The council recently passed a bill to help businesses hurt by sandy. The speaker rightly said at the time "Helping small businesses reopen after Hurricane Sandy is a win for small business owners, consumers and the economy. These small businesses form the backbone of our communities so the sooner we get them back to work, the sooner the city can fully recover from the impact of Sandy and continue to build our economy."

Council Member Diana Reyna, Chair of the Committee on Small Business also said "The waiver of City fees for recovering small businesses is simply a matter of good, responsible governance," said. "I hope that City Council, in conjunction with Mayor Bloomberg, can continue to identify ways to alleviate the burdens faced by hurricane-impacted small businesses."

So we appreciate that the Council realizes the struggles and the support needed to help these businesses. With this proposed bill, however, a new burden would be added to these very same businesses we all agree we need to help recover.

This bill does in truth not support employees whose very jobs and benefits will be affected by the poor health of a business whose burdens in this city are overwhelming and who cannot afford to comply. Nor does it support employers who are providing the very jobs we all want to protect and grow by placing this financial burden directly on their shoulders.

A recent Crain's article titled "Meet the Sick Day Police" says it right – "No council member or candidate for high office in the city who claims to care about business and the jobs they create can want passage of this bill as written!"

We urge you to listen to what will be presented to you today by the business community and reject this proposal.

**Statement before the New York City Council  
Committee on Civil Service and Labor**

*Concerning Proposed Int. No. 97-A*

*A Local Law to amend the administrative code of the city of New York, in relation to the provision of sick time earned by employees.*

**James R. Copland**  
*Director and Senior Fellow, Center for Legal Policy,  
Manhattan Institute for Policy Research*

**March 22, 2013**

*The views expressed here are the author's alone and do not necessarily reflect the views of the  
Manhattan Institute for Policy Research.*

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Speaker Quinn, Chairman Nelson, and members of the Council and Committee, I would like to thank you for the invitation to speak to you today on Proposed Int. No-97A, the Earned Sick Time Act.

### ***Personal Statement***

Since 2003, I have directed the Center for Legal Policy at the Manhattan Institute for Policy Research. The Center for Legal Policy seeks to develop and communicate thoughtful ideas on how to improve the civil and criminal justice system.

I have authored numerous studies on how civil and criminal law affects businesses, and I have previously testified before Congress on litigation, legal enforcement, and capital markets. Before joining the Manhattan Institute, I served as a consultant for McKinsey and Company in its New York office and clerked on the U.S. Court of Appeals for the Second Circuit. I studied economics and political economy at the University of North Carolina and the London School of Economics, and I have JD and MBA degrees from Yale.

Beyond the Center for Legal Policy's work, the Manhattan Institute has long concerned itself with the economic vitality of the city in which it is housed, and my statement today draws from the work of colleagues at the Institute's Center for State and Local Leadership and Empire Center for New York State Policy, as well as the Institute's *City Journal* magazine. Nevertheless, I want to emphasize that my comments today reflect my own views and do not necessarily reflect the views of any of my colleagues or of the Manhattan Institute for Policy Research.

### ***Summary of Analysis***

The Earned Sick Time Act is well-intentioned but ill-advised legislation. The need for the proposed local law is minimal, given the prevalence of paid-leave policies at most City employers. The costs of this legislation would be real, particularly given the City's already-strained labor markets and other recent local laws likely to increase hiring costs and hurt economic growth. The enforcement of the proposed rules is problematic, given the institutional limitations of the City's Department of Health and the costliness, waste, and distortions inherent in private rights of action that would be created by the legislation.

### *The Absence of Need for the Proposed Legislation*

An analysis performed by Ernst and Young for the Partnership of New York City, based on a survey of 708 large and small businesses employing 13 percent of the City's private-sector workforce, found that *fully 88 percent* of New York City's private-sector workers have access to paid-leave policies that can be used in case of illness.<sup>1</sup> The study further found that businesses offering paid leave typically offered substantially more time than that included in the Earned Sick Time Act—on average, 8.7 days for large businesses and 7.1 days for small businesses—and small businesses in every industrial sector that offered paid leave gave workers at least five days of such leave.<sup>2</sup>

Businesses not offering paid leave, according to the Ernst and Young-Partnership study, tended to be small (only 70 percent of small businesses offered paid leave, and only 62 specific paid sick leave) and fell disproportionately in certain economic sectors, such as construction, hospitality, retail, and certain educational organizations.<sup>3</sup> That small businesses would be less likely to offer paid leave makes sense: such businesses lack sufficient scale to easily shift workers to cover missing employees or locate replacement workers, and in many cases the absence of a single employee can lead to the curtailment of operations and decreased daily sales. For construction businesses—by far the least likely to offer paid leave (52 percent)—missing employees can lead to project delays; such businesses typically hire replacement day-laborers on an hourly basis, such that it would make little sense to pay absent employees for the missed time—and these businesses are heavily unionized and policies are generally specified in collective bargaining agreements. Many retail and restaurant jobs do not lend themselves readily to “paid sick leave” policies because actual wage scales—short of commissions or tips—are very low; workers in such jobs would typically prefer to exchange shifts with colleagues as opposed to being paid wages falling far short of full expected compensation.

In short, businesses in New York City already overwhelmingly offer paid leave policies beyond those proposed in this legislation. Those that do not are constrained by size or sector from doing so in a cost-effective manner.<sup>4</sup>

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<sup>1</sup> See PARTNERSHIP FOR NEW YORK CITY, IMPACT OF PAID SICK LEAVE ON NYC EMPLOYERS: A SURVEY OF NEW YORK CITY EMPLOYERS 2–3 (September 2010), available at <http://www.pfnyc.org/reports/2010-Paid-Sick-Leave.pdf> [hereinafter “Partnership”].

<sup>2</sup> See *id.* at 3.

<sup>3</sup> See *id.*

<sup>4</sup> I also note that serious medical conditions are guaranteed long-term *unpaid* leave under federal law. See generally Family Medical Leave Act of 1993, Pub. L. 103–3, 29 U.S.C. § 2601.

### ***The Direct Costs of the Proposed Legislation***

Ernst and Young estimated that an earlier version of this legislation would have direct payroll costs of \$789 million annually, equivalent to an 0.30 percent increase in private labor costs citywide.<sup>5</sup> Fully 60 percent of these costs would fall on businesses with existing paid-leave policies, and 20 percent of the costs would fall on small businesses.<sup>6</sup> Certain sectors would face significantly higher burdens, such as construction and utilities, facing the equivalent of \$0.48 and \$0.35 in hourly labor costs, respectively.<sup>7</sup>

The Council should realize that such economic costs would not simply punish business owners. Effective increases in *employee benefits* in the form of paid sick leave without concomitant productivity improvements would lead employers, when possible, to reduce other employee compensation in kind—depressing salaries or other benefits including health-care and pension costs. When such compensation compression is not possible, due to collective bargaining agreements or “sticky” employment contracts and arrangements, costs would typically be passed along to consumers, both directly (through higher prices) and indirectly (through reduced supply of goods and services—which would also, of course, reduce labor demand and employment).

### ***The Enforcement Difficulties and Indirect Costs of the Proposed Legislation***

The aforementioned direct costs of the Earned Sick Time Act, significant as they are, understate the problems with and costs of the proposed legislation. Primary enforcement authority in the legislation is vested with the City’s Department of Health, which would seem poorly equipped to assess workplace leave policies. The legislation as written gives departmental regulators sweeping powers—including subpoena powers, audit powers, and the authority to conduct on-site investigations<sup>8</sup>—based solely on employees’ confidential complaints.

At least as troubling is the legislation’s creation of a private right of action to permit the filing of lawsuits “for compensatory damages, injunctive and declaratory relief, attorney’s fees and costs, and such other relief as such court deems appropriate.”<sup>9</sup> While such private enforcement might be intended as a useful adjunct to facilitate compliance—understandable in light of the Department of Health’s lack of institutional competence to enforce the legislation—in practice the private-enforcement provision would tend to permit attorneys to file extortionate “shakedown” lawsuits.

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<sup>5</sup> See Partnership, *supra* note 1, at 6.

<sup>6</sup> See *id.* at 6–7.

<sup>7</sup> See *id.* at 12.

<sup>8</sup> See § 17-1514(b).

<sup>9</sup> § 17-1514(j).

The history of wage-and-hour and rest-break litigation in California, and under federal law, is instructive. In 2004, California passed the Labor Code Private Attorneys General Act,<sup>10</sup> which permitted lawsuits against employers for violating the state's labor code. After the legislation went into effect, a flurry of lawsuits quickly followed,<sup>11</sup> and the legislature quickly amended the provision to exempt notice-posting requirements and require employees to notify the state and their employers before filing suit<sup>12</sup>—limitations notably missing from the Earned Sick Time Act. Notwithstanding these changes, California nevertheless experienced a “wage and hour class action epidemic,” driven by “multimillion dollar settlements.”<sup>13</sup> Such claims, over time, have morphed into joint state-federal class action claims invoking the federal Fair Labor Standards Act;<sup>14</sup> overall, such federal court actions have increased 400 percent since 2000.<sup>15</sup>

It is important to note that such litigation is profitable for plaintiffs' attorneys *even if meritless*. The high costs of discovery and legal representation in U.S. litigation—coupled with the absence of fee recovery after a successful litigation defense (a feature of the American legal system notably different from the rest of the developed world<sup>16</sup>)—makes small businesses highly susceptible to employment litigation, which has a settlement value well above expected recoveries. While large employers are able to fight back against such litigation by individual employees, they are potential targets for class action lawsuits filed by attorneys on behalf of multiple employees, which impose significant costs on businesses—and often do little to improve plaintiff class members' well-being, enriching only the lawyers involved in the

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<sup>10</sup> See Cal. S.B. No. 796 (filed Oct. 12, 2003), *codified at* CAL. LABOR CODE §§ 2698 *et seq.* (West 2005).

<sup>11</sup> See MANHATTAN INSTITUTE, TRIAL LAWYERS, INC.: CALIFORNIA (2005), *available at* <http://www.triallawyersinc.com/ca/ca04.html>.

<sup>12</sup> See Cal. S.B. 1809 (2004) (amending CAL. LABOR CODE §§ 98.6 and 2699 and repealing § 431); Dale Kasler, *Labor Law Was Budget Blocker: Compromise on 'Sue Your Boss' Provisions Is Meant to Ward Off Nuisance Complaints*, SACRAMENTO BEE, July 29, 2004, at D1; Michael A. Hood, *New Laws That Will Impact California Employers in 2005*, ORANGE COUNTY BUS. J., Dec. 6, 2004, at 26.

<sup>13</sup> See Sarah K. Maier, *California's Wage and Hour Class Action Epidemic: Updates and Solutions*, Dorsey & Whitney, Dec. 3, 2007, [http://www.martindale.com/legal-management/article\\_Dorsey-Whitney-LLP\\_338638.htm](http://www.martindale.com/legal-management/article_Dorsey-Whitney-LLP_338638.htm).

<sup>14</sup> See Kathy Robertson, *Wage-and-hour Lawsuits on the Rise*, SACRAMENTO BEE, July 23, 2012, *available at* <http://www.bizjournals.com/sacramento/blog/kathy-robertson/2012/07/wage-and-hour-lawsuits-on-the-rise.html>.

<sup>15</sup> See Jonathan A. Segal, *The New Workplace Revolution: Wage and Hour Lawsuits*, FORBES, May 29, 2012, *available at* <http://management.fortune.cnn.com/2012/05/29/the-new-workplace-revolution-wage-and-hour-lawsuits/>.

<sup>16</sup> See generally Marie Gryphon, *Greater Justice, Lower Cost: How a "Loser Pays" Rule Would Improve the American Legal System*, in Manhattan Inst. for Pol'y Res., Civ. Just. Rep. No. 11 (Dec. 2008), *available at* [http://www.manhattan-institute.org/html/cjr\\_11.htm](http://www.manhattan-institute.org/html/cjr_11.htm).

litigation.<sup>17</sup> And according to a study by New York's NERA Economic Consulting, litigation costs depress economic growth, much in the manner of taxation.<sup>18</sup>

### *Further Economic Considerations*

While the City has significantly recovered from the financial collapse of 2008—and for the first time in decade, by welcoming a net population inflow<sup>19</sup>--the City's economic performance continues to lag national trends, at least for the least fortunate of the City's residents. The City began 2013 with an unemployment rate over 9 percent, well above state and national levels.<sup>20</sup> Moreover, New York already faces a litigation climate among the worst in the nation: the state ranks 48th among the 50 states in commercial tort liability costs relative to the size of the state economy,<sup>21</sup> and the City disproportionately accounts for the state's poor performance, based on jury awards and the City government's own remarkably high tort bill.<sup>22</sup>

### *Conclusion*

In summary, there is little rationale for the Earned Sick Time Act, and its costs clearly outweigh its benefits. The direct cost of the legislation are sizable, its enforcement unwieldy, and the indirect costs of the legislation—including particularly the private right of action it creates—significant. New York's economy remains behind the rest of the country in generating jobs, and its litigation climate is among the nation's worst. The Council would be well-advised not to adopt the proposed legislation.

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<sup>17</sup> See generally Ted Frank, *Class Actions, Arbitration, and Consumer Rights: Why Concepcion Is a Pro-Consumer Decision*, in Manhattan Inst. for Pol'y Res., Civ. Just. Rep. No. 16 (Feb. 2013), available at [http://www.manhattan-institute.org/html/lpr\\_16.htm](http://www.manhattan-institute.org/html/lpr_16.htm).

<sup>18</sup> See NERA ECONOMIC CONSULTING, *CREATING CONDITIONS FOR ECONOMIC GROWTH: THE ROLE OF THE LEGAL ENVIRONMENT* 22, Oct. 26, 2011, available at [http://www.instituteforlegalreform.com/sites/default/files/Economic\\_Growth\\_Working\\_Paper\\_Oct2011\\_0.pdf](http://www.instituteforlegalreform.com/sites/default/files/Economic_Growth_Working_Paper_Oct2011_0.pdf).

<sup>19</sup> See *Population of New York reaches record 8.3 million*, Mar. 14, 2013, at <http://www.globalpost.com/dispatch/news/agencia-efe/130314/population-new-york-reaches-record-83-million>.

<sup>20</sup> See Patrick McGeehan, *City's Jobless Rate in January Hit 4-Month High*, N.Y. TIMES, Mar. 7, 2013, [http://www.nytimes.com/2013/03/08/nyregion/new-york-city-jobless-rate-hit-9-1-percent-in-january.html?\\_r=1&](http://www.nytimes.com/2013/03/08/nyregion/new-york-city-jobless-rate-hit-9-1-percent-in-january.html?_r=1&).

<sup>21</sup> See LAWRENCE J. MCQUILLAN, *AN EMPIRE DISASTER: WHY NEW YORK'S TORT SYSTEM IS BROKEN AND HOW TO FIX IT* 19 (Pacific Research Inst. 2010), available at <http://www.nylawsuitreform.org/wp-content/uploads/2011/06/PRI-AN-EMPIRE-DISASTER.pdf>.

<sup>22</sup> See *id.* at 17–18, 20.

National Supermarket Association's Statement  
Ref. Paid Sick Leave Bill Proposal  
New York City Council Hearing  
3-22-13

Thank you for the opportunity to share our position on the Paid Sick Leave legislation proposal. My name is Zulema Wiscovitch, I am the executive director of the National Supermarket Association, a non-profit trade association that represents the interests of independent supermarket owners. Most of our members are Hispanic entrepreneurs, many of them in the late 70s opened supermarkets in areas abandoned by the big chains. Our largest footprint is in NYC with more than 200 stores in the boroughs of The Bronx, Manhattan, Brooklyn and Queens.

We are very concerned with this proposed legislation, not so much because of the five paid sick days, but because of the enormous tracking and paperwork documenting hours worked and sick time accumulated and taken by each employee, that will be required to be in compliance. No matter if the employee is part, full time or seasonal. Our members are predominantly small supermarket operators, without a large back office infrastructure. Fines and penalties are way too high - \$1000 for 1<sup>st</sup> violation, \$2000 for a second and \$3000 for a third. Other jurisdictions have penalties ranging from just \$100-\$500.

In addition, penalties have implications beyond monetary ones. Violating the law is considered "evidence of bad moral character." Because numerous licenses under the Administrative Code require that an applicant be of "good moral character." One infraction under this law could potentially cause a business to lose or be unable to obtain a license. For one minor mistake-more often an honest mistake-a small business owner is deemed immoral?

And the private right of action will create costly litigation, which again, a small business cannot afford.

In addition, the documentation and notice requirements are meaningless. While this bill purports to allow employers to require documentation if an employee is absent more than 3 days, the bill effectively negates this by requiring an employer to provide paid sick time even if the documentation is not received or appropriate notice is not given. And with its retaliation provision, small business owners will not be able to legitimately discipline or fire bad employees because the provisions are so broad. And also this does not encourage professional or good behavior on the part of the employee.

Putting this oversight in the hands of the Dept. of Health & Mental Hygiene will have broad powers over businesses and is not the appropriate agency to administer this type of legislation. They do not have a good reputation amongst our business community and we are very skeptical of their ability to handle administering this

law without it becoming a bureaucratic nightmare. This is a labor issue better left to the federal or state Department of Labor to administer.

The legislation as it is written will have a seriously negative impact on part-time and seasonal jobs offered by the independent supermarkets, as these operators will not be able to afford paying sick days for people who are not full-time employees.

In addition to the administrative burdens, increased labor costs and the threats of exorbitant fines and lawsuits, this legislation would fall on these small businesses who cannot afford the bill's mandates. It applies to businesses with 5 or more employees while Connecticut's applies to 50 or more. Small businesses also face the new federal Affordable Care Act and the pending increase in the state minimum wage.

The independent supermarket owners confront many challenges, including increased competition by big box stores, pharmacies, and discount stores, just to name a few. These operators want to continue providing healthy foods to many underprivileged communities, but legislations like the "Paid Sick Leave" could hinder the ability of many supermarkets to survive all these pressures.

Along with other business associations, the NSA supports the idea of a "paid sick fund" made with shared contributions from the employers, employees and the government. We need a compromise.

We urge the council members to reconsider this bill, as it will have a seriously damaging effect on small business in the city, thus having a negative impact on the creation of jobs and the economy as a whole.

In closing, the National Supermarket Association opposes the bill as it is written. Thank you for your time and consideration.



SERVICE EMPLOYEES  
INTERNATIONAL UNION  
CTW, CLC

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**Western Pennsylvania District**  
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Good afternoon, my name is Jorge Ortiz and I'm a 32BJ member.

It is on behalf of the thousands of 32BJ members that I speak today in support of paid sick days for low-wage workers in NYC.

Too many hard-working men and women in NYC struggle to make ends meet and lack any paid sick days.

Without paid sick days, workers can be fired, demoted, or otherwise punished for taking time off. Workers deserve the right to recover from illnesses without being afraid of losing pay, or even worse, losing their jobs.

I have a friend who works on the food line at a fast food restaurant. She never calls in sick because she is afraid of losing her job, especially in this bad economy. She says that all the employees she works with feel the same way and come into work sick, sometimes infecting each other, the customers and contaminating the food. They know that they can be easily replaced, and calling in sick means they don't get paid and will make paying the bills that much harder.

Every day, workers just like my friend find themselves having to choose between taking care of their health or being able to provide for themselves and their families.

Workers depend on every cent of their income- it all counts. Too many workers live paycheck to paycheck and live in fear of losing their jobs if they call in sick.

It's time to pass Paid Sick Days and give all workers the benefits they deserve to take care of themselves, their families, their coworkers, and the public.

That's why 32BJ urges City Council Members to continue to stand up for low wage workers - so that they never again have to choose between seeking medical attention and losing a day's pay or worse, losing their jobs.



**Testimony IN SUPPORT of the New York City Council Intro 97-A, the  
Earned Sick Time Act.**

*Delivered by Dr. L. Toni Lewis, Physician Chair, SEIU Healthcare*

From a physician perspective, this is as open-and-shut a public health issue as you could imagine. You'll hear this from physicians in San Francisco and Washington DC, who have a couple years' experience with the implementation of their own Paid Sick Time laws. You'll hear this from physicians in Seattle, Portland, Connecticut, and Philadelphia who cheered on successful votes in their legislatures. You'll hear it today from me, who did my training right here in Queens.

The laws of New York City should be giving the same advice to our families and our workforce that I have given to my patients: if you're sick, you should stay home and take care of yourself. If you're really sick, you should come see a doctor.

That's it. End of story.

We've seen far, far too many patients wind up in the Emergency Room, the most expensive and least effective place to receive care, because they held off receiving the care they needed, turning a preventable or a manageable situation into a full blown catastrophe whose added costs affects all of us.

We've seen the single working mom in tears as she brought her 7 year-old daughter into the E.R. at 11:30 at night with a severe asthma attack because she couldn't switch her shift or take the day off to get her daughter the care she needed any earlier.

We've seen the patient with an autoimmune disorder for whom a "bug going around his workplace" escalated to be potentially life-threatening – but who felt trapped because he was living paycheck to paycheck.

Numbers-crunching by The Institute for Women's Policy Research supports these anecdotes. They found that 48,000 Emergency Room visits per year in New York City could be prevented by giving every worker the ability to earn paid sick time, from a combination of people who would stay home, rest, and manage their condition so it didn't require a medical intervention, to patients who sought care in a more appropriate venue, like a primary care physician's office. They estimated that this would reduce health care costs by \$39.5 million each year, including \$28.4 million in savings to HHC.

This isn't surprising, and it is certainly preventable. What that says to me is that we're all in this together. And the cost is falling on New Yorkers paying health insurance premiums and New Yorkers paying taxes – in short, everyone. Thank you, and I urge you to bring this measure up for a vote as soon as possible.

MARY KAY HENRY  
International President

ELISEO MEDINA  
International Secretary-Treasurer

KIRK ADAMS  
Executive Vice President

MICHAEL P. FISHMAN  
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**Testimony on the Economic Effects of Paid Sick Leave  
Hearing of the Civil Service and Labor Committee  
Of the New York City Council  
March 22, 2013**

**Dr. Richard McGahey  
Milano School of International Affairs, Management, and Urban Policy  
and the Schwartz Center for Economic Policy Research (SCEPA), The New School**

My thanks to Chairman Nelson and members of the committee for this opportunity to testify. I am here to strongly support legislation providing paid sick days to New York City workers. I am a labor economist with a Ph.D in Economics, currently teaching at The New School's policy and management program here in New York City. I have a long history on labor policy issues, having served as Chief Economist for the U.S. Senate Committee on Labor and Human Resources, and as Economic Policy Advisor to Senator Edward Kennedy (D-MA). I was nominated by President Bill Clinton and confirmed by the Senate as Assistant Secretary for Policy at the U.S. Department of Labor.

The legislation under consideration, to provide paid sick days for workers, is a carefully crafted bill that can benefit workers and businesses in New York City. There will likely be very little, if any, negative impact, and that could be more than offset by positive gains for workers and for businesses. I want to make four points in support of the legislation.

First, other cities that have implemented similar legislation have seen no adverse economic effects from it.

Second, economic research on other legally required and potentially more costly benefits, especially increases in the minimum wage, do not show negative effects on job creation, so we should not expect negative job impacts from this bill.

Third, in addition to benefits for working people and families, there is a pro-business case for the legislation, in terms of increased productivity and reduced labor turnover.

Fourth, to be most effective, the legislation should apply broadly to as many firms as possible. Excluding companies from coverage because of their size or particular industry is bad public policy.

Let me discuss each of these issues in turn. But first, it is worth re-emphasizing some points that others have made about the prevalence of the benefit, and who gets it now.

According to the Bureau of Labor Statistics (BLS), in March 2012, 66 percent of all civilian workers in the nation had paid sick leave, with a mean number of 8 days provided. But this benefit is distributed very unevenly. When you look at the type of worker who gets paid sick leave, BLS found that 86 percent of management and professional workers get it, while only 47 percent of service workers have paid sick leave. 89 percent of state and local government workers have the benefit.<sup>1</sup>

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<sup>1</sup> See U.S. Department of Labor, Bureau of Labor Statistics, *Employee Benefits Survey, Paid Time-Off Benefits, March 2012*. Tables 32, 33, 34.  
[http://www.bls.gov/ncs/ebs/benefits/2012/benefits\\_leave.htm](http://www.bls.gov/ncs/ebs/benefits/2012/benefits_leave.htm)

It is important to note that workers with paid sick days are unlikely to use them all. The latest available data, from the 2009 Employee Benefits Survey, found that workers with an average of 8 paid sick days per year use an average between two and four days annually.<sup>2</sup> Because of this, any estimate of the law's impact projecting costs as if workers took all the days they are allowed will overstate the potential costs.

The lack of paid sick days is felt most strongly by low-income workers, by women, and by non-whites, especially single heads of households. The most recent data from the Community Service Society's survey of workers in New York City shows that 43 percent of all workers and 62 percent of low-income workers (defined as living in a household with income below 200% of the federal poverty line) lack paid sick days.<sup>3</sup>

Let me now turn to the evidence.

1. Other Jurisdictions Have Successfully Implemented Paid Sick Days. In recent years, San Francisco, Seattle, Washington D.C., and Connecticut have all enacted paid sick leave legislation similar to that proposed for New York. Studies of the implementation of those laws have not found adverse impacts on employment, or significant problems for employers in complying with the new requirement.

In San Francisco, after paid sick leave was implemented, employment grew faster in San Francisco than in surrounding counties, including in accommodations and food service employment.<sup>4</sup> While there are of course many factors that determine the overall level of a city's total employment, the fears expressed by opponents about large negative impacts from the law did not come to pass. And although opponents of paid sick leave also raised fears about the law's implementation burdens, the Urban Institute found that "most employers were able to implement this mandate with minimal impacts on their business" in the first year under the law in San Francisco.<sup>5</sup>

The Institute for Women's Policy Research (IWPR)<sup>6</sup> has run a series of estimates on the economic impact of proposed paid sick days legislation in Portland, OR<sup>7</sup>, Philadelphia, and

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<sup>2</sup> Ross O. Barthold and Jason L. Ford, *Paid Sick Leave: Prevalence, Provision, and Usage among Full-Time Workers in Private Industry*, Bureau of Labor Statistics, February 29, 2012. <http://www.bls.gov/opub/cwc/cm20120228ar01p1.htm>

<sup>3</sup> Nancy Rankin, *Paid Sick Days: Support Grows for a Work Standard Most Low-Wage Earners Still Lack in New York City*. New York: Community Service Society, October 2012.

<sup>4</sup> Kevin Miller and Sarah Towne, *San Francisco Employment Growth Remains Stronger with Paid Sick Days Law Than Surrounding Counties*. Washington DC: Institute for Women's Policy Research, September 2011.

<sup>5</sup> Shelley Waters Boots, Karin Martinson, and Anna Danziger, *Employers' Perspectives on San Francisco's Paid Sick Leave Policy*. Washington DC: The Urban Institute, March 2009.

<sup>6</sup> The studies are available from IWPR at <http://www.iwpr.org/initiatives/family-leave-paid-sick-days>

the state of Maryland. In all of those estimates, IWPR finds at worst a balance between costs and benefits, and at best a slight net gain to employers, where the reduced costs of turnover and the higher productivity associated with paid sick days outweighs the slightly raised costs to employers.

2. Paid Sick Leave Will Not Have a Discernible Negative Effect on Employment. Although we do not have direct economic analysis of employment effects from paid sick days, we have a good deal of evidence on the alleged employment effects of a more potentially costly mandated benefit—an increase in the minimum wage. Conservative analysts often claim that increased minimum wages will hurt employment and be a “job-killer,” claims that sometimes also are made about mandated paid sick leave.

However, a large body of recent empirical research on the minimum wage shows that there is “little or no employment response to modest increases in the minimum wage.”<sup>8</sup> Two recent meta-studies of empirical work on the minimum wage, summarized in Schmitt’s review, support this conclusion.

But perhaps the most convincing empirical work comes from cross-border studies in labor markets that span state or county borders, where one jurisdiction has a higher minimum wage than the adjacent area—what economists call a “natural experiment.” The original studies by Card and Krueger<sup>9</sup> compared New Jersey and Pennsylvania, and found no statistically reliable effects of New Jersey increasing the minimum wage in 1992. A more recent study by Dube, Lester, and Reich amplified this approach, looking at thousands of examples across the country by comparing adjacent counties with differing minimum wages, finding “...strong earnings effects and no employment effects of minimum wage increases.”<sup>10</sup>

So the economic evidence is clear. The empirical lack of negative employment impacts from minimum wage increases, which are potentially more costly to employers than mandated paid sick days, strongly suggests that a modest provision of paid sick leave will not hurt overall employment.

3. There Are Potential Benefits to Employers and the Economy. Although the minimum wage and other research strongly suggests that there will not be discernible negative effects

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<sup>7</sup> The Portland City Council has recently passed legislation authorizing paid sick leave.

<sup>8</sup> John Schmitt, *Why Does the Minimum Wage Have No Discernible Effect on Employment?* Washington DC: Center for Economic Policy Research, February 2013.

<sup>9</sup> David Card and Alan Krueger, “Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania.” *American Economic Review*, 1994, vol. 48, no. 4, pp. 772-793.

<sup>10</sup> Arindrajit Dube, T. William Lester, and Michael Reich, “Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties.” *Review of Economics and Statistics*, 2010, vol. 92, no. 4, p. 961.

from mandatory paid sick days, there also are potential benefits to employers and to the economy. Better quality jobs in general are good for workers, and for businesses. Benefits such as higher wages, health insurance, and paid sick days can reduce worker turnover, which is a major cost to employers, especially small businesses.<sup>11</sup> High turnover is especially costly for young, minority, and low-income workers, so policies that encourage longer job tenure also aid those workers, along with their families and dependent children.<sup>12</sup>

Better quality jobs, of which paid sick days are a major component, also can increase productivity, in two ways. First, workers who feel the employer cares for them may show higher degrees of loyalty to the firm, and work harder and more productively. Second, workers with paid sick leave are less likely to contribute to illnesses of co-workers, making the firm more efficient and productive.

Improving job quality, of course, is why many firms in New York and elsewhere already offer paid sick leave to their employees. Making the benefit uniform will reward those good employers—of which there are many—by limiting competition over job quality. This is a vital goal for public policy. Policy should encourage the creation of good jobs, and support and reward employers who want to do the right thing. Higher quality jobs also mean that the better compensated worker at one business will be a healthier and better customer at another business.

4. To Be Most Effective, Policies Should Be Universal and Uniformly Administered. The final argument for legislation providing paid sick days relates to the point about fostering good jobs. As a general matter, we want public policy to be uniform and fair, especially when setting baseline conditions for employment. For example, we should not allow some employers to engage in discrimination based on race, gender, age, or sexual orientation, because otherwise those discriminators would get an unfair advantage when competing against good employers who don't discriminate.<sup>13</sup>

Similarly, carving out specific sectors or employer groups from a law's impact often is bad public policy. It can contribute to unfair competition among employers, and create incentives to lessen job quality. The entire economy benefits from higher quality jobs, and public policy should be as uniform as possible, providing a consistent floor with employment conditions such as minimum wages and paid sick leave.

Of course, policies with lots of carve-outs also are harder to administer, and more confusing for businesses. Bureaucracies must establish rules and procedures to judge which firms are covered, carry out more complex rule-making processes, and have appeal procedures that further complicate the business environment. All of these factors create increased

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<sup>11</sup> IWPR's estimates (see note 6) suggest that any modest increased costs from paid sick days are offset by the benefits to employers.

<sup>12</sup> Harry J. Holzer and Karin Martinson, *Can We Improve Job Retention and Advancement among Low-Income Working Parents?* Washington DC: The Urban Institute, September 2005

<sup>13</sup> Of course, there are moral and ethical reasons not to allow discrimination; this argument only involves the economics.

uncertainty for businesses. Creating lots of exceptions also encourages what economists call “rent-seeking”—efforts that attract lobbyists and distract businesses from their central economic activities, resulting in diversion of investment, business income, and managerial attention from productive activities.<sup>14</sup>

5. Conclusion---Paid Sick Leave Is Appropriate Policy. In conclusion, there are strong economic arguments in favor of paid sick leave, and there is little empirical evidence that it will be harmful to the economy.

- In cities that have enacted it, the implementation has been straightforward, with minimal impact on businesses.
- Empirical evidence from increases in the minimum wage strongly suggests that a policy of paid sick days will not have discernible effects on employment.
- There are economic benefits to workers and to businesses, through increased productivity and decreased turnover.
- To encourage good quality jobs and support good employers, the policy should be as uniform as possible, with no significant carve-outs for specific sectors.

Thank you for the opportunity to testify on this important issue.

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<sup>14</sup> Lobbying around the federal tax code is a good example of the negative effects of rent-seeking on economic productivity, diverting resources and attention of firms from actual business investments into highly lucrative, but economically unproductive, activity.

*Hello all. My name is Brett Garrett, and I am here today to read a statement from James Freeman, Blue Bottle Coffee Co.'s founder and CEO.*



Testimony Before the New York City Council

On Int. 97 A

"Earned Paid Sick Time Act"

March 22, 2013

Submitted by James Freeman

My name is James Freeman and I am the founder of Blue Bottle Coffee, a company that prides itself on selling great coffee and also having good personnel policies for its workers.

I founded Blue Bottle in San Francisco, where we currently have **seven stores**. In the **last two years**, we have opened **four stores** in New York City. Our company is extremely successful and our success can be attributed both to our excellent product and also to the good working environment for our employees.

As you know, San Francisco is a city that requires all businesses to provide paid sick days to their employees. The law in San Francisco is very similar to the law proposed here in New York City, except that San Francisco requires much more paid sick time than is required under the New York City law. San Francisco requires that businesses like mine provide 9 days of paid sick time to each employee. New York City will require only 5 days of paid sick time for a business like mine.

I want to say two things to the Council. One is that far from being a problem for a business, the paid sick days requirement in San Francisco has been easy to deal with and has been a good thing for my workers. I have had no difficulty complying with

this law and I am very happy that my workers can take time off and not come to work when they or a family member is sick. It's very important for my business and my store's reputation that my workers not come to work sick. Furthermore, I'm really glad that there is a paid sick time law that applies to *all* businesses in San Francisco because it is nice for an employer like me, who would want to give my workers a reasonable amount of time off when they are sick, to know that my competitors will also be supplying that benefit to their workers.

Second, as an employer who recently moved to New York, creating **63** new jobs in the city – and great coffee! – I support the New York paid sick time proposal currently before the City Council. I hope that you will pass it so that all workers in New York City, like my workers, will have access to paid sick days.

Thank you for your time and consideration.



Louis J. Coletti  
President & CEO

BUILDING TRADES EMPLOYERS' ASSOCIATION  
**INTEGRITY • VALUE • SAFETY**

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# TESTIMONY TO THE NEW YORK CITY COUNCIL

## PAID SICK LEAVE

## March 22, 2013

Submitted By  
Louis J, Coletti  
President & CEO  
Building Trades Employers' Association

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE CIVIL SERVICE AND LABOR COMMITTEE. MY NAME IS LOUIS COLETTI AND I AM PRESIDENT OF THE BUILDING TRADES EMPLOYERS' ASSOCIATION. WE REPRESENT 27 UNION TRADE CONTRACTOR ASSOCIATIONS THAT NEGOTIATE COLLECTIVE BARGAINING AGREEMENTS WITH AFFILIATES OF THE BUILDING AND CONSTRUCTION TRADES COUNCIL 1,800 UNION CONSTRUCTION MANAGERS, GENERAL CONTRACTORS AND SPECIALTY SUBCONTRACTORS THAT DIRECTLY EMPLOY THE 100,000 MEMBERS OF THE BUILDING TRADE UNIONS IN NEW YORK CITY.

THE PAID SICK LEAVE BILL, AS WRITTEN, WILL HAVE 2 EFFECTS—NEITHER OF WHICH WILL BE HELPFUL IN GROWING THE ECONOMY OF THIS CITY:

- 1) IT WILL REDUCE ABILITY OF BTEA UNION CONTRACTORS TO COMPETE FOR NEW BUSINESS OPPORTUNITES AND EMPLOY BUILDING TRADE UNION MEMBERS;
- 2) IT WILL CAUSE THE LOSS OF THOUSANDS OF GOOD-PAYING MIDDLE CLASS BUILDING TRADE UNION JOBS;

THESE PROBLEMS CAN BE SOLVED VERY SIMPLY. PAGE 10, PARAGRAPH K, SECTION 2 STATES:

“THE PROVISION OF THIS SECTION SHALL NOT APPLY TO ANY EMPLOYEE IN THE BUILDING AND CONSTRUCTION INDUSTRY COVERED BY A BONA FIDE COLLECTIVE BARGAINING AGREEMENT IF SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENT.

WE STRONGLY URGE YOU TO DELETE THE WORDS “IF SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENT AND EXEMPT SUCH CONTRACTORS AND BUILDING TRADE UNIONS FROM THIS LEGISLATION.

WE ESTIMATE THAT, COLLECTIVELY, UNION CONTRACTORS CONTRIBUTE SOME \$ 2 BILLION EACH YEAR INTO WELFARE FUNDS DESIGNED TO PAY EACH INDIVIDUAL UNION MEMBER FOR SICK, VACATION, PERSONAL OR ANY OTHER TIME OFF THEY WANT AT ANY TIME THEY WANT.

**IN EFFECT, BUILDING TRADE UNION MEMBERS HAVE A 401(K) TYPE TIME OFF PAYMENT PROGRAM THAT IS SEPARATE AND DISTINCT FROM CONTRIBUTIONS CONTRACTORS MAKE TOWARDS THEIR PENSION PLANS.**

**WHAT IS THE PURPOSE OF PASSING LEGISLATION WHICH WILL PROVIDE PAID SICK LEAVE TO ONE OF THE HIGHEST PAID UNIONS IN NEW YORK CITY WHO HAS ACHIEVED THIS STATUS BY SUCCESSFULLY NEGOTIATING WITH THEIR EMPLOYERS?**

**WHAT IS THE PURPOSE OF PASSING LEGISLATION WHICH WOULD REQUIRE PAID SICK LEAVE PROVISIONS TO UNION MEMBERS WHO ARE ALREADY BEING PAID FOR SICK TIME?**

**WHAT IS THE PURPOSE OF PASSING LEGISLATION WHICH WILL INCREASE CONSTRUCTION COSTS AND REDUCE THE NUMBER OF BUILDING TRADE UNION JOBS, WHEN, ON SOME PROJECTS, BUILDING TRADE UNIONS THEMSELVES HAVE AGREED THEMSELVES TO REDUCE THEIR WAGES/BENEFITS BY 20% IN ORDER TO CREATE NEW JOBS FOR THEIR OWN MEMBERS.**

**WHY NOT LET THE TWO PARTIES TO THE COLLECTIVE BARGAINING NEGOTIATE THE TERMS AND CONDITIONS OF THEIR EMPLOYMENT BETWEEN THEMSELVES?**

**MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, WE STRONGLY URGE YOU TO KEEP THE LANGUAGE IN THE LEGISLATION THAT EXEMPTS BUILDING TRADE UNIONS COVERED BY A BONA FIDE COLLECTIVE BARGAINING AGREEMENT AND REMOVE THE LANGUAGE WHICH STATES "IF SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENTS" AS IT APPEARS ON PAGE 10, PARAGRAPH K, SECTION 2 IN THIS LEGISLATION.**

**THANK YOU.**



New York State Association of REALTORS®, Inc.

**FOR THE RECORD**

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## MEMORANDUM IN OPPOSITION

Int. No. 97-A (Brewer, M.S.)

Status: Committee on Civil Service and Labor

Date: March 2013

Contact: Michael Kelly

The New York State Association of REALTORS® opposes Int. No. 97-A (Brewer) in relation to the provision of paid sick time earned by employees.

New York City is one of the costliest places in the nation to live and do business. Business owners face soaring energy prices, taxes, unemployment insurance, health insurance premiums, employee salary and benefits, and transportation costs. These costs and mandates all contribute to the current economic crisis and are forcing employers to cut vital jobs and services in order to survive.

Adding to this burden, a new City mandate that prescribes specific employee benefits will only further limit the ability of employers to thrive and expand. Vacation days, time-off and sick leave should be negotiated between an employer and employee at the time of hire, and not through government intervention. Employers must have the flexibility to offer wages and benefits that their employees want, and that the employer can afford. Forcing employers to incur the expense of paid sick leave could ultimately prevent them from offering other employee benefits such as comprehensive insurance packages, retirement programs or wage increases.

The real estate market is in the early stages of economic recovery. Now is not the time to add additional burdens to businesses which will discourage expansion and development here in New York, negatively impacting the real estate industry.

For the above stated reasons, the New York State Association of REALTORS® opposes Int. No. 97-A.

*The New York State Association of REALTORS® is a not-for-profit trade organization representing more than 48,000 of New York State's real estate professionals. The term REALTOR® is a registered trademark, which identifies real estate professionals who subscribe to a strict code of ethics as members of the National Association of REALTORS®. These REALTORS® are also members of the New York State Association of REALTORS® as well as their local board or association of REALTORS®.*

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**Michael S. Smith**  
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Chief Executive Officer



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**Comments**

**of**

**The New York State Restaurant Association**

**on the**

**Committee on Civil Service and Labor  
Int. 0097-2010**

**March 22, 2013**

**10:30 a.m.**

**City Council Chamber – City Hall**

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Good morning members of the Committee. My name is Rick Sampson and I am the CEO and President of the New York State Restaurant Association ("NYSRA"), a trade group that represents approximately 5,000 food service establishments in New York City and over 10,000 statewide. NYSRA is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for over 75 years. Our members, known as Food Service Establishments ("FSEs"), represent one of the largest constituencies regulated by the City, particularly the New York City Department of Health and Mental Hygiene ("DOHMH").

New York City is one of the pillars of the culinary arts world. Our restaurants employ hundreds of thousands of New Yorkers and are a backbone of the tourism trade. Yet, to ensure the continued viability of the restaurant and hospitality industry, we must have sensible and reasonable regulations. We must have regulations that properly balance the need to protect the safety of the public with the need for the industry to grow and thrive.

NYSRA submits these comments in opposition to Intro. 97-A – the Earned Sick Time Act. Unfortunately, this sixteen page bill is one that will create far more operational and financial difficulties for FSEs (and their employees) that will ultimately push new businesses to not open restaurants in New York City, reduce benefits to employees, and limit hiring.

NYSRA wishes to highlight the very substantial regulatory and financial burdens currently faced by the hospitality industry that warrant against the passage of Intro. 97-A, specifically:

- the upcoming implementation of national health care;
- the New York State minimum wage increase;
- the recently implemented New York City unemployment discrimination bill;
- the heavy regulatory burdens already faced by hospitality operators from numerous NYC and NYS regulatory agencies; and,
- an already extremely litigious plaintiffs' bar that would only gain more cases from the passage of Intro 97-A.

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The committee should also consider that:

- as written, Intro. 97-A is a sixteen page bill that is difficult to understand, nearly impossible to incorporate into day-to-day restaurant operations, and leaves many questions as to how businesses can/should comply with its terms;
- if implemented, NYSRA believes that Intro. 97-A will be paid for via a reduction in other benefits or wages to employees or dramatic increases in prices to consumers – neither a desired result of this legislation;
- the DOHMH is not equipped to enforce a law that impacts millions of employees and thousands of businesses; and,
- Intro 97-A gives the DOHMH and the plaintiffs' bar unprecedented enforcement mechanisms and punitive fines that will devastate businesses for even minor deviations from the law.

### **Regulatory Burdens**

While not every regulatory burden imposed by Intro. 97-A and the currently regulatory framework can be addressed in these comments, some should be considered by the committee.

The hospitality industry is already one of the most heavily regulated industries in New York City. From the Fire Department, the Police Department, the Department of Transportation, DOHMH, the Department of Environmental Conservation, and numerous other City and State agencies, FSEs must attempt to navigate all too many regulatory obligations.

In addition, FSEs face countless lawsuits from an opportunistic plaintiffs' bar that sues businesses all too often under similar laws. These lawsuits include actions under Federal and New York State wage and hour laws (including the Wage Theft Protection Act), the Americans with Disabilities Act, and the New York State and New York City Human Rights Laws. And new laws and regulations are continually being added. Within the last few weeks, the industry has seen the implementation of a new unemployment discrimination bill which also includes a private right of action for employees to sue their employers.



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Even more regulatory burdens include an upcoming increase in the New York State minimum wage, changes in the handling of automatic gratuities by the Internal Revenue Service that are effective this year, and implementation of the Federal Affordable Care Act. All of these laws leave FSEs completely overwhelmed and exposed to a huge amount of increased costs – all at the same time.

**Defects in Intro. 97-A**

Assuming this Committee or the Council somehow believe the time is appropriate for Intro. 97-A to be passed, NYSRA would like to highlight the serious defects contained within the legislation.

First and foremost, Intro. 97-A empowers the DOHMH to enforce paid sick leave requirements on every covered business in New York City which employ hundreds of thousands, and possibly millions, of employees. Simply stated, the DOHMH is not equipped to handle this type of burden. Hence, the burden of enforcement will undoubtedly fall on private lawyers. And since employees can collect unlimited attorneys' fees under this statute, a one time, one day violation of this legislation could result in thousands of dollars of litigation costs or thousands of dollars of fines from the DOHMH. Moreover, the bill allows enforcement to be against any entity or person. This allows the DOHMH or the employee to name any person – whether a general manager, supervisor, coworker, or owner – as well as the actual employer (the entity) as a defendant and seek to hold them financially liable, seek injunctive relief, compensatory damages, costs, and attorneys' fees. Intro. 97-A also allows an employee to file a complaint and contemporaneously file a private lawsuit thereby allowing for a double recovery to the employee for even minor violations of the legislation. This cannot be the goal of this Council.

Intro. 97-A also allows employees to utilize sick leave in a manner inconsistent with the operation of a restaurant. For example, 17-1503(e) allows employees to use sick time in one hour increments and prohibits an employer from mandating that sick time be taken in one day or one shift increments. This would allow an employee to claim they only need four hours off yet the employer has to have a replacement employee cover that shift. Because the New York State Labor Law requires minimum call-in pay, this means an employer could have two employees reporting to work for the same shift, albeit at different times, for the same exact work.

Regardless of the Council's desire to assist workers with legislation that, in theory, provides a benefit to workers, the reality is that many employers already provide paid



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time off to workers. However, this well-intentioned legislation would, as drafted, still impose new burdens on employers that provide paid time off. For example, § 17-1503(i) would require employers to redraft their employment handbooks to mirror the legislation and even minor deviations could lead to litigation from disgruntled employees.

NYSRA will not highlight each and every deficiency in Intro. 97-A. Instead we have enclosed a summary of technical deficiencies in the bill for your review and consideration.

#### **Other Jurisdictional Experiences**

NYSRA would like to highlight studies based on reviews of Connecticut's paid sick leave legislation that found businesses in Connecticut have taken – or plan to take – measures to adapt to the costs of the law, including reducing employee benefits, hours, wages, and jobs.<sup>1</sup> One study revealed a negative impact on business growth and jobs in Connecticut based on the paid sick leave legislation, including:

- reductions in employee benefits or reduced paid leave (or both), cuts in employee hours, reduced employee wages, raised consumer prices, and lay offs of employees to account for the cost of the new law; and,
- businesses indicating they had decided to limit or restrict their expansion within the state.

In 2007, San Francisco adopted a paid sick leave ordinance that required employers to allow their employees to earn paid sick leave in legislation very similar to Intro. 97-A. Yet, data from the Bureau of Labor Statistics indicated that San Francisco's legislation was not effective at protecting jobs, specifically:

- quickservice restaurants in San Francisco employed an average of 15.2 workers per establishment in 2006, the year before the paid sick leave ordinance went into effect. By 2010 (most recent data available), quickservice

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<sup>1</sup> Copies of the study are enclosed for your review and reference and links to the study and its' executive summary may be found here:  
[http://epionline.org/downloads/2013\\_EPI\\_PaidSickLeaveInConnv4.pdf](http://epionline.org/downloads/2013_EPI_PaidSickLeaveInConnv4.pdf) and  
[http://epionline.org/downloads/130202\\_PaidSickLeaveCT\\_ExecutiveSummary.pdf](http://epionline.org/downloads/130202_PaidSickLeaveCT_ExecutiveSummary.pdf)



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restaurants employed only 14.0 workers per establishment, a decline of 7.8 percent;

- quickservice restaurants in the five counties surrounding San Francisco employed 15.0 workers per establishment in 2010, up 2.5 percent from an average of 14.7 workers in 2006; and,
- the net result was a decline of 1,300 quickservice employees in San Francisco between 2006 and 2010. During the same four-year period, San Francisco's overall private sector added 2,300 jobs.

### **Conclusion**

The restaurant industry has been labeled as the "poster child" for this legislation. The reality is that the restaurant industry works hard to protect the safety of the public and its employees. Contrary to what advocates of Intro. 97-A may state, restaurants do not force sick staff members to work and there is no evidence that warrants the passing of this legislation based on such a false notion.

Intro. 97-A imposes a huge financial impact onto every business in New York City without any financial assistance from the City. Social legislation such as Intro. 97-A should only be implemented if it provides assistance to those employers who must comply with it. A better model of effecting social change is to incentivize employers to offer better benefits through a partnership with the City. This can be accomplished via tax incentives similar to what Governor Cuomo recently provided to businesses when the minimum wage was increased.

Surely, the goal of this legislation should not be to harm the very businesses that work hard to provide the best culinary experience to customers and provide good places for employees to work. Yet, Intro. 97-A does so via the unprecedented, over-broad, and intrusive powers afforded to the DOHMH to enforce what is basically an employment law and not a health law. Moreover, Intro. 97-A empowers the trial lawyers' bar to seek huge legal penalties and attorneys' fees for even minor infractions of the legislation. This certainly should not be, but is, the result of this legislation.

In conclusion, the New York State Restaurant Association opposes the proposed legislation and looks forward to continuing our ongoing work with the Mayor's Office and the Council to improve the business climate in New York City. A vital part of NYSRA's mission is to seek the development of a fair and equitable regulatory environment that encourages the success and growth of New York City's world famous



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restaurant industry. I thank you for the opportunity to provide these comments today on behalf of the over 5,000 members of the New York State Restaurant Association in New York City and the entire food service industry.

Respectfully Submitted,

Rick J. Sampson  
CEO and President  
New York State Restaurant Association  
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733321

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**SUMMARY OF PROBLEMATIC ASPECTS OF INTRO. 97-A**

§ 17-1503(f) mandates sick time to be afforded after four months of employment regardless of the employer's current policies.

§ 17-1505 does not allow shift-swapping to satisfy the mandates of the paid sick leave requirement. This completely ignores the fact that in the restaurant industry specific staff – such as sous chefs – have very specific skills that cannot be simply replaced by any other employee. Hence, the ability to have specific employees swap shifts to satisfy the very specific operational needs of a restaurant must be recognized in any bill.

§ 17-1506. The employer must pay employees paid sick leave in the event of natural disasters even if the employer's business is shut down and not making any money. Super Storm Sandy is a perfect example of when an employer should not be burdened with additional costs.

§ 17-1508. Fines or failure to provide notice or postings. Mandatory fines for such notices, including daily penalties, and are unreasonable and punitive.

§ 17-1509. Employment records. This provision will allow the DOHMH to have full access to the employer's payroll records. It is unreasonable to expect that employers will maintain separate records for sick leave accruals from payroll records. Hence, the DOHMH will be able to demand access to, receive, and review payroll records for tens of thousands of employees.

§ 17-1510. Tasks the DOHMH with the creation of an online system to assist with timekeeping and record keeping. The DOHMH is being tasked with responsibilities far beyond its capabilities or expertise.

§ 17-1514. Sets forth draconian enforcement penalties with the DOHMH. The DOHMH is granted unfettered subpoena power to "ensure compliance with this chapter," to access all employment records, the power to interview employees – in private – presumably at an employer's place of business, and to issue notices of violation, the validity of which is presumed as true for purposes of any administrative hearing.

"Bad moral character" provision. Intro 97-A also seeks to allow the scarlet-letter branding of a person or entity as a person of "bad moral character." Such a power is



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broad and on its own should warrant the complete overhaul or cessation of Intro. 97-A.

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Testimony of Robert Sunshine, Executive Director NATO of NYS 3/22/13

- **GOOD AFTERNOON. MY NAME IS ROBERT SUNSHINE, AND I AM THE EXECUTIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF THEATRE OWNERS OF NEW YORK STATE.**
- **WE ARE A NOT-FOR-PROFIT TRADE ASSOCIATION REPRESENTING THE 52 MOVIE THEATRES AND 1,800 EMPLOYEES ACROSS THE 5 BOROUGHES.**
- **OUR BUSINESS MODEL IS BASED ON ENSURING THAT OUR EMPLOYEES ARE HEALTHY AND HAPPY, BECAUSE HEALTHY AND HAPPY EMPLOYEES ARE GOOD FOR BUSINESS.**
- **THEY REMAIN EMPLOYEES, AND DO NOT REQUIRE THE EXPENSE OF NEW TRAINING.**
- **IF AN EMPLOYEE IS SICK, THEY CALL THEIR MANAGER, AND THEY STAY HOME WITHOUT FEAR OF LOSING THEIR JOB.**
- **OUR STANDARD INDUSTRY PRACTICE IS THAT WE DO NOT FIRE AN EMPLOYEE FOR BEING SICK.**
- **OUR EMPLOYEES CAN ALWAYS MAKE UP A SHIFT THAT THEY MISS, SO THEY DO NOT LOSE OUT ON MISSED WAGES IF THEY ARE ILL.**
- **OUR EMPLOYEES ARE MOSTLY COMPRISED OF PART-TIME EMPLOYEES WHO ARE ALSO ENROLLED IN AN ACCREDITED INSTITUTION, OR RETIREES, BECAUSE OUR FLEXIBLE WORKING SCHEDULE FITS THEIR NEEDS.**
- **APPROXIMATELY 80% OF THESE EMPLOYEES ARE SEASONAL, AS THEY WORK THE SUMMER BLOCKBUSTER SEASON OR THE WINTER HOLIDAY SEASON.**
- **ROUGHLY 10% OF THESE EMPLOYEES ARE IN UNIONS.**
- **UNDER THIS BILL, WE WOULD HAVE TO TRACK EVERY ONE OF THESE SHORT TERM EMPLOYEES FROM DAY ONE TO SEE**

Testimony of Robert Sunshine, Executive Director NATO of NYS 3/22/13

**IF THEY ACCRUE THE RIGHT AMOUNT OF TIME TO QUALIFY FOR PAID SICK LEAVE.**

- **ADDITIONALLY, WE WOULD HAVE TO BE ABLE TO ABSORB THE ADDITIONAL COST IN LIKELY ONE OF THREE WAYS: HIGHER TICKET PRICES, HIRING FREEZES, OR CUTTING THE SALARIES OR BENEFITS WE ALREADY PROVIDE.**
- **WE DO NOT WANT TO PURSUE ANY OF THESE OPTIONS.**
- **DESPITE THE BEST INTENTIONS BEHIND THIS BILL, EVEN WITH THE MUCH PUBLICIZED AMENDMENTS, WE CANNOT SUPPORT IT.**
- **FOR THREE YEARS NOW, WE'VE DEBATED THIS BILL.**
- **AT EVERY TURN, THE BUSINESS COMMUNITY HAS UNANIMOUSLY STATED THAT THE COST OF THIS BILL WILL HURT THE CITY'S ECONOMIC RECOVERY.**
- **REPEATEDLY, THE PROponents SAY THEY WILL MAKE CHANGES.**
- **WELL, WE'VE NOW SEEN THESE CHANGES, AND UNFORTUNATELY, THIS BILL IS EVEN WORSE.**
- **LET ME BE CLEAR: WE ARE NOT OPPOSED TO THE CONCEPT OF PAID SICK LEAVE.**
- **BUT, WE ARE ADAMANTLY OPPOSED TO THIS LEGISLATION IN ITS LATEST FORM.**
- **WHAT ABOUT EXEMPTIONS? THE WASHINGTON, DC BILL PROVIDES 6 INCLUDING: STUDENTS; INDEPENDENT CONTRACTORS; CERTAIN HEALTH CARE WORKERS; TIPPED EMPLOYEES; SEASONAL WORKERS; TEMPORARY WORKERS; EMPLOYEES PAID BY COMMISSION, AND ALSO A HARDSHIP EXEMPTION.**

Testimony of Robert Sunshine, Executive Director NATO of NYS 3/22/13

- **THIS BILL? WELL, IT PROVIDES A STUDENT EXEMPTION, BUT THEY HAVE TO BE ENROLLED IN A FEDERAL WORK STUDY PROGRAM. NOT, LET'S SAY, JUST ENROLLED AT A COLLEGE, OR A HIGH SCHOOL STUDENT.**
- **"NEW SMALL BUSINESSES" ARE ALSO EXEMPTED, BUT THIS COVERS THEIR FIRST YEAR AS MEASURED BY DATE OF INCORPORATION, AND ONLY IF THEY HAVE 4-20 EMPLOYEES PER WEEK, OR AT LEAST 5 WORKING LESS THAN 800 HOURS.**
- **EVEN WORSE, THIS BILL STATES THAT YOU MUST STILL PROVIDE 5 UNPAID SICK DAYS TO ALL EMPLOYEES WHO ARE EXEMPT.**
- **SO, IT'S NOT REALLY AN EXEMPTION IF YOU STILL HAVE TO GIVE 5 UNPAID DAYS TO EVERYONE.**
- **THIS MEANS THAT THE EMPLOYERS WILL STILL HAVE TO TRACK THE ACCRUAL AND USAGE, AND CONFORM TO THE BURDENSOME AND COSTLY RECORD KEEPING AND ENFORCEMENT PROVISIONS.**
- **AND, LET'S NOT FORGET THE PROPONENT'S ARGUMENT THAT THIS WON'T AFFECT YOU IF YOU ALREADY HAVE A PAID SICK LEAVE POLICY.**
- **THAT'S JUST NOT TRUE.**
- **UNDER THE BILL, AN EXISTING POLICY MUST HAVE THE SAME ACCRUAL REQUIREMENTS, AND PROVIDE LEAVE FOR THE SAME PURPOSES AND FOR THE SAME CONDITIONS. OTHERWISE, IT WON'T PASS MUSTER.**
- **SO, IF YOUR BUSINESS GIVES A 7 DAY BUCKET POLICY – OF PERSONAL, VACATION AND SICK DAYS – AND IT'S NOT ACCRUED THE SAME WAY, OR FOR THE SAME REASONS AND CONDITIONS – YOU HAVE TO ADD 5 MORE PAID SICK DAYS ON TOP OF THAT.**

Testimony of Robert Sunshine, Executive Director NATO of NYS 3/22/13

- **IF THE POINT IS TO PROVIDE PAID SICK DAYS TO EMPLOYEES WHO DON'T HAVE ANY, THEN THERE SHOULD NOT BE INTERFERENCE WITH ANY EXISTING LEAVE POLICIES THAT COULD BE USED FOR PAID SICK DAYS. PERIOD.**
- **THIS SITUATION IS MADE WORSE WITH THE ACCRUAL STARTING ON DAY 1, UNLIKE SAN FRANCISCO, WHICH BEGINS ACCRUAL ON DAY 90.**
- **TRUE, USAGE CAN BEGIN ON DAY 120 NOW, INSTEAD OF DAY 90, BUT THAT ACTUALLY ONLY PROVIDES HELP TO SUMMER SEASONAL EMPLOYEES.**
- **A BETTER APPROACH WOULD START ACCRUAL ON DAY 180, AND ALLOW USAGE ON DAY 180. THAT WOULD PROVIDE CLARITY AND SIMPLICITY, AND CONFORM WITH THE SEPARATION CUT OFF OF 180 DAYS.**
- **WE APPRECIATE THE SHIFT SWAPPING ADDITION, ALTHOUGH IF THE ADDITIONAL HOURS WORKED IN A SWAPPED SHIFT DO NOT EQUAL THE TIME MISSED, THE EMPLOYEE CAN STILL USE PAID SICK DAYS AND RECEIVE OVERTIME PAY.**
- **MOREOVER, THE SWAPPED SHIFT HAS TO BE IN THE SAME PAY PERIOD, WHICH PRESENTS DIFFICULTY FOR SMALL BUSINESSES THAT PAY WEEKLY.**
- **AND, THE BILL COULD STILL ALLOW EMPLOYEES WHO ONLY WORK TUESDAY AND THURSDAYS TO TAKE A PAID SICK DAY ON A WEDNESDAY, OR EVEN WORSE, TAKE A PAID SICK DAY WHEN THEY ARE BACK TAKING CLASSES IN COLLEGE.**
- **WHILE THE STATUTE OF LIMITATIONS FOR A PRIVATE RIGHT OF ACTION SHRINKS FROM 3 YEARS TO 18 MONTHS, THE ENFORCEMENT MECHANISM IS RATHER DRACONIAN.**

Testimony of Robert Sunshine, Executive Director NATO of NYS 3/22/13

- **IT PROVIDES STEEP FINES RANGING FROM \$500 TO \$5000 DEPENDING ON THE SEVERITY OF THE INFRACTION, EMBOLDENS THE DEPARTMENT OF HEALTH WITH POWERS TO SUBPOENA, INVESTIGATE, MONITOR AND REVIEW RECORDS, AND EVEN REINSTATE EMPLOYEES.**
- **ADDITIONALLY, COMPENSATORY DAMAGES AND ATTORNEY'S FEES CAN BE AWARDED TO THE AGGRIEVED PARTY, AND THE EMPLOYER CAN BE PUBLICLY SHAMED VIA ONLINE POSTING, AND BEING DECLARED TO HAVE BAD MORAL CHARACTER.**
- **ALTHOUGH COUNCILMAN GARODNICK'S WELL INTENTIONED PROPOSALS WERE TO MAKE THE BILL MORE PALATABLE AND LESS BURDENSOME TO THE BUSINESS COMMUNITY, THE ACTUAL CHANGES MAKE THE NEW BILL MORE CUMBERSOME AND MORE COSTLY FOR BUSINESSES OF EVERY STRIPE.**
- **WE ARE THANKFUL THAT THE SPEAKER RECOGNIZED THAT THE 2010 VERSION WAS THE WRONG BILL, WITH THE WRONG APPROACH, AND CAME AT THE WRONG TIME.**
- **THIS BILL IS MUCH MORE DIFFICULT ADMINISTRATIVELY FOR THE BUSINESS COMMUNITY.**
- **WE RESPECTFULLY URGE THE SPEAKER TO TABLE THIS BILL IN FAVOR OF SUPPORTING POLICIES THAT PROMOTE SMALL BUSINESS SURVIVAL, JOB PROTECTION AND JOB CREATION IN THESE CHALLENGING ECONOMIC TIMES.**

**SUBMITTED BY:**

**ROBERT H. SUNSHINE  
NATO OF NEW YORK STATE  
770 BROADWAY, NY 10003  
(212) 493-4097**

**Paid Sick Leave - Friday March 22nd, 2013, 10:30am**

**Richard Aviles**

My name is Richard Aviles, and I am the owner of Bridge Cleaners & Tailors, King Garment Care, and Kingbridge. My family and I run a small dry cleaning business in Manhattan and Brooklyn. Between our three companies located in Manhattan and Brooklyn, we employ about forty-five of the most wonderful people I've ever known.

Hurricane Sandy flooded our corporate headquarters with 5 feet of water, and totaled our three delivery trucks. Because we were in Brooklyn Navy Yard / Zone A, our insurance company wouldn't cover any damages and FEMA was lending money to businesses at a higher interest rate than most banks. Even though it was impossible for us to conduct business, and we were looking at \$500,000 in damages - our employees were still paid. We may not share the same last name, but they are my family and we always try to do the right thing for them.

We have a Paid Sick Leave Policy. We honor it, and in many cases, grant more paid days for our team members, should they be out. Business owners understand the value of having a great team, and take pleasure in helping others, even when there is no one there to take care of the business owner when he/she is ill. Even though our industry faces special challenges, such as work being time sensitive and not being able to complete it until the sick worker returns - we may not ask for a physician's note until the third day out? We must provide them with multilingual documentation, while they need provide us with little more than their word? This is not right.

Two years ago, Mayor Bloomberg held a press conference at our production facility announcing the Business Owners' Bill of Rights. An initiative allowing for ease, clarity and lenience for businesses complying with regulations and the reduction of overlay in policy between regulatory agencies. This effort was well-intentioned but never came to fruition. Instead, conducting business in NYC has become more difficult. Our business, already over-regulated by eight different agencies with countless record-keeping policies and their own rules - how many more laws can these agencies, *with all due respect*, add and improperly enforce until the entrepreneurial flame that has done this city so well, be dimmed and put out?

By passing Int. 97-A, you are giving Dept. of Health, whose job is "protecting and improving public health", ammunition to audit your business, with no more evidence than a claim by an unidentified party, and fine you \$1,000 - \$3,000 for not keeping accrued sick time documentation for three years. This is not "protecting and improving public health" - this is creeping normalcy. This is slowly killing the businesses of New York City. This is **another 2% increase in our payroll** in an industry that has seen a downturn in volume in recent years. **Increased regulation**, especially one as detrimental as this one, **coupled with a down economy**, next years expected **increase in minimum wage**, *another well-intentioned, complex and poorly executed policy* **health care reform**, and *as we all at this beginning of the year realized* **higher taxes**.

At the first hearing when Int. 97-A was introduced. Many of the presented cases in favor this bill were clearly Workers' Compensation cases, which is already a mandate. The city should do a better job at enforcing the laws that are in place, instead of stacking them on the backs of our businesses. In a city starving for the creation of jobs, and encouraging the entrepreneur to take a risk - you are killing us.

Thank you for your time.

# 1199SEIU

United Healthcare Workers East

**PRESIDENT**  
George Gresham

**SECRETARY TREASURER**  
Maria Castaneda

## TESTIMONY BY MARIA CASTANEDA, SECRETARY/TREASURER 1199 SEIU-UHWE

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Michael Cooperman

\* Acting

Good afternoon Speaker Quinn, Chairman Nelson, Council Member Brewer and members of the Civil Service and Labor Committee. Thank you for this opportunity to speak on behalf of 1199's members and retirees.

For the first time in US history, women comprise half of the workforce. Females are the primary or co-breadwinners in close to two-thirds of American households. In 1199, 80.5% of the members are women. In the Home Care Division, 97% of the 65,000 members are women.

Home Care is a growing industry where, without a union, workers earn minimum wage and lack benefits. If they don't go to work, they lose their assignment and with it, their income. These workers often find themselves choosing to pay attention to health needs, or going to work. They send their sick kids to school, not because they are bad parents but because they know that losing their assignments will mean loss of any financial security to provide food and shelter for their family. It shocks our conscience that in New York City people have to make these choices. "Paid sick days" is not a financial, business, or a political issue. It is a moral one.

Workers want to be productive members of our society and should not feel they need to neglect their health or that of their loved ones in order to keep their jobs. For this reason, unions have historically fought to secure better benefits for workers. Most people in this room earn minimum wage, get a 5-day work week, benefits, overtime pay, and paid sick days because of unions.

The City Council has the power and an obligation to address disparities and ensure fairness and justice for all New Yorkers. On behalf of the 220,000 1199 members, we ask that you raise the bar for worker protections by enacting Intro. 97, just because it's the morally correct thing to do.

Thank you.

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Testimony for NY City Council Committee on Civil Service and Labor

Provision of Sick Time Earned by Employees

March 21, 2013

Council Chambers, City Hall

Good afternoon,

My name is Anne Bove. I am a nurse at Bellevue Hospital, and Secretary of the Board of the New York State Nurses Association (NYSNA).

The New York State Nurses Association strongly supports The Paid Sick Time Act (int. 0097-2010), recently amended in the City Council and still awaiting a vote years after it was introduced.

More than one million workers - nearly half of working New Yorkers - do not receive paid sick time on their jobs - low-income workers are hit the hardest, but middle- and higher-income workers also go without (*Sick in the City*, A Policy Brief, by CSS and a better balance, Oct.'09).

This is a shocking statistic when you consider the density of our population and the speed with which influenzas, or other potentially deadly diseases, can spread. The goal of preventive care - so much the buzz word as a means to better health and reducing healthcare costs - is very much undermined when people cannot see their doctor for disease control and management, for lack of paid sick time.

The lack of paid sick days by such a large portion of the NYC workforce has serious implications for public health:

- Without paid sick time, employees who are ill are more apt to continue working, thereby exposing co-workers and the public to contagion, especially in New York City's congested subways, food-service establishments and worksites.
- \* When people don't seek medical care when they're ill, their condition can worsen, leading to complications and usually greater expense. Employees who are ill are out of work for longer periods of time. Early intervention prevents unnecessary hospitalizations and delivers better outcomes.
- When people become ill and cannot take time away from work to visit a doctor and/or recover, they become sicker and are forced to visit emergency rooms, adding to the already overcrowded conditions facing New Yorkers in our ERs.

Continue on next page →

- Sick children get sicker and infect their peers and teachers in schools and playgrounds when parents can't take time off work to take children to the doctor or stay home with them while they get better.
- People are aging and need extra care after hospitalization, and help getting to medical appointments. Most hospital discharges and doctor appointments happen during working hours. One should not have to choose between helping a loved one and one's job.

NYSNA calls upon the Speaker to bring the Paid Sick Time bill to a vote.

Thank you.



**FIGHT AIDS. LOVE LIFE.**

**March 22, 2013**

**TESTIMONY TO THE NEW YORK CITY COUNCIL IN SUPPORT OF  
Int. No.0097-2010**

Good afternoon. My name is Robyn Overman and I am the Director of Human Resources at Gay Men's Health Crisis (GMHC). Thank you for the opportunity to testify today.

For over thirty years GMHC has been fighting the AIDS epidemic and uplifting the lives of all affected. On behalf of our over 10,000 clients, I am here to urge the City Council to vote on and pass the Earned Sick Time Act. Not only is this law important to preserving the health and employment of New Yorkers living with HIV, it is also simply the right thing to do.

When asked the most important reason why they support earned sick time, many of our clients reply that they are afraid of catching a cold or flu from other New Yorkers. Because of their HIV status, our clients have compromised immune systems that are more susceptible to infection. Sharing crowded space on the subway or eating food handled by people who are sick and cannot stay home because they do not earn sick time could result in an expensive and life-threatening illness.

Earned sick time is also important to GMHC's clients because many live in poverty. They are low-wage workers who cannot afford losing pay or the risk of being fired because they call out sick or need time off for the appointments critical to their fight against HIV.

Without earned sick time, many New Yorkers with HIV are forced to choose between staying home to care for themselves and risking their access to expensive and life-saving medications. Adhering to a strict medication regimen is critical to not only preventing their progression from HIV to AIDS, but also to preventing the further spread of this epidemic in our city.

Finally, as a human resources professional for over twenty years who has worked with many employees affected by HIV, I am passionate about earned sick time. New York City is the birthplace of laws and regulations that provide the most basic rights and protections to low-wage workers. Despite this history, we now lag behind many cities across the country and around the world that ensure their workers are not docked wages or even fired simply because they need time to care for their health.

Access to earned sick time should not be dependent on whether someone happens to work for an organization like GMHC that voluntarily provides it. GMHC urges the City Council to vote on and pass the Earned Sick Time Act. It will have a profoundly positive impact on the health and well-being of HIV positive New Yorkers and the general public. Giving workers the time they need to recover from sickness without fear of retribution or financial loss will help return our city to its rightful place as a leader in protecting the human rights of low-wage workers.

Thank you again for this opportunity to testify.

Robyn Overman, MA, SPHR  
Director of Human Resources, GMHC

Testimony by Rosina Rubin, CFO, Attitude New York, Inc.

March 22, 2013

My husband and I run a chauffeured transportation service that employs 70 people. In 20-plus years of operating 24/7/365, we have remained open through blizzards, blackouts, hurricanes, and 9/11 – possible in no small part because of our hardworking and dedicated staff. Some of them have been with us almost from the beginning. It is truly puzzling that you would think that we, and other small business owners like us, would not do everything we can afford to compensate their efforts. Long-time personal relationships aside, it's just plain good business to offer the best possible compensation package. Oftentimes, this compensation is custom fitted to the different needs of individual staff members.

In 2009, the sales revenue of our business was down 35% from what it had been in 2007. In 2012, revenues were still just 80 percent of the 2007 numbers. Yet our rent has quadrupled, utilities have tripled, and vendor costs have risen significantly. Several years ago, our bank credit line was canceled even though we have never missed a loan payment or bounced a check.

Five years ago, we made a commitment that anyone who was doing their job would keep their job. We have made no lay-offs, and in fact, continued to hire. The only way to keep our promise in this economy was to go weeks, sometimes months, without a paycheck for ourselves – a practice which has not been uncommon for many small business owners during this slow, lurching recovery.

Our cash reserves, both business and personal, have been drained. We have reached the point where another significant financial challenge will probably force us to cut back jobs. Passage of this bill in its current form would likely provide that challenge, particularly because its impact on small businesses and our employees has not been thought through.

A few things come immediately to mind:

We currently provide six paid days for sick and/or personal leave to salaried staffers who work fixed schedules. While we do not provide this for hourly workers, we give them the opportunity to change out one shift for another – sometimes utilized to take a sick day, just as often to attend a child's school play or basketball game. If we have to compensate everyone for paid sick/personal time, we will probably have to reduce other benefits, such as paid vacation.

This bill does not allow us to even ask for a doctor's note until someone has missed three consecutive days of work – and if that note is not provided, we must still pay the employee for missed days. How is this not an opportunity for abuse?

Then there's the burden of record-keeping. The bill states that no small business will have to do any additional record-keeping other than that necessary to meet the requirements of the bill – perhaps the most glaring example of the absence of input from small businesses in the crafting of this legislation. I don't know anyone who tracks time worked in 30-hour increments, to pay sick time in one-hour increments. Doing so will be a cumbersome and expensive process for most.

I do not believe that it's better to enact a bad bill than to enact no bill at all. I think it's always better to do it right than to do it right away.

In general, I don't think that putting such mandates on small business is a good idea. I believe that business owners can, and will, better allocate our resources if we are less burdened by such constraints. But if you feel you must push this bill, why exempt even the smallest businesses? If providing paid sick leave is part of the cost of hiring in New York City, then so be it.

When a job is created, in addition to the actual salary, all employers have to factor in the cost of payroll taxes, unemployment insurance, disability, and workers comp – so why not add paid sick leave to the list?

There are other unintended consequences as well. If this bill is passed, many small businesses will choose instead to utilize freelance workers. Not only will these freelancers be without the benefit of paid sick leave, they will be without any of the benefits of full-time employment. And as self-employed workers, they will be personally liable for twice as much in payroll taxes. In fact, in this new tech age, where people can work remotely from anywhere, the freelancers may not even be New Yorkers.

Elected officials often speak of the importance of small business to the recovering economy. If you believe that to be true, this is not the time to add the additional burdens imposed by the bill under consideration today.

Written Testimony in Support of Paid Sick Time Bill -- Intro 97A

Phil Andrews, Director of the Retail Organizing Project

Retail, Wholesale and Department Store Union (RWDSU/UFCW)

Good afternoon and thank you to the Council members and everyone who came out to testify. My name is Phil Andrews and I'm the Director of Retail Organizing at the RWDSU, the Retail, Wholesale and Department Store Union and I'll be representing the viewpoint of the union today.

The RWDSU fully supports the passage of Intro 97A. We represent thousands of workers in New York City, most of whom work in the retail industry. We always fight to make sure that our members have access to paid sick time guaranteed in their contracts, but it can be a struggle in an industry that is largely non-union and is moving increasingly toward jobs that are not just part-time, but have erratic schedules, on-call shifts, and demands for open availability. We see more and more nonunion retail workers being denied access to basic benefits such as paid sick days.

We are not talking about mom and pops. It's a race to the bottom amongst major retail employers to see who can have the lowest paid casual workforce with the fewest hours and the least benefits and paid sick days are often the first to go. There are hundreds of thousands of nonunion retail workers, and 77% of them reported in a 2012 CUNY study of retail workers that they do not have paid sick days.

Many if not most retail workers live paycheck to paycheck and in this city, many are the heads of households or help support children. Without paid sick days they often have to make the awful choice between staying home when they or their children are sick and thereby forgoing food, medicine or making rent on time; and going to work sick, and getting sicker, not to mention potentially getting their coworkers or their customers sick too.

Just 8 blocks from here are two outposts of the retail chain YRB. None of the roughly 150 workers in 10 stores had ever been able to take one paid sick day. They were often told to come in when they tried to call in sick and were often disciplined if they stayed home. It took nearly three years for these workers to organize a union and negotiate a first contract in order to achieve basic paid time off benefits.

Let me give you another brief example. My job is helping retail workers organize a union at their workplace and we currently have a number of active campaigns. In every single case, either none of the workers have paid sick days or a only small number of full time workers do. In every case, we are talking about national retailers with thousands of employees and millions if not billions in revenue. In one case, a national chain started restricting the hours of part time workers, which is the vast majority of the workforce, to from 32 hours a week to 20. It so happens that store policy is that you must work 1400 hours a year to earn paid sick time. Well, do the math—even at the maximum hours/week, a part time worker will never achieve that. (Read worker statement who was threatened for trying to call in sick.) In conclusion, paid sick days are the right thing to do for workers and for our city. Thank you.

**Testimony of Frank Proscia, M.D.  
Executive Director, Doctors Council SEIU  
New York City Council  
March 22, 2013**

**Good afternoon. My name is Dr. Frank Proscia, Executive Director of Doctors Council SEIU and we are the health care union that represents the doctors who work at HHC and the DOHMH.**

**We are a union for doctors and also a voice for patients.**

**Every day, many workers face a choice when they are sick. To either stay home and risk losing their job, or go to work and risk their own health and the public's health.**

**Many private sector workers don't even have access to paid sick days.**

**When working people have no choice but to go to work sick, they risk infecting others, complicating their own illness, delaying their own treatment, and turning minor health problems into major ones.**

**The walking sick travel by bus, train, cabs, & planes; spreading disease further and having their own illness' worsen.**

**The lack of paid sick days is especially serious in jobs requiring frequent contact with the public, such as food service, hotel workers, childcare, schools and hospitals.**

**Employees should not have to make the choice between their jobs and their families' health.**

**The FDA requires food service workers to be away from work while ill. Childcare centers require sick children to stay home. The CDC recommends keeping children home from school when ill.**

**Workers, without paid sick days, can't always comply, jeopardizing everyone's health.**

**Public policies allowing workers to earn a limited number of paid sick days a year from their employers would allow them to recover from illness, care for a sick family member, or attend medical appointments.**

**Without this, illnesses worsen and spread. Leading to emergency room visits trying to find medical care at off hours. Leading to both increased costs and overburdening our already congested healthcare systems.**

**Other cities & states have already legislated paid sick days. This is a common sense public health policy and NYC should be leading the charge in this regard. It further controls healthcare costs and may even have the potential to reduce health care disparities.**

**Thank you.**

**####**



**Testimony by**

**Nancy Rankin, Vice President for Policy Research and Advocacy  
Community Service Society of New York**

**Before the New York City Council Committee on Civil Service and Labor**

**March 22, 2013 Hearing on Int 97-2010 A, the "Earned Sick Time Act"**

Thank you for the opportunity to testify today in support of the "Earned Sick Time Act," legislation urgently needed to enable working New Yorkers to take care of their health without sacrificing their pay and putting their jobs at risk. I am the Vice President for Policy Research at the Community Service Society of New York, a 170 year-old organization that addresses the root causes of economic disparity through research, advocacy and innovative programs. I have led the research that first identified the widespread lack of paid sick days among low-income New Yorkers, and documented the hardships and adverse health impacts that result for people like Paulina Cac Lux.

Paulina was a cashier at a large supermarket chain making \$7.25 an hour. Think about someone handling every one of your food items as it comes down the conveyor belt, someone you would not want working sick. She took off a few days when she came down with the flu, and had her meager minimum wage pay docked. When she got sick a few months later, she asked for a day off to see the doctor. She was told that she was "always sick" and fired on the spot.

You've heard lots of other stories like Paulina's this morning. What I am here to tell you is that these are not isolated stories. Well over a million working people in New York City today are denied even a few paid sick days a year, a basic labor standard that most higher-income earners, and all of you, take for granted.

Latinos are the least likely of any racial or ethnic group to have access to paid time off when illness strikes because of their overrepresentation in low-wage occupations in the restaurant, food, retail and non-union construction industries. Because 56 percent of Latinos live below twice the federal poverty level, the loss of even a few days' pay means serious hardships. Latinos literally cannot afford to get sick. Moreover, Latinos have high rates of chronic health

conditions, like diabetes and asthma, associated with poverty. Their lack of paid sick time makes it harder for them to get timely care needed to manage these ailments, so too many end up sicker in costly emergency rooms. These and other research findings are described in a report released by CSS this week.

Now I know that some speakers have said lack of paid sick days is not really a problem. The report prepared for the Partnership for New York City by Ernst & Young, claims that 88 percent of the city's private sector workers have access to paid leave that they can use when they are ill, though perhaps not to care for a sick child. The trouble with this estimate is that it is not based on a representative random sample, but on responses from a self-selected group of 708 employers, with an average size of 585 employees. Most very large businesses do provide paid leave, at least to their salaried and higher-paid workers. But our findings, based on more than ten years of annual surveys conducted for CSS by Lake Research, using random-digit dialing and adhering to standard scientific survey methods, reveal a different picture. Forty-three percent of working New Yorkers—and 62 percent of low-income working New Yorkers—do not have paid sick leave. But you do not have to rely on just our research. Data from the Bureau of Labor Statistics shows virtually the same figure for low-wage workers: according to the March 2011 National Compensation Survey for the metropolitan New York region, 60 percent of workers in the bottom wage quartile do not receive paid sick leave. And it is these low-wage workers we are most concerned about. These are the workers for whom losing even a few days' pay means serious hardships. A recent Economic Policy Institute study found that three and a half days of unpaid time off is equivalent to a family's grocery budget for an entire month (Gould, et al., June 2011).

Fears have been raised that paid sick days should not be passed now because it could burden small businesses that are hanging on by a thread and might cost New Yorkers jobs. I would like to respond to that.

- First, the measure now exempts mom-and-pop shops, with fewer than five employees from having to provide any *paid* sick leave. While this may sound like a small category, it actually excludes 64 percent of New York City's 220,034 business establishments.
- Second, the cost is minimal. The Institute for Women's Policy Research estimates providing paid sick time to newly covered workers under this bill will average just 18 cents an hour. Looked at another way, the Economic Policy Institute estimates the cost would range from .06 percent to .54 percent of sales depending on the industry sector.
- Third, there is no evidence that the small costs of paid sick days would cause job loss. None. A substantial body of rigorous economic research on the minimum wage has demonstrated that the additional labor costs associated with minimum wage increases have not resulted in a decrease in employment. The cost of paid sick days would be less

than the cost of recent and proposed minimum wage increases. Moreover, there is no evidence that paid sick days policies already in effect in other places have been detrimental to business. A study by economist Arindragit Dube found that over 80 percent of San Francisco employers said their paid sick days ordinance—which is wider in scope—has had no effect at all on their bottom line. This is because a law creates a level playing field, so no business is at a competitive disadvantage and much of the costs can be passed along. In fact, this is the argument for having a public policy covering as many businesses as possible. It means that the good actors will not be undercut by those willing to force their workers to come in sick and jeopardize their own health, that of customers, co-workers and commuters. Arbitrary carve-outs are not good public policy because they allow unfair competition and are more difficult to implement, as a practical matter.

- Fourth, the argument that small businesses would be burdened assumes that the entire cost would have to come out of employers' pockets. That is not the case. As just explained, once a law creates a level playing field the small costs, of the order of magnitude being considered here, can easily be absorbed through minor adjustments in operations, prices, or compensation.

In short, even in bad economic times a paid sick days law will not be detrimental to business for the reasons I just outlined. In fact, providing greater financial stability for working families helps neighborhood businesses grow. What drives the shoe store owner to hire the next worker or open the next shop is not cutting government regulations, but a long line of customers at the cash register who can afford to buy new shoes.

Nevertheless, fears about the economy may have resonated in 2009 when this bill was first introduced. But now it is 2013. New York City is no longer in a recession. Crain's business newspaper reported just this month that, "The city's economy last year added 84,600 private sector jobs, according to the state Department of Labor. The gains capped a remarkable two year run in job growth and were followed by strong numbers in January." (Crain's, March 7, 2013). And the New York Times reported March 4<sup>th</sup> that "corporate earnings have risen at an annualized rate of 20.1 percent since the end of 2008, but disposable income inched ahead by [only] 1.4 percent annually over the same period, adjusting for inflation." So yes, some folks are hanging on by a thread, but it's not business that's hurting; it's the working people who are hanging on by a thread. It is time for the City Council of New York to stand up for them and throw them a lifeline of support.

My name is Zyad Hammad and I'm a Syrian-Mexican American student, and a member of the Retail Action Project. I'm on scholarship studying international relations, and that means I need to work to pay my rent and bills in this expensive city. To support myself, I work as a cashier at Urban Outfitters. This flu season affected me very badly, and this winter, along with thousands of other Americans, I was extremely sick for a week. Because I'm part time not only do I not get health care from my job, I don't get a single paid sick day either.

I had a bad cough, congestion, a runny nose, and my body was exhausted. I called out on the first day, but then worked while very sick the next three days because I knew that if I didn't go in, there was no way I could make rent. And like all of my co-workers who also don't get sick days, I was scared that if I missed three or four shifts due to an illness, that I'd be written up or fired.

For three days, I stood on my feet all day and worked my shifts with the flu. Because I'm a cashier, not only did I put my co-workers at risk, but the hundreds of customers each day that I took cash and credit cards from, while coughing and blowing my nose.

At my store, when workers call to let our managers know we're sick, we aren't taken seriously at first. They ask, "Are you sure you really can't come in?" They don't want to deal with it, and ask us to call our co-workers to make sure someone covers our shift. If we can't work and can't find anyone to fill the shift, we're scared we'll get disciplined.

Because we don't have any paid sick days, I was forced to choose between two bad options: I can lose out on money I desperately need because I live paycheck to paycheck, or I can come to work while sick with the flu, and spread it around the city.

This is why I'm speaking today, because we need to make sure that workers in New York City have just a few sick days per year. The New York City Council should pass Paid Sick Days so we can stay home when we're sick – and not get everyone else sick too! Thank you.

Good morning. My name is Dr. Manisha Sharma and I am a family physician in Bronx, NY. As an everyday doctor for everyday people of New York City, I would like to share with you my perspective on why the passage of the Paid Sick Time Act is so important to New Yorkers.

I'd like to introduce to you one of my many patients Mr. A., a hard working Taxi driver, in his 40's. Unfortunately, he doesn't have medical insurance and sees me whenever he can afford to. One day he called me, telling me he had a cough and had been feeling "run down". He had a fever, took some Tylenol, but it wasn't going away. I asked him to come in to see me, but he couldn't because if he didn't work, he doesn't get paid, and even gets threatened to be fired. So he went to work – sick, with a nasty cough and fever, where again, he interacts with hundreds of New Yorkers as a cab driver, and has the potential of becoming even more ill, and infecting the New Yorkers he comes in contact with whatever illness he has, through exchanging money, receipts, being in an enclosed cab space. Not to mention, jeopardizing New Yorkers getting hurt in accidents, with him driving ill. Mr. A. didn't get better. In fact, he got worse. I ended up getting to see him about 2 weeks later, in the ICU at the hospital, with a tube down his throat to help him breathe. His "cold", became a costly one, not only to his life and his family's livelihood, but also to the hundreds of people he came into contact with he may have infected, and ultimately to our health care system.

Paid sick leave is clearly a public health necessity. More than 1 million workers in New York City<sup>1</sup> we depend on, our cab drivers, our caretakers, food industry workers, retailers, do not have paid sick time to care for themselves, their children, or their loved ones. People become forced to choose between working sick, or not having enough money to provide for their families or themselves. What we aren't realizing is that forcing people to choose their health or their livelihood, is also forcing New Yorkers to choose between their health and their livelihood. Use the example of the restaurant worker in North Carolina, who without the option of paid sick leave, continued to work as a cook in a restaurant even when he was severely ill with Hepatitis A which causes violent bouts of diarrhea and vomiting. Because he did not have the option to stay home or to see a doctor, because he didn't have paid sick time, he spread the Hepatitis A virus through the food he prepared, which spread to the people who ate it, causing a public health crisis. What happened in North Carolina can easily happen in New York City. That result was devastating and absolutely preventable.

If one New Yorker is sick, all New Yorkers are potentially sick. It takes a village to create a healthy village. We all have stake into our community and must make this Act the gold standard for the health of New York City. I urge you as a doctor and a proud New Yorker, stand behind the 83% of New Yorkers who want a law that requires employers to give workers paid sick time<sup>1,7</sup> and act on what you know is right: Pass the Paid Sick Time Act for all New Yorkers.

1. <http://abetterbalance.org>
2. Nancy Rankin. *Paid Sick Days: Support Grows for a Work Standard Most Low Wage Earners Still Lack in NYC*. Community Service Society. October 2012.
3. J Reiss, N. Rankin, K. Puetrangel. *Sick in the city: What the Lack of Paid Leaves Means for Working New Yorkers*. A Better Balance and CSS. October 2009.
4. R. Drago and V. Lovell. *San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees*. IWPR. Feb 2011.
5. T. South and J Kim. *Paid Sick Days: Attitudes and Experiences*. National Opinion Research Center for Public Welfare Foundation. June 2010.
6. J. Petro *Paid Sick Leave Does Not Harm Employment*. Drum Major Institute for Public Policy. Sept 2010.
7. N. Rankin *Support Grows for a Work Standard Most Low-Wage Earners Still Lack in New York City*. October 2012.



# NEW YORK CITY CENTRAL LABOR COUNCIL AFL-CIO

President  
VINCENT ALVAREZ

Secretary-Treasurer  
JANELLA T. HINDS



March 22, 2013

Good morning and thank you for the opportunity to testify at this hearing of the Civil Service & Labor Committee of the Council of the City of New York. I would like to thank Speaker Quinn, the Committee Chair, Council Member Michael Nelson, as well as the members of the Committee for convening this important hearing.

I sit before you today aligned with many others in labor, in communities across New York City, parents and small businesses calling for the establishment of paid sick time for workers to care for themselves or their family members in the event of illness. The health of New York City's workforce is of paramount importance to the well-being of the city's economy.

As President of the New York City Central Labor Council, AFL-CIO, I represent over 1.3 million workers across many industries and professions in the private sector, public sector and building and construction trades. Many of these workers have the benefit of collective bargaining agreements that stipulate for time off with pay during illness. However, there remain far too many workers in New York City who cannot take time off from work and who risk disciplinary action or firing if they do.

Low-wage workers represent the majority of those not afforded paid sick time. In 2011, 66% of low-income parents of school-age children did not have access to paid sick time. The stress of caring for a sick child is great enough without having to worry about missing bill payments or even losing your job for doing so.

56% of workers who prepare and serve food do not have access to paid sick time. This clearly represents not only a hazard to others in the workplace, but to the general public with whom they come into contact. Providing paid sick time to workers, particularly in the food service industry, would curtail the spread of illness and would present an overall benefit for the greater workforce of our city.

Additionally, healthy workers are more productive workers. Giving workers paid sick time has been shown to improve worker productivity and would reduce employee turnover, resulting in a cost-savings for employers. Advertising open positions, taking the time to interview and then train replacement workers outweighs the costs of providing workers with paid sick time.

Paid sick time should not be a privilege for a chosen few, but a basic right pursued by private and public employers and to be provided for as many workers as possible. Historically, New York City has been a leader in workplace safety and worker protections. We should continue to lead in providing paid sick time to the hardworking men and women of this city.

The Central Labor Council supports the Paid Sick Time Act and believes that it deserves a vote.

Submitted by Vincent Alvarez, President of the New York City Central Labor Council, AFL-CIO, on March 22, 2013 at the New York City Council hearing of the Civil Service & Labor Committee.



**Ruben Diaz Jr.**  
**Bronx Borough President**

**John DeSio**  
**Communications Director**

**\*FOR IMMEDIATE RELEASE\***

CONTACT: John DeSio 917-209-4974

March 22, 2013

**TESTIMONY OF BRONX BOROUGH PRESIDENT RUBEN DIAZ JR.**  
**BEFORE THE CITY COUNCIL COMMITTEE ON CIVIL SERVICE AND LABOR**  
**RE: INTRO 97, A.K.A. 'PAID SICK LEAVE' LEGISLATION**  
**MARCH 22, 2013**

Good morning.

I would like to thank Council Member Michael Nelson, chairman of the Committee on Civil Service and Labor, and all the Council Members in attendance here today for hosting me as we discuss this incredibly important issue, Intro 97, otherwise known as the "Paid Sick Leave" legislation.

In October, I stood on the steps of City Hall, with members of the City Council, labor leaders and people of this great city, to declare my support for this important bill. At the time, I noted that far too many workers, particularly low-wage workers in our communities, are often forced to make a difficult choice between their health and their paycheck, and that is a choice no one should be forced to make.

Nothing has changed since then. In fact, our case has only grown stronger. This is common sense legislation. This is something our City needs. And the data shows us how much we need it.

On Monday, we saw the release of a new report, from the Community Service Society, that outlines just how important this legislation is to the Bronx and to Latino communities. And what's important for the Bronx, what's important for Latinos, is important for the entire City.

This new report demonstrates how prevalent and devastating this problem is across the city; the legislation could not be more meaningful and timely. It found that nearly half--47 percent--of Latinos in New York City are denied paid sick leave, making them the least likely racial or ethnic group to have access to paid time off when illness strikes.

That, ladies and gentlemen, is a tremendous number. That is far too great a proportion of our City's workforce to be denied paid sick days.

Among working women, not even half—only 49 percent—of Latinas in our city can take a paid sick day when they need to deal with their child having an asthma attack, when they have the flu, or to get a recommended mammogram.

This bill has tremendous support and, much like the "Fair Wages for New Yorkers" Act, is incredibly popular. A Quinnipiac poll in August found that 73 percent of new Yorkers support

this bill. And more recently, in October, a Community Service Society poll found that 83 percent of city residents favor this legislation.

That same poll found that 84 percent of all Latinos support this legislation, and that more than 80 percent of Bronxites are in favor of it as well. We also have 38 members of the City Council who are supporting this legislation. If this bill is brought to a vote, it will pass.

And it is time for that vote to happen. This is a matter of fairness. The hard-working people of this City deserve an opportunity for this legislation to have an up or down vote.

Thank you.



Statement of  
Denise Richardson, Managing Director  
General Contractors Association of New York  
March 22, 2013  
NY City Council Committee on Civil Service and Labor

Intro. 97-A

A Local Law to Amend the Administrative Code of the City of New York in  
Relation to the Provision of Paid Sick Time Earned by Employees

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Thank you for the opportunity to testify today. My name is Denise Richardson. I am the managing director of the General Contractors Association of New York. The GCA members employ over 10,000 unionized construction trades personnel, from 11 different unions.

We are opposed to this bill in its current form and recommend the following changes: 1) it must expressly exempt the unionized construction industry, not require the unions to expressly waive their right to this benefit; 2) "paid" sick leave must be limited to straight time wages only and not the "regular rate of compensation" and 3) the assessment of penalties for record-keeping errors are excessively onerous and punitive. Record-keeping errors cannot serve as "proof" that an employer is not complying with the law.

**Provide an Express Exemption for the Building and Construction Industry**

The bill needs to *expressly exempt* the unionized construction industry because our members already provide union-administered/employer-funded paid time off benefits through the employer's contribution into a vacation fund for each hour the employee works. While each union's vacation benefit varies, in many instances their vacation fund contributions alone (over and above their hourly wage) exceed the current minimum wage. Vacation benefits accrue to the employee without limitation.

Five days of paid sick leave with wages and benefits is an extra week's pay per year. In the unionized construction industry, weekly wages and benefits average \$3,500 per week. On average, the vacation fund contributions made by employers to the unions represent 20 paid days off per worker per year. Additional paid sick leave provided by the employer is not necessary to protect the unionized construction work force.

As a result of distinctions in how the construction industry operates compared to other professions, this bill will add to those already generous paid time off benefits by allowing union workers to get paid twice -- once from their benefits fund and a second time from the additional sick leave benefits provided under this bill. Moreover, because the trades often work for multiple employers over the course of a year, a worker would be able to obtain multiple increments of sick days. While the intent of the bill is provide a baseline of benefits and not double benefits to some classes of workers, as drafted, the bill could permit double dipping by the construction industry.

Furthermore, many construction industry tasks require the assignment of a fixed number of workers within a crew. When one member is out sick, the employer must call the union for a replacement worker or lose the day's productivity. Consequently, the employer will now be forced to pay *twice* for the same position -- once for the worker that is out sick, and a second time for the replacement worker. The cost of this "benefit" will necessarily be reflected in increased construction costs for all of the City's capital projects. Surely the City's limited capital funds can be better expended.

The bill purports to provide an exemption for the building and construction trades by allowing them to "expressly waive [their right to paid sick leave] in the collective bargaining agreement." This is no exemption, but rather an interference in private labor negotiations by giving the unions unilateral power to withhold the waiver, thereby providing increased benefits that amount to as much as \$3,500 per employee per year -- or the equivalent of a \$2.18 per hour wage increase. The bill thus forces the employers to add this to their list of issues, while the unions they will be negotiating with will basically give up nothing to earn the benefit. As written, Intro 97-A bill will increase building and construction costs in New York City and provide union construction workers with double benefits. We do not believe this should be the goal or intent of the paid sick leave bill.

**Clarification between the term wages and regular rate of compensation is needed.**

Intro 97-A provisions alternate between requiring employers to pay “wages” and “regular rate of compensation” for employees taking a sick day. In the unionized construction industry – and on any projects where prevailing wage requirements apply – “regular rate of compensation” *includes* payments into the employee’s welfare, pension, annuity and *vacation* fund. We do not believe it is the intention of the Council to mandate that employers must make benefits contributions for days in which employees did not work.

Moreover, because the construction industry often works on varying shifts, and many union agreements call for paying an incentive for workers who are employed on an “off-shift,” paid sick leave must be limited to straight time wages only. A worker cannot profit by calling in sick on an off-shift and earn an incentive for time when he or she is not productively working. Any compensation for sick leave must be limited to straight time wages only, with no overtime, shift differential or benefits entitlement. The bill must define sick leave compensation as wages only and not other benefits that may accrue by the hour and not overtime rates that would be applicable if an employee calls in sick for an overtime shift.

**Record keeping requirements and penalty provisions are punitive**

Finally, the penalties for lack of notification to employees are excessively punitive, as the employer has no recourse to prove it has complied with notification requirements. The legislation imposes record-keeping, notification and penalty requirements that are onerous and impractical. Maintaining notification posters at an active construction site is a virtual impossibility, and it is too easy for the City to turn compliance with this legislation into another revenue-raising opportunity. Determining that flaws in record-keeping are “proof” of an employer’s non-compliance and thus subject to fines is yet another example that the true intent of this bill is to create new opportunities to harass and intimidate the City’s small businesses.

The goal of this legislation should be to help those employees who lack benefits obtain a reasonable benefit, *not* provide additional benefits to those who already have a generous wage and benefit package.

For these reasons, the General Contractors Association is opposed to this legislation.

Thank you.

## FOR THE RECORD

### STATEMENT OF THE BROADWAY LEAGUE

Hearing Re: Intro. 97-A, March 22, 2013

Good afternoon. I am Thomas Ferrugia, Director of Government Relations for The Broadway League, which has been the principal trade association for the commercial Broadway theatre industry for nearly 80 years. We represent over 750 members nationwide, including theatre owners, show producers, general managers and road presenters. I want to thank Chairman Nelson, as well as the other members of the Committee on Civil Service and Labor, for this opportunity to comment on Introductory Bill 97-A.

While we recognize some unprincipled employers might take advantage of human resources, there are three areas of this proposal that may unnecessarily impose onerous burdens on all industries, including those that have historically demonstrated respect for its employees. They include collective bargaining, part-time employment, and smaller offices.

In the last theatre-season, Commercial Broadway directly employed nearly 11,000 people in New York City, including actors, stagehands, musicians, ushers and electricians – all working pursuant to collective bargaining agreements where every term, including leave, were painstakingly negotiated. Employees are vigorously represented by elected advocates and, ultimately, *the membership votes to ratify the contracts*. Incidentally, Broadway's union workers earn high hourly wages and, except for matinee days, commonly work just four hours in twenty four. Accordingly, as there are absolutely no issues of bargaining inequity, there is no justifiable rationale for requiring parties negotiating a union contract to abide by this law.

Moreover, while the bill purports a mechanism exempting collective bargaining agreements, both parties must first affirmatively waive the law, but then proceed to enter an agreement that complies with its terms. This is anything but an exemption and does



The additional costs associated with offering paid leave to part-time workers, locating and compensating a substitute employee when a part-time employee calls in sick and the additional expenses that will be incurred from burdensome record keeping requirements, are simply not justified. Therefore, we recommend the proposal be amended to exempt part-time employees altogether.

Finally, Intro 97-A does not acknowledge the unique cost implications and operational pressures absent employees have on small, mid-sized and large employers. Smaller firms can become paralyzed by excessive absenteeism and cannot afford to hire substitute personnel when existing staff cannot absorb the additional workload. In addition, many employers rely on the unique expertise of specific employees, whose abilities and institutional knowledge simply cannot be replaced on short notice. Conversely, pre-arranging time off is generally less complicated in smaller and mid-sized offices where employees frequently interact with management.

We submit that Intro 97-A's two-tiered approach for determining paid-leave hours and calculating leave accumulation for full-time employees ignores the countless mid-sized businesses operating in New York City. Clearly, any law regulating the terms of an employer-employee relationship must make best efforts to account for the varying needs of differently situated employers and work-forces, which, in this case, should be reflected in the maximum number of permissible paid sick days an employer is required to provide, as well as the rate employee leave hours are accumulated.

Again, we thank you for this opportunity to express our concerns with the proposed bill. As I said at the top of my remarks, while there may be some need for oversight in this area, as an industry that prides itself on good relationships with its employees, we hope to ensure laws designed to protect workers from unscrupulous employers do not suffocate all of New York City's businesses.

Thank you. I am happy to answer any questions.



TESTIMONY OF STEWART O'BRIEN ON INTRO 97A  
BEFORE THE CITY COUNCIL COMMITTEE ON CITY  
SERVICE AND LABOR

MARCH 22, 2013 **FOR THE RECORD**

I am Stewart O'Brien, Executive Vice President of the Association of Contracting Plumbers of the City of New York, Inc. The Association represents licensed plumbing contractors who employ some 3000 members of Plumbers Local 1 who perform plumbing work in the City of New York. Our Association is comprised of varying size firms - large contractors, employing 200 union members, to small firms, employing only 3 or 4 union members.

The Association is in full support of requiring that employers provide paid sick leave days and therefore supports Intro 97-A, with one very important exception. Union employers, the members of my association, already provide paid sick leave but this bill does not recognize that fact and therefore, if the bill passes without amendment, it would require employers to pay for paid sick leave TWICE. This would, of course, significantly and needlessly increase the cost of construction.

Let me explain---

Our members are signatory to a Collective Bargaining Agreement (“CBA”) with Plumbers Local Union #1 which requires employers to contribute \$12.93 an hour into an ERISA Fund for the benefit of, and dedicated to, accounts of individual employees that can be used by the employee for vacation, holidays or any other time off, including sick days. If a journeyman plumber works only 1,596 hours a year that dedicated fund for use by the employee amounts to \$20,636 per year. That \$20,636 account for the member pays for 10 holidays and 15 vacation days with more than 7 days remaining for use for paid sick leave. (The actual calculations are attached to my testimony).

Intro 97-A would require our employers to provide an additional 5 days of paid sick leave unless the additional sick leave days “are expressly waived” in a Collective Bargaining Agreement. Our current CBA already provides for compensating employees when they have to take sick days. The bill’s current language requiring an “express waiver” inserts the Council into a private sector collective bargaining process. Requiring an “express waiver” provision provides one party to a CBA with the unilateral power to withhold the waiver causing the other party to AUTOMATICALLY provide up to \$3100 a person more each year. That would give one party powerful and exclusive leverage when a “CBA” is being renegotiated.

The “express waiver” language should be stricken from the bill as it is unnecessary and unfairly inserts the City Council into a private labor negotiations process.

Intro 97A’s “express waiver” provision will add to the cost of construction without any benefit.

We request that the bill be amended to provide that paid sick leave is not required if the equivalent is already provided for in a CBA, period. No “express waiver” should be required.

**PAID SICK DAYS ALREADY PROVIDED UNDER "A" DIVISION COLLECTIVE BARGAINING AGREEMENT\***

ASSUMING AN "A" JOURNEYMAN WORKS 228 DAYS IN A YEAR

(365 days - 104 weekend days - 10 holidays - 15 vacation days - 8 paid sick = **228 days**)

"A" Journeyman works 228 days x 7 hours per day = 1,596 hours x \$12.93 per hour Vacation/Holiday Fund = **\$20,636.28 per year**

"A" JOURNEYMAN DAILY RATE OF PAY

\$90.95 per hour x 7 hours = **\$636.65 per day**

\$20,636.28 per year ÷ \$636.65 daily rate per day = 32.41 days - 10 holidays = 22.41 days - 15 vacation days = **7.41 paid sick days**

\*Does not include any vacation and holiday fund accumulated at overtime rates – either double (2x) or time and a half (1½)



Testimony Before  
The Committee on Civil Service and Labor  
New York City Council

**New York City Paid Sick Time Act**

March 22, 2013

My name is Carol Saginaw and I am President of the Board of the Center for Children's Initiatives (CCI), formerly Child Care, Inc. We appreciate the opportunity to speak before you today on this critically important issue.

CCI is a nonprofit organization which has served as a respected source of information on early care and learning for policymakers, professionals and parents for over 30 years. CCI hears daily from parents across the city about the challenges that they face in meeting the demands of the workplace and caring for their children. CCI also serves as a resource to all types of early childhood programs offering training, mentoring and coaching to support each provider in meeting the highest quality standards. As an organization that provides support to families seeking child care solutions as well as early childhood programs and workers, we are acutely aware of the issues arising from the lack of paid sick leave.

We applaud the members of the City Council for introducing legislation to support working families by requiring employers to provide paid sick days,

*Building Bright Futures for Children*

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212-929-7604  
[www.centerforchildrensinitiatives.org](http://www.centerforchildrensinitiatives.org)  
[info@www.centerforchildrensinitiatives.org](mailto:info@www.centerforchildrensinitiatives.org)

allowing working New Yorkers to care for themselves or for a sick family member.

In the US today, the majority of adults in the family work and fewer than one-in-three children now have a stay-at-home parent.<sup>i</sup> In NYC, over 300,000 children attend some type of child care program while their parents work or attend school. Yet, many of their parents lack paid sick leave and the ability to easily remain at home with them when they are ill.

**Children suffer the consequences when parents don't earn paid sick time.** According to the Center for American Progress<sup>1</sup>, parents without paid sick days are more than twice as likely as parents with paid sick days to send a child who is ill to school or day care. And they are five times more likely to report taking their child to an emergency room because they were unable to take off work during normal work hours. When parents have no choice but to send a child who is ill to a child care program, the child's health is put at risk — as is the health of other children and the child care workers who care for them. The result is increased contagion and higher rates of infection for all. Studies have shown that children recover more quickly when parents stay at home with them when they are ill.<sup>2</sup> And, when parents earn paid sick time at work, they are also able to take their children to well-child visits for important immunizations that may prevent serious illnesses and the need for future absences.

Parents without paid sick time are faced with a terrible dilemma: how do they responsibly manage their children's illnesses – as well as recommended doctor visits - without putting a strain on family finances.

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<sup>1</sup> Center for American Progress, Fact Sheet: Paid Sick Days, August 16, 2012

<sup>2</sup> National Partnership for Women & Families, Fact Sheet, Paid Sick Days, 2012

**The early childhood workforce suffers as well.** Many common infectious diseases are transmitted in workplaces, particularly in workplaces with high degrees of direct contact. Child care workers are surrounded by young children and parents and experience substantial interpersonal contact on a daily basis. Because of the enhanced danger of contagion, it is critical that sick employees remain at home rather than come to work. But just 27 percent of child care workers have access to paid sick leave.<sup>3</sup> These workers are amongst the lowest paid in our country, earning an average of \$20,350 annually – half the national annual wage.<sup>4</sup> As such, they are the least likely to be able to afford to forgo a day’s pay in order to recover at home and avoid spreading infectious illnesses. When they come to work when sick, they endanger both the children in their care and their fellow employees. When child care workers can take time off to recover, they too prevent the spread of illness and all of us benefit.

We want our children as well as those who care for them, to be healthy. Paid sick leave is one way to ensure the good health of both as well as our own. We applaud the attention to this issue and urge the City Council to enact the proposed legislation.

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For additional information, please contact:

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Center for Children’s Initiatives  
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<sup>3</sup> Expanding Access to Paid Sick Leave: The Impact of the Healthy Families Act on America’s Workers, US Congress Joint Economic Committee, March 2010

<sup>4</sup> Expanding Access to Paid Sick Leave: The Impact of the Healthy Families Act on America’s Workers, US Congress Joint Economic Committee, March 2010



NATIONAL HISPANIC COUNCIL ON AGING

Yanira Cruz - President & CEO

*Working to improve the lives of Hispanic older adults, their families, and caregivers*

## **Submitted by the National Hispanic Council on Aging (NHCOA)**

### **Prepared for the New York City Council Committee on Civil Service and Labor**

#### **Regarding the Paid Sick Time Act**

Dear Honorable Members of the Committee:

The National Hispanic Council on Aging (NHCOA) thanks you for the opportunity to testify. As the leading national organization working to improve the lives of Hispanic older adults, their families, and caregivers, NHCOA is a strong supporter of paid sick days. Hispanic older adults are a vulnerable population, but the Paid Sick Time Act can help them age in better health and with a bit more economic security. During this testimony, I will first briefly describe the status of Hispanic older adults, then I will discuss some of the reasons why the Paid Sick Time Act would be so beneficial, and I will conclude by telling the story of a Hispanic older adult whose life would be changed for the better by having paid sick days.

Hispanic older adults face substantial challenges to aging in economic security and in the best possible health. Limited education and English speaking ability, combined with a lack of financial literacy means that many Hispanics enter old age with little in the way of savings. In 2011, nearly one-in-five Hispanic older adults lived in poverty.<sup>1</sup> Without Social Security, this number would be more than doubled.<sup>2</sup> Additionally, Hispanic older adults are more likely to rate their health status as “fair” or “poor” than the general population of older adults.<sup>3</sup> They are also less likely to receive the preventative care that can keep small health issues from becoming major complications.<sup>4</sup> Overall, about 30% of Hispanics lack health insurance, and this means that they enter old age already in poor health.

It is easy to see that Hispanics are hard workers, and that this strong work ethic does not decline with age. Among non-Hispanic Whites, African Americans, Asian Americans, and Hispanics, Hispanics have the highest labor force participation rate.<sup>5</sup> They are overrepresented, however, in

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<sup>1</sup> DeNavas-Walt C, Proctor B, and Smith J. U.S. Census Bureau, Current Population Reports, P60-243, Income, Poverty, and Health Insurance Coverage in the United States: 2011, U.S. Government Printing Office, Washington, DC, 2012.

<sup>2</sup> Torres-Gil, Fernando et al. The Importance of Social Security to the Hispanic Community. Center on Budget and Policy Priorities, Washington, 2005.

<sup>3</sup> Federal Interagency Forum on Aging-Related Statistics. AgingStats.gov. Accessed at: [http://www.agingstats.gov/Main\\_Site/Data/2012\\_Documents/Health\\_Status.aspx](http://www.agingstats.gov/Main_Site/Data/2012_Documents/Health_Status.aspx)

<sup>4</sup> National Center for Health Statistics. Health, United States, 2011: With Special Feature on Socioeconomic Status and Health. Hyattsville, MD. 2012.

<sup>5</sup> Bureau of Labor Statistics. Labor Force Characteristics by Race and Ethnicity, 2011. August 2012. Accessed at: <http://www.bls.gov/cps/cpsrace2011.pdf>

low-paying, physically-demanding jobs that offer little in terms of health benefits or paid sick days.

New York City and its Hispanic older adults need the Paid Sick Time Act. Many of the health and economic barriers that Hispanic older adults face could be lowered by access to paid sick days. This policy would encourage the use of affordable preventative health care and keep workers healthy so that they do not develop conditions that are expensive to treat. Paid sick days will help intergenerational households by allowing adult children to take time off to care for their parents or to take them to the doctor. The public health benefits of paid sick days will also be particularly beneficial for older adults, as they are most affected by illness.

Each summer, NHCOA travels the country to listen to the needs and perspectives of Hispanic older adults. The people we meet are grateful for their jobs and the opportunities for success that those jobs provide. As intergenerational households become more common, however, so do conflicts between the need to go to work and the need to stay to home to care for a loved one. Last year, NHCOA met a worker whose mother passed away due to a preventable illness. After hearing about our efforts to promote paid sick and family leave, the worker stated that such a policy would have allowed her to take time off of work to take her mother to a doctor and get her the treatment that she needed. And despite working hard for a lifetime, many older adults are not able to save enough to retire. In 2011, I met a 59-year old agricultural worker from Texas. She had multiple chronic conditions like diabetes, but not enough money saved to afford the health care to manage those conditions. Paid sick days would have given her a better chance to see a doctor and prevent the conditions she has today. There are hundreds, if not thousands of people just like her in New York City. The Paid Sick Time Act should come to a vote and be passed for them.

Thank you.



**NYCLU**

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**Statement of the New York Civil Liberties Union**

**Before**

**The New York City Council**

**Committee on Civil Service and Labor**

**Regarding**

**Int. 97-A relating to the provision of sick time earned by employees**

**March 22, 2013**

My name is Socheatta Meng, and I am Legislative Counsel for the New York Civil Liberties Union ("NYCLU"). I would like to thank the Committee on Civil Service and Labor for inviting the NYCLU to provide testimony today on this legislation that would provide employees with paid sick time.

The NYCLU, the state affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices across the state, and nearly 50,000 members. The NYCLU's mission is to defend and promote the fundamental principles, rights and constitutional values embodied in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York.

In New York City, many workers struggle to maintain a job and care for their families. When an employee or a family member falls seriously ill, balancing the needs of family and the demands of a job can become overwhelming. Both the family and job performance suffer.

This proposed legislation would require that New York City employers pay their workers for five sick days per year. The bill would allow workers to take time off to care for themselves or a family member without having to sacrifice their pay.

The NYCLU urges the City Council to put this bill up for a vote, and to pass this important legislation.

In this city, approximately 1.5 million workers are not allowed a single paid sick day.<sup>1</sup> When illness strikes, these workers must choose between going to work – and perhaps exposing others to a contagious infection – or staying home, without pay.

For low-wage workers who live paycheck to paycheck, a single day without pay could mean not being able to afford groceries, or pay the rent at the end of the month. What's worse, many workers who stay home when sick also run the risk of losing their jobs. According to one study, nearly a quarter of workers reported that they lost a job or were threatened with the loss of their job because they needed time off when they or a family member fell ill.<sup>2</sup>

The lack of a paid sick day benefit is harmful to all workers, but it is especially harmful to low-income workers. According to the federal Bureau of Labor Statistics, only 32 percent of those workers in the bottom quarter of wage earners receive paid sick leave, as compared with 87 percent of those workers in the top quarter of wage earners.<sup>3</sup>

It is these workers, and their families, who are most vulnerable when illness strikes or an elderly parent needs care. It is these workers who must face the dilemma of caring for their families' well-being when doing so requires a day off from work – and the possibility of losing a day's pay, or losing their job.

And it is these workers, at the lower end of the wage scale, who are disproportionately represented in communities of color. According to a recent report by the Community Service Society, approximately two-thirds of low-income Latinos cannot take a paid day off to care for themselves or a family member when sick.<sup>4</sup> Among low-income black workers, more than half are not allowed a paid sick day.<sup>5</sup>

Despite New Yorkers' clear need for a paid sick-leave benefit, the main source of opposition to its adoption comes from those who claim that it will harm small businesses. This assertion is false. First, the cost that this legislation would impose on businesses is minimal, an estimated \$0.22 per hour for employees receiving leave.<sup>6</sup> This is comparable to a tiny increase in the minimum wage, which research and experience have shown do not adversely impact jobs, even at higher rates of increase. Second, the small cost associated with this benefit is offset by related

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<sup>1</sup> Nancy Rankin, *Still Sick in the City: What the Lack of Paid Leave Means for Working New Yorkers*, Community Service Society of New York (Jan. 2012), at 3.

<sup>2</sup> Tom Smith and Jibum Kim, *Paid Sick Days: Attitudes and Experiences*, National Opinion Research Center for Public Welfare Foundation (June 2010), at 6.

<sup>3</sup> U.S. Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in the United States*, Table 32 (Mar. 2012).

<sup>4</sup> Nancy Rankin and Apurva Mehrotra, *Latino New Yorkers Can't Afford to Get Sick*, Community Service Society of New York (Mar. 2013), at 2.

<sup>5</sup> *Still Sick in the City*, *supra* note 1, at 7.

<sup>6</sup> Kevin Miller and Claudia Williams, *Valuing Good Health in New York City: the Costs and Benefits of Paid Sick Days*, Institute for Women's Policy Research (Oct. 2009), at 6.

benefits that employers reap: lower employee turnover, higher productivity, and the reduced spread of illnesses.<sup>7</sup> Third, the experience in other jurisdictions that mandate paid sick leave demonstrate that the policy has been introduced without the negative effects on businesses that were predicted. Thus far, six cities and the state of Connecticut have introduced paid sick leave laws, most recently Philadelphia. Analysis of the impact San Francisco's adoption of mandatory paid sick leave – a more generous benefit than the one now proposed for New York City – found no evidence that the policy has been detrimental to businesses.<sup>8</sup>

To the extent that this legislation would impose even a minimal cost on businesses in New York, supporters of the bill have agreed to several amendments: the legislation exempts “mom and pop” businesses (with less than five employees) from the requirement of providing workers paid sick leave; and for new businesses with less than twenty employees, there is a grace period of one year before employees must be provided paid sick leave.

Int. 97-A has been amended to include a “Changing shifts” provision (§17-505), which provides that an employee who has called in sick may upon mutual consent of employer and employee pick up another shift in the same period. If the employee exercises this option, she is not paid for the sick day; the extra shift is, in effect, substituted for the sick day. Between parties with equal bargaining power, this provision may serve the interests of employer and employee. However, in such a relationship the negotiating power is not equal. And there is therefore a well-founded concern that employees may be compelled to work a shift, against their wishes (and possibly harmful to their well-being) after taking a sick day – or suffer retaliation upon refusal to do so.

Consequently the “Changing shifts” provision may compromise the ability of shift workers – including the city's 200,000 restaurant workers – to utilize paid sick days as intended by the legislation. In a letter sent to the City Council, Beily Durbin gives credence to this concern. A restaurant worker for twenty years, Ms. Durbin describes in her letter the pervasive and persistent pressure workers experience to exchange shifts with someone who is sick. She also describes the harsh repercussions, including termination, for being absent from work, even when sick. Ms. Durbin's letter suggests that the “Changing shifts” provision may work to the disadvantage of the most vulnerable, and poorly paid, workers.

Concern regarding compliance with the intent of the legislation, should it become law, is not limited to the “Changing shifts” provision alone — there is good reason to expect that employers may not comply with the paid sick day mandate at all. For this reason the City Council should include affirmative measures in the proposed legislation that will help to ensure compliance. To this end, the bill should be amended, once again, to mandate that the City Council's Committee on Oversight and Investigation conduct a citywide field investigation, including extensive interviews with workers, to evaluate the degree of compliance with the new law, and to propose ongoing enforcement measures, if warranted. The investigation should be undertaken one year from the effective date of the new law.

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<sup>7</sup> See *id.*; and Elise Gould and Doug Hall, *Paid Sick Days: Measuring the small cost for New York City businesses*, Economic Policy Institute (Oct. 16, 2012), Policy Memorandum #194.

<sup>8</sup> John Petro, *Paid Sick Leave Does Not Harm Employment*, Drum Major Institute for Public Policy (Sept. 2010), at 1; and see Robert Drago and Vicky Lovell, *San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees*, Institute for Women's Policy Research (Feb. 2011).

There is no doubt that all New Yorkers need paid sick days. This is clear to members of the public – 83 percent of whom support a law that would require employers to provide paid sick leave.<sup>9</sup> The City Council also recognizes the importance of this bill for the workers of New York City, and for their families. A veto-proof majority of 37 City Council Members are co-sponsors of the bill.

And, yet, despite the widespread support for mandatory paid sick leave, this bill has been held from a vote.

New York's working families need this bill. The right to paid sick leave is a fundamental human right – a basic right recognized in international human rights documents such as the Convention on the Elimination of All Forms of Discrimination Against Women.<sup>10</sup> If passed, this bill would significantly improve the quality of life for millions of workers.

The NYCLU urges Speaker Christine Quinn, the members of the Committee on Civil Service and Labor and all of your colleagues on the City Council to the right thing: put this bill up for a vote.

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<sup>9</sup> Nancy Rankin, *Support Grows for a Work Standard Most Low-Wage Earners Still Lack in New York City*, (Oct. 2012) at 6.

<sup>10</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc.A/34/46, entered into force September 3, 1981.



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**Testimony of Rahul Saxena, Restaurant Opportunities Center of New York**

**before the New York City Council Committee on Civil Service and Labor**

**regarding Int. No. 0097-A (A Local Law to amend the administrative code of the city of New York in relation to the provision of sick time earned by employees).**

My name is Rahul Saxena and I am the Policy Director for the Restaurant Opportunities Center of New York (ROC-NY). ROC-NY organizes restaurant workers citywide for improved working conditions in the restaurant industry. We are a membership based organization of restaurant workers, with over 5,500 members who reflect the diversity of New York City restaurants.

**ROC-NY supports paid sick days for all workers, including New York City restaurant workers.**

Paid sick days are a basic right that all workers, including restaurant workers, need and deserve.

Close to ninety percent of New York City's 200,000 restaurant workers lack paid sick days. Most of these workers are low-wage workers living paycheck-to-paycheck, struggling to get by in a city with an extraordinarily high cost of living. As a result, many restaurant workers simply cannot afford to stay home when they or their dependents are sick. What's worse - restaurant workers who are simply too sick to work risk losing their jobs if they stay home to take care of themselves.

No one should be forced to work when sick. New York City workers need a law that guarantees the right to paid sick days.

**ROC-NY opposes the "shift-swapping" provision of the Earned Sick Time Act.**

The Earned Sick Time Act was recently amended to include a "shift-swapping" provision that would require restaurant workers and other shift workers to choose between picking up an extra shift *or* taking a paid sick day (Int.0097 s.17-1505 "Changing Shifts"). This provision will make it difficult – and in some cases impossible – for many restaurant workers to access their paid sick days. ROC-NY strongly opposes this shift-swapping provision for the reasons outlined below.

1. **By making shift workers choose between taking a paid sick day *or* picking up an extra shift, the shift-swapping provision makes paid sick days an *option* for shift workers, not a *right*.** The shift-swapping provision effectively denies restaurant workers the right to paid sick days. It is common practice for restaurant workers to pick up extra shifts when a co-worker needs to get a shift covered. For low-wage restaurant workers living paycheck-to-paycheck, the option of picking up extra shifts can mean being able to afford groceries or being able to pay rent at the end of the month. But picking up an extra shift is no reason to deny shift workers the right to be paid for a sick day. All workers deserve paid sick days *in addition to* being paid for every hour worked.

**Example:** Imagine you are a server at a restaurant making \$5 per hour. You are scheduled to work on Monday afternoon, but you wake up with a bad fever, so you decide to take a paid sick day. A few days later, a co-worker calls you and asks if you would be willing to take her evening shift. You jump on the opportunity because you are a low wage worker struggling to make ends meet, and it is your right to pick up extra shifts, as long as your boss approves. But because of the shift-swapping provision in the paid sick days bill, since you have picked up the extra shift, the sick day you took on Monday will no longer be paid.

2. **A shift-swapping provision would legitimize a broken practice in the restaurant industry.** When restaurant workers call in sick, most employers give them one of three choices: come in to work sick, find a co-worker to cover your shift, or don't bother coming back because you will be fired. As a result, most restaurant workers have worked when sick. And when restaurant workers are too sick to work, instead of taking care of their own health, they are forced to spend their sick mornings on the phone calling co-workers to get their shift covered. Even though the shift-swapping provision gives shift workers the choice of taking a paid sick day *or* swapping shifts, many employers will view the provision as a green-light to continue requiring workers to get their shifts covered.

**Example:** Imagine you are a low-wage restaurant worker scheduled for a Monday afternoon shift. You wake up Monday morning with the flu, and you call your boss to tell him that you won't be able to work. "We really need someone for your shift," your boss tells you, "can you find a replacement?" Though the paid sick days bill prohibits the employer from putting the responsibility to find a replacement on you, in reality, this long-standing, broken custom will not be erased as long as shift-swapping is endorsed by the law. As a low-wage worker with little power relative to your employers, you will most likely feel pressured into spending your sick morning trying to get your shift covered.

3. **A shift-swapping provision will incentivize employers to create fake shifts instead of allowing a worker to take a paid sick day.** According to the shift-swapping provision, if a shift worker takes a paid sick day and picks up an extra shift in the same pay period, she will not be paid for her sick day. This provision will encourage employers to create superfluous shifts for tipped workers in order to pay them at the lower sub-minimum wage for tipped workers rather than the regular minimum wage that would be required under the paid sick time law. This situation will hurt not just the sick worker who will effectively be denied the right to take a paid sick day, but also all tipped employees who will have fewer customers and who will have to split their tips with one extra worker when a superfluous shift is added.

**Example:** Imagine you are a server earning the tipped minimum wage of \$5 per hour. One day you are too sick to work, so you call your employer to ask for a paid sick day. Your employer responds, "Don't come in today, but why don't you come in on Wednesday instead. You are not scheduled, but you can take some tables from the servers who are scheduled." For your employer, this approach means he will only have to pay you \$5 per hour instead of \$7.25 for your sick day. But for you, this means that you will not be paid for your sick day. And for your co-workers – those who were already scheduled for the Wednesday shift – it means fewer tables to serve, which means less money in tips. Your co-workers will, as a result, go home at the end of the day with a reduced salary. For you and your co-workers – low wage workers struggling to make ends meet – this could impact your ability to pay rent, buy groceries, or care for dependents.

4. **Shift workers should not be treated any differently than other workers.** Paid sick days are a basic right that all workers deserve. The shift-swapping provision makes paid sick days an option, not a right, for shift-workers. Carving out shift workers this way would be unfair and would defeat the

purpose of the paid sick days bill. We would never pass a law requiring sick lawyers to work on Saturdays instead of being paid for a sick day.

Further, there is simply no good reason to include “shift swapping” language in the legislation. Without it, workers would still be able to voluntarily swap shifts if they so choose.

5. **Passing a paid sick days bill with a shift-swapping provision sets a bad precedent for our brothers and sisters across the country.** The New York City paid sick days bill will be used as a model replicated by other jurisdictions across the country. The ten million restaurant workers nationwide are largely low wage workers struggling to get by. Too often across the country, these hard workers – the very people we rely on to cook, prepare, and serve us our meals – are excluded from basic labor protections. Whether it’s a sub-minimum wage law for tipped workers or a paid sick days law that makes this basic right difficult or impossible for restaurant workers to access, it is unacceptable and immoral to give this important segment of the workforce less than what we give everyone else. New York City must lead the nation by giving *all* workers full and equal rights to paid sick days.

Paid sick days are a fundamental right that all workers deserve. Unfortunately, S.17-1505 of the Earned Sick Time Act turns this fundamental right into an option for shift workers – an option that will be difficult, and sometimes impossible, for shift workers to access. **ROC-NY strongly opposes this provision.**

**FOR THE RECORD**



**Testimony of William B. Jordan, MD MPH  
Immediate Past Co-Chair, Policy and Legislative Committee,  
Public Health Association of New York City  
Treasurer, National Physicians Alliance**

**Public Hearing of the New York City Council  
Paid Sick Days Legislation  
New York City Hall, March 22, 2013**

My name is William Jordan. I am an active member and the immediate past co-chair of the policy and legislative committee of the Public Health Association of New York City (also known as PHANYC). Since 1936, PHANYC has brought together public health professionals and students to work for improved health for the city's people. PHANYC has grown to be one of the largest affiliates of the American Public Health Association. Trained in family and preventive medicine, I see patients and train future physicians at a community health center. I am also here today representing the New York affiliate of the National Physicians Alliance.

I want to thank the City Council for seeking testimony from stakeholders in public forums like this one. **Guaranteed paid sick days will save money in the long run, and make New Yorkers healthier.**

As a family doctor in the Bronx, I see patients every week who need paid sick days. **New Yorkers need protected time off from work to tend to their health and the health of loved ones.**

One mother begged me to identify her son's dangerous food allergy quickly. One more missed day of work could cost her job. She is a home health aide taking care of a frail elderly woman for a large organization. Yet, she has no paid sick days. If she loses her job, her company will have to invest in training someone new; and the elderly woman she cares for may take a turn for the worse in new hands. If she cannot take time off from work, her son will likely end up in the ER at night, and may end up very sick or dead if he cannot wait until nightfall.

Another patient has been struggling with diabetes for years. When I first met him, his diabetes was out of control. But he just did not feel he could leave work to come for regular appointments. When diabetes is poorly controlled, patients are at risk of getting serious infections. He wound up in the ER after work three times in one year with abscesses, which could have spread to his blood and killed him. His problems could have been prevented if he had access to paid sick days.

**The city has made the prevention of flu and screening for cancer top priorities. These policies can only reach their full potential with paid sick days.** New Yorkers need to stay home when they or their child has the flu. They need paid time off to get vaccines, mammograms, and colonoscopies for themselves and elderly loved ones.

Paid sick days can prevent the spread of infections in our supermarkets and subways, allow families to take care of sick children and aging parents, empower patients to manage chronic illness, and create time for preventive measures like vaccination and cancer screening that will bend the cost curve in health care. **It is a grave injustice to force New Yorkers to choose between their jobs and their health.**

In summary, representing both the Public Health Association of New York City, and the New York affiliate of the National Physicians Alliance, **I urge you to bring paid sick days legislation to a vote.** Thank you for the opportunity to present this testimony on behalf of health professionals in support of communities throughout New York City.

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**Andrea X**

Testimony Before the New York City Council

Committee on Civil Service and Labor

In Support of Int. 97 A

“Earned Paid Sick Time Act”

March 22, 2013

Submitted by Andrea X

My name is Andrea. I work in the travel industry and I have paid sick days. But I am here to testify in favor of a law that would guarantee that everyone in this city has paid sick time because I know firsthand that all of us are at risk if everyone does not have this basic benefit.

My mother is a Holocaust survivor and my parents were married for 62 years. My mother developed Parkinson's disease and had a major stroke. She was hospitalized and then sent to a nursing home. The doctors told my father that there was nothing they could do for her that couldn't be done at home and so my 85 year old father took my mother home and cared for her. She needed a feeding tube and she was in a semi coma so of course he needed some help. We got a home health care aide through a company called Self Help that provided support for holocaust victims. The home health care aide came for 4 hours a day and that help was essential for my father.

The aide was a caring person who took good care of my mother but she also struggled to have enough money to live on. She lived a considerable distance from

us but she walked to work to save the \$2.25 it would have cost her to take the subway. She clearly needed every dollar she earned as an aide to be able to meet her needs.

In January of this year, our aide called in sick with the flu that was going around this winter. But the next day, she came in. She was clearly still sick but she could not afford to lose a day's pay. My father felt like he was placed in a horrible situation – he felt sorry for aide and didn't want to send her home knowing how badly she needed the money. My parents had both had flu shots (which we later found out was not very effective for the elderly) and the aide wore gloves and a mask. But nevertheless when someone is sick there is no way to stop germs from spreading. Both of my parents contracted the flu, and, although the doctor was called immediately and both my parents took tamiflu, my mother died three days later.

We are heartbroken and devastated as a family. My father is now dealing with grieving and feeling guilty for my mom's death and he does not deserve this as he was amazing and took unbelievable care of my mom sacrificing his own health. Our aide feels terrible as well but the position she was put in is not a position that anyone in our city should be put in. If she had some guarantee of pay for the time she missed with the flu she never would have come in and my mother would still be alive. We feel that the agency is responsible for my mother's death because they should insist that their aides stay home when they are sick and make it possible for them to do so by providing paid sick leave. It is stupid and wrong of agencies which are responsible for placing workers in homes with very sick people not to give their

workers paid sick time. But it is equally wrong and stupid for us as a city not to require all employers to give workers that time.

A million workers without paid sick days affects all of us. We need a law that will make sure anyone who is sick can stay at home. I urge the city council to pass this law which would require paid sick time for all workers so that no family will have to go through what mine has. Thank you for this opportunity to testify.



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**FOR THE RECORD**

**Testimony of  
Joel Shufro, Ph.D., Executive Director  
New York Committee for Occupational Safety and Health  
Before the  
New York City Council Committee on Civil Service and Labor  
In Support of Int. 97-A  
March 22, 2013**

My name is Joel Shufro and I am the executive director of the New York Committee for Occupational Safety and Health (NYCOSH) a non-profit educational advocacy organization dedicated to every worker's right to a safe and healthful workplace. NYCOSH is a coalition of local unions, health, legal and medical professionals and rank and file workers as well as concerned citizens in the New York metropolitan area with a 35 year history of providing quality safety and health training and technical assistance.

We strongly support Int. 97-A which is an important public and occupational health policy initiative. Workers should not be compelled to report for work if contagious or feeling sick. It is not good for their health, the health of those with whom they work or the health of the public at large. It is a drag upon the economy as a whole and the businesses for which sick workers to report. According to the Center for Disease Control (CDC)<sup>1</sup> 2005 Center for Law and Social Policy, "the economy loses \$10.4 billion in direct costs for hospitalizations and outpatient visits for adults" and \$180 billion in productivity a year when sick employees show up to work.

The importance of this legislation is heightened by the pandemic flu which disrupted our city and country several years ago. During that pandemic, federal state and city

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<sup>1</sup> "Make It Your Business To Fight The Flu." 2012. Center for Disease Control. 18 March 2013.  
[http://www.cdc.gov/flu/pdf/business/toolkit\\_seasonal\\_flu\\_for\\_businesses\\_and\\_employers.pdf](http://www.cdc.gov/flu/pdf/business/toolkit_seasonal_flu_for_businesses_and_employers.pdf)

government officials and agencies urged workers who developed symptoms away from work stay home "and not come to work until at least 24 hours after their fever has resolved." These precautions were issued in order to prevent flu from spreading to more individuals. However, many workers came to work sick. They did so because they had no choice.

It is not only co-workers who are affected when sick workers come to work. In those industries and workplaces where workers have substantial contact with customers or the public, such as teachers, food and restaurant workers, transit workers, or contact with certain goods that come into contact with customers, there is a risk that a sick worker will jeopardize the health of members of the public by exposing them, directly or indirectly, to germs. In the June 2012 study The Hands That Feed Us<sup>2</sup> conducted by the Food Chain Workers Alliance, revealed that 79% of workers in food production, processing, distribution, retail and service did not have any paid sick days and 53% of these workers have indeed come to work while sick.

Recovery for workers who contract the illness is between five and seven days. Unless workers are able to stay away from work if they are sick or able to take care of children, spouses and/or relatives in need, the transmission of the flu will be exacerbated. The recovery is especially important in the cases in children and the elderly who are at the highest risk of flu related deaths.

Between 33 and 40% of the nation's workers don't have paid sick days -- about 51 million people, according to U.S. Department of Labor<sup>3</sup> estimates released last spring.

Unfortunately, employer sick leave policies result in tremendous pressure on workers to report for work. Even those with sick days cannot afford to stay home, or are not given enough time to convalesce properly. Some companies that provide sick time, like Wal-Mart and Disney, give workers demerits and deduct their pay for staying home when

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<sup>2</sup> Jayaraman, Saru. The Hands That Feed Us. Food Chain Workers Alliance, 2012.

<sup>3</sup> "Employee Benefits in the United States -- March 2012" United States Department of Labor Bureau of Labor Statistics. 18 March 2013. <http://www.bls.gov/news.release/ebs2.nr0.htm>

they are sick or to care for children. The Bureau of Labor Statistics<sup>4</sup> also points out that only about 25% part time workers have access to paid sick leave.

If a worker is sick, he or she should be removed from the workforce until they are not contagious. While we support the current proposal, we note the virus does not discriminate between big and small employers or part-time and full-time employees. We believe that as a matter of public health policy such distinctions should be eliminated. However, we strongly urge the Council to vote in favor of Int. 97-A is an important first step in protecting the public's health.

Thank you for consideration.

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<sup>4</sup> "Beyond the Numbers" United States Bureau of Labor Statistics. September 2012: 1-5.  
<http://www.bls.gov/opub/btn/volume-1/pdf/who-has-benefits-in-private-industry-in-2012.pdf>

**Comments**  
**By the Food Industry Alliance of New York State, Inc.**  
**on**  
**Int. No. 97-A 2010**  
**(in relation to the provision of sick time earned by employees)**

Thank you for the opportunity to testify at today's public hearing. My name is Jay Peltz and I am the Vice-President of Public Affairs for the Food Industry Alliance of New York State. The Food Industry Alliance is a nonprofit trade association that promotes the interests of New York's 21,000 grocery stores. Our members include chain and independent food retailers that account for a significant share of New York City's retail food market and the wholesalers that supply them.

Historically, the retail food industry has provided flexible employment opportunities throughout New York City. In addition, as a heavily unionized industry it has, for decades, provided good paying jobs (with benefits, including paid leave) through the collective bargaining process. It is also challenged to preserve very low profit margins (typically, a best case of a penny on the dollar) in a highly competitive marketplace that gets more competitive every year, with warehouse clubs, supercenters, organic and natural food stores, drug stores, dollar stores and convenience stores all offering a wider assortment of groceries at very competitive prices. In addition, recently some supermarket owners have had to absorb significant increases in federal and state income taxes and all food retailers will be required to pay for a pending increase in the state minimum wage, itself described as a \$1.2 billion de facto annual tax increase. Add to that significant cost increases due to the imminent full implementation of the federal Affordable Care Act.

It is in this context that great pressure is being exerted to enact an unfunded mandate otherwise known as paid sick leave, also characterized as a de facto annual \$800 million tax increase. Enacting such a tax would be a mistake, for the reasons that I will discuss.

The retail food industry has a long, proud history of providing flexible employment opportunities to a wide range of people across a spectrum of life circumstances. The sector provides jobs to young people (including students) seeking to enter the workforce for the first time as well as employment opportunities to individuals looking to return to the workforce or to switch careers. The industry offers jobs to people who are the primary household earner and employment to individuals seeking to supplement household income. The sector also offers full time, part time and seasonal work as well as permanent and professional career paths.

Why then would New York City enact legislation that would hurt an industry with a track record of successfully meeting the demands of a very competitive marketplace while providing flexible job opportunities (many of them union positions with negotiated salaries and benefits, including paid leave) at so many different points of the life cycle? If enacted, the bill would create a substantial *disincentive* to create new jobs (and a substantial *incentive* to cut jobs and hours) by increasing the cost of each job at a time of weak economic growth and soft consumer spending. That would cause the historically broad spectrum of employment opportunities in the industry to narrow. It would also harm a sector that is the primary vehicle through which government benefits (primarily the SNAP and Women, Infants and Children programs) are provided to low income residents throughout New York City to purchase grocery staples.

To the extent these sizable new costs are borne by food retailers, narrow margins will shrink even further, thus reducing investment and therefore new store openings and job creation. To the extent these substantial new costs are passed on to consumers, people already struggling in a weak economy will struggle even more due to higher inflation, with low-income residents suffering disproportionately. The only people who gain are those

who will get an artificial benefit increase imposed through a government mandate, rather than a fair benefit appropriately obtained through the market.

In addition, the Mayor's Office and the City Council have acknowledged the need to improve access to healthy foods in underserved areas of New York City. This is because of a concentration of obese and overweight residents in those neighborhoods. By adding significant new costs to operating supermarkets in New York City, this legislation would undermine efforts to add stores to underserved areas while creating the risk that existing stores, currently surviving on very narrow margins in a weak economy, will shut.

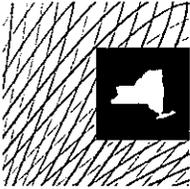
There is another major policy problem with the law. If enacted, the New York City Department of Health will have "full authority to implement and enforce" the law, including "broad powers" to ensure compliance with its provisions. This authority, however, would directly conflict with the terms of a Memorandum of Understanding between the New York State Department of Agriculture and Markets and the New York State Department of Health, which by its terms binds all city health departments. The MOU has been effective since March 1, 1986 and it replaced an MOU between the same agencies dated December 20, 1972. Under the terms of the MOU, food processing establishments in New York City (including retail food stores, chain drug stores, food warehouses and wholesale food distributors) are inspected and regulated by the State Department of Agriculture and Markets while food service establishments (such as restaurants and food concessions at movie theaters) are inspected and regulated by a health department. Generally, under Section II of the MOU, the State Department of Agriculture and Markets has jurisdiction over *all* operations of a food processing establishment and "In no instance shall an establishment be...*inspected by both departments...*" (bold and italics added). Thus, the broad authority granted to the New York City Health Department to enforce the paid sick leave law is a significant violation of longstanding state policy, which bars the New York City Health Department from having concurrent jurisdiction over New York City supermarkets and chain drug stores with the State Department of Agriculture and Markets.

In addition, the provisions of the legislation do not apply to workers covered by a collective bargaining agreement only if (1) the provisions of the law have been expressly waived in the collective bargaining agreement and (2) the agreement provides for a comparable benefit in the form of paid days off. The legislation, however, does not precisely define the word "comparable" and the waiver requirement gives unions additional leverage. Acrimony between the parties is likely to increase as they negotiate the meaning of the word "comparable" and as management seeks offsets due to cost increases arising under the law. Since union employees already have the opportunity to negotiate for full benefits through the heavily regulated collective bargaining process, the provisions of the law should not apply to all workers subject to a collective bargaining agreement, without exception.

Accordingly, the Food Industry Alliance, on behalf of its members, opposes adoption of this legislation. Thank you for your time and attention to this issue and to the Food Industry Alliance's concerns.

Respectfully submitted,

Food Industry Alliance of New York State, Inc.  
Jay M. Peltz, Vice President of Public Affairs  
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**The  
Business  
Council**

***Testimony to***

**The New York City Council Committee on  
Civil Service and Labor**

***Hearing on Intro # 97-A regarding mandatory sick time***

***Presented by***

**Tom Minnick  
Director, Center for Human Resources**

***March 22, 2013***



Chairman Nelson, members of the Committee on Civil Service and Labor and other City Council members, my name is Tom Minnick and I am the director of the Center for Human Resources at The Business Council of New York State, Inc. The Business Council is the state's largest business advocacy organization and we represent more than 2,600 private sector employers across New York State and in the five boroughs. On behalf of these members, I appreciate this opportunity to provide you with our views on intro # 97-A which would mandate private employers in the City of New York to provide up to five days of paid or unpaid sick time per year.

The Business Council urges the City Council to reject this proposal. Here's why.

#### Mandated leave will increase absenteeism

Economics makes the case that work incentives matter. In a 2009 New York Times article, Casey Mulligan, economics professor at the University of Chicago, wrote that the International Monetary Fund studied American and European employees' absence from work for sickness from 1995 to 2003. The report found that the average European was absent from work for sickness more than American workers. In the Netherlands, Norway and Sweden specifically, workers stayed home sick twice as often as American workers.

Yet, no study has found that Europeans are sicker than Americans. Some have argued the contrary. So, why would European workers stay home sick more than their American counterparts? The answer is that mandated government social insurance systems in Europe reward employees' absence. Certainly, under such systems, sick workers are less likely to go to work when they are sick, but employees who are not sick are more likely to be absent saying they are sick. The labor market responds to the governments' sick leave program reward of paid absence by keeping European workers home more often. Don't do that here in New York City.

#### Employment-related mandates punish responsible employers

The Partnership for New York City's 2010 employer sick time study, analyzed by Ernst & Young, found that 88% of the city's private sector workers have access to

paid leave that can be used when they are sick. It further broke it out to 95% of the employees of large New York City employers and 80% of employees of small New York City employers.

The proposed legislation punishes the vast majority of responsible New York City private and non-profit employers who already provide paid time for absences by forcing costly administrative changes in current policies. This includes organizations with workforces across city, state and national boundaries that will have to consider significant changes to such current well thought-out, generous and time-tested policies and programs.

In addition, employers with employees represented by labor unions are disadvantaged in collective bargaining negotiations before the first proposal is ever presented. A bill such as this creates a distorted and artificial minimum bargaining position, always to the advantage of the labor union. Employers and their workers, or unions representing their workers, are better positioned to provide a workable solution to time off needs, not governmental one-size-fits-all mandates.

In our experience, many of those small businesses that do not provide a formal sick leave program will work with their employees on a paid or unpaid arrangement that works for both the employee and the small business owner.

This local government unfunded mandate puts city businesses in an uncompetitive position

Private businesses and non-profit organizations in the five boroughs compete with others both in and out of New York State. For years, they have toiled under a significantly heavier tax, fee and regulatory burden than their competitors outside of the city line. The additional costs, regulatory burden and administrative requirements of this proposal will further impede competition and hinder the already slow recovery. Don't put New York City businesses in this position. If there is to be further debate, discussion and action around mandated government paid leave and paid time off, let it be at the federal level so that the effect would be consistent and spread across industries and geography.

Economic recovery is driven by new private sector investment and job growth,  
not new mandates and regulations

It is instructive to look at the state labor department's Quarterly Census of Employment and Wages.

When I testified here in November 2009, the city's unemployment rate was 9.8%. A year later in November 2010, it was 9.1%, then 9.2% in November of 2011 and 8.6% in November 2012. In January 2013, it stood at 9.9%. At best, this is not a trend that inspires confidence and stability.

In November 2009, the city's labor force stood at 3,962,900. A year later in November 2010, it was down 30,300, then up 45,900 in November 2011 and up 14,900 in November 2012. In January 2013, it stood at 4,027,800, up by 34,400. This constitutes a net employment gain of 64,900 jobs, or 1.6%, over a 3+ year period. I don't think that this demonstrates a very robust road to recovery.

Year	Unemployment%	Employment	Net Gain/Loss
11/2009	9.8%	3,962,900	
11/2010	9.1%	3,932,600	(30,300)
11/2011	9.2%	3,978,500	45,900
11/2012	8.6%	3,993,400	14,900
1/2013	9.9%	4,027,800	34,400

Net employment gain of 64,900 jobs or a 1.6% gain over a 3+ year period

Employers in New York City and around the state need to create many more jobs to put the unemployed back to work and to keep up with a growing population. The alternative is a continued loss of young, talented people across the borders to areas with more competitive economic climates and greater economic opportunities.

Speaker Quinn has it right as she remains objective, considers the economic facts and makes the right decision, for the city's citizens, businesses and their employees, to hold off a vote on this legislation.

We believe that the city council needs to reduce the cost burdens it imposes on the private sector and job growth.

Only private sector employers can create real jobs that will offer out-of-work New Yorkers hope and opportunity. But, those private employers are being drowned in a sea of taxes, fees and new costs which discourage job creation. Those jobs will come only with economic growth and that growth can't happen until government clears obstacles such as this out of the way.

It is inconceivable that the City Council would impose a new unfunded mandate on the backs of struggling city employers, just when New York City, facing high and protracted unemployment levels, needs more private sector job growth. It makes no sense that the City Council is stepping forward to propose a burdensome new requirement with new added costs on the very same business owners they turn to for those new jobs.

Thank you for the opportunity to testify today.

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**Testimony of James Essey of the New York Staffing Association  
in Opposition to Int. 97-A as Currently Drafted**

My name is James Essey, President and CEO of The TemPositions Group of Companies, a 51 year old regional family owned staffing service with a headquarters in NY employing over 5,000 people annually and I am here to provide testimony on behalf of the New York Staffing Association. NYSA represents the interests of temporary staffing firms, which are responsible for providing employment for over 120,000 employees throughout the City on an annual basis, with an estimated \$1.6 billion in economic impact.

Our temporary employees range from wait staff, school teachers, secretaries, and laborers, to CEOs, accountants, and engineers – it is an industry composed of an incredibly diverse workforce. Our workers are treated as our W-2 employees and receive a competitive compensation package, state and federal mandated benefits such as social security, disability, unemployment insurance and workers' compensation coverage, job skills training, and in many cases, vacation time and healthcare benefits.

Critically, our efforts provide a bridge between unemployment and a full-time position. Indeed, 70% of temporary employees ultimately receive permanent positions as a result of their temporary job. We are a jobs creation machine.

The temporary staffing industry operates with low profit margins, typically around 3%, largely due to the competitive pay and benefits we offer and our extensive recruiting and training costs. As a result of these low margins, and the fact that we are already preparing for an increase in costs relating to the Affordable Care Act and an increase in the minimum wage, this legislation would be a potentially fatal third blow to our members. This is because we would have to pass yet another increased cost on to our clients to remain competitive. This additional increase would most likely reduce overall demand for our services and reduce the number of jobs we offer each day to city residents.

We agree with the well-intentioned reasons behind the bill that no employee should risk continued employment by taking a sick day. But our industry is already built on the premise that employees should be able to work when they want.

The hiring situation is still precarious, with unemployment at stubbornly high levels while many employers are sitting on the sidelines. We believe this legislation is something the City cannot afford at this time.

There are a number of issues specific to our industry that for time reasons we will include in our written testimony but not read here.

Thank you for your time.

**(OVER)**

*Issues Specific to Legislation as Currently Drafted*

Essentially, the temporary staffing industry hires employees as their own W-2 employees and places them in other organizations for specific work assignments of limited and varying duration. Thus, there are often gaps of time between the temporary employees' assignments as the workforce transitions from one assignment to another, or move from one temporary staffing firm to another. It is important to consider this reality when understanding how the legislation may affect members of our industry.

- Definition of "Employee". § 17-1502(c) should be clarified to provide that "employee" means a person who is "employed for hire to perform services within the city ...." This revision will avoid ambiguity in connection with employees whose corporate office may be located within the City, but who primarily perform services outside the City.
- Rate of Paid Leave. Temporary employees' hourly rate may fluctuate during the year as employees are put on different assignments. Therefore, for such employees we urge that employers be given the option to use the employees' average hourly rate. See § 17-1502(h).
- Unpaid Sick Time. The current bill contains an additional mandate that "[a]ll employees not entitled to paid sick time under this chapter shall be entitled to up to forty hours of unpaid sick time ...." §§ 17-1502(m), 17-1503(c). However, the interplay between the paid sick time and unpaid sick time is entirely unclear. For instance, does this now mandate 80 hours of leave per year? May an employee immediately take 40 hours of unpaid leave at the commencement of employment? We urge that the provisions related to unpaid leave be struck in their entirety since they are already covered under FMLA provisions and ADA requirements to provide leave as a reasonable accommodation.
- Accrual of Sick Time. Because temporary employees may work for multiple staffing firms or other employers simultaneously, it is important for accrual purposes to tie an employee's hours of work to the particular employer for whom such services were performed. For instance, the bill may be revised to provide that "Every employer shall provide a minimum of one hour of paid sick time for every thirty hours worked within the City by an employee for such employer." Thus, we suggest that § 17-1503(b) be revised accordingly.
- Minimum Increments. We believe that paid sick time should be utilized in eight-hour blocks, or full-shifts, so as to prevent employees from reporting chronically late and claiming it to be sick time. This is especially important now that there is no real enforceable mechanism to ask the employee for advance notice of the need to take leave or documentation to support the leave. Thus, we suggest that § 17-503(e) be revised accordingly.
- Minimum Days of Service. Similar to the San Francisco legislation, we believe that employees should have to complete minimum service before beginning to *accrue* paid leave. This is because a large number of our workers will never work as much as three months with us before finding other work. Requiring a 90 day (520 hour) work requirement prior to accrual will remove the administrative burden of tracking literally thousands of employees who will never qualify the leave. Moreover, due the intermittent and unpredictable nature of work schedules in our industry, the minimum service requirement should be expressed as a function of time actually worked (e.g., hours or days of service) – as opposed to merely the number of days since the inception of employment. Thus, we suggest that § 17-1503(f) be revised accordingly.

- Separation of Employment. The bill currently provides that “when there is a separation from employment and the employee is rehired within six months of separation by the same employer, previously accrued paid sick time that was not used shall be reinstated ....” § 17-1503(k). In our industry, however, it is critically important that we more clearly define “separation from employment” due the sometimes sporadic nature of our temporary employees’ assignment schedule and gaps of employment. Therefore, we suggest defining “separation from employment” as the cessation of work for financial compensation for the employer. Moreover, we believe that a gap in employment of three months – not six – is appropriate, considering employers’ obligation to provide 12 weeks of protected leave under the federal Family and Medical Leave Act.
- Use of the Sick Time. As currently drafted, the bill would require our members to provide paid time off for employees who are in between work assignments. We believe that paid sick time should only be utilized for absences from scheduled work. This point is vitally important for employers in the staffing industry. Using paid sick time between scheduled assignments would pay temporary employees during a time period when they are not actually missing any work. Notably, for example, the recently-enacted Portland sick leave ordinance provides that “[a]n employee may not use sick time if the employee is not scheduled to work in the city on the shift for which leave is requested ....” Thus, we suggest that § 17-1504 be revised accordingly.
- Notice & Documentation. § 17-1504(b) currently provides that an “an employee’s failure to give reasonable notice [of the need to take leave] shall not warrant discharge or retaliation against such employee for using sick time.” This provision – which essentially renders non-existent any requirement to provide an employer with notice of the need to take leave – seems highly unfair to and unreasonable for employers who, after all, need to operate a business and effectively serve their clients. This could mean, for example, that on repeated occasions a substitute teacher could take a sick day but not notify us they are going to be out for the day leaving the school without coverage and we will have no ability to discipline the employee. Similarly, § 17-1504(c) provides that an employer may not take action against an employee for failing to provide the required documentation evidencing the need to take leave. We suggest these very unfair and one-sided provisions be eliminated.
- Workplace Posters. Because the temporary staffing industry hires employees and places them at the client-organization, it is impossible to ensure compliance with the posting requirements “in each location where such employees are employed ....” § 17-1508(b)(2). Therefore, we would request that the requirement for posting be simplified to at the employer’s place of business – especially in light of the employer’s obligation to provide notice upon the commencement of employment. In addition, consistent with many other employment laws (such as the New York State Wage Theft Prevention Act), we suggest an explicit cap on the amount of civil fines referenced in § 17-1508(d). Lastly, because the EEOC has issued guidance to our industry indicating we should not track national origin in any of our employment records, we would have no way of determining which nationalities make up 5% or more of our workforce. Therefore we request that the notice only need to be posted in English.
- Employer Record Keeping Obligations. The presumption in § 17-1509 that an employer violated the law should only apply in instances where the employer’s failure to maintain appropriate

records is “material.” This will provide employers relief for technical or immaterial recordkeeping errors.

- Confidentiality and Nondisclosure. We suggest adding “except as otherwise required by law” to the nondisclosure provisions contained in § 17-1511. Otherwise, employers may be forced to choose between violating one law or another (e.g., in the event of a lawfully-issued subpoena or court-order).
- Enforcement. We strongly believe that the enforcement provisions set forth in § 17-1514 are overly punitive in nature and only serve to harm unwary businesses and enrich plaintiffs’ lawyers.
  - First, § 17-1514(e) should provide for reduced or capped penalties for recordkeeping errors consistent with the failure to provide require notice or postings.
  - Second, an employer’s failure to provide leave benefits should not result in any form of undefined “promotion” under § 17-1514(f) or elsewhere in the current draft.
  - Third, we believe that, consistent with the Fair Labor Standards Act and New York Labor Law, the triple damages provided for in § 17-1514(f)(1) should only be available in the event an employer’s actions are found to be willful. As currently drafted, this provision is particularly punitive in nature.
  - Fourth, it seems duplicative that an employee could avail himself or herself of making an agency complaint and separately maintaining a private court action under § 17-1514(j). For instance, the commencement of a discrimination complaint with the New York City Commission on Human Rights bars the commencement of a court action covering the same conduct (and vice-versa).

### *Conclusion*

Accordingly, we strongly recommend the above-referenced changes to the bill so that our industry can continue to provide the benefit of temporary employment and training during this difficult economy. Alternatively, so as not to hurt our jobs creation capabilities for the City, we suggest that the Council adopt the approach taken by Connecticut on the passage of its sick leave legislation, which was to exempt employees working at staffing firms from such legislation.

I am happy to answer any questions you may have. I can be reached at 212 916-0859 or [jessey@tempositions.com](mailto:jessey@tempositions.com)

James A. Essey, President/CEO  
The TemPositions Group of Companies  
420 Lexington Avenue, New York, NY 10170

Legislative Chair, New York Staffing Association.

**Testimony Before the City Council inre: Intro 97A, Earned Sick Pay**  
**John Bonizio, Chairman; Westchester Square Business Improvement District**  
**Vice President, Metro Optics Eyewear**  
**March 22, 2013**

I am a Bronx businessman and Chamber member who also serves as Chairman of the Westchester Square BID. Personally, I am not opposed to the ideal of sick pay. I am, however, very much opposed to Intro 97A for the simple reason that this bill is not just about earned sick pay. It is a wolf in sheep's clothing and a true hidden tax that will retard job growth and work against part-time employment.

Beyond the sections of the bill that define eligibility and time tabulation, are the sections of this law that give the DOH very intrusive fining power over every business in the City. The bill encourages fines starting at \$1000 for the most minor infractions, and while there are *no* provisions in the law for punishment of an employee who is determined to have made false accusations against an employer, there are provisions for a tribunal to fine employers to encourage whistle blowing, and for the City to make moral judgments and on-line posts of companies it deems to be of "bad moral character." And there is no way to guarantee that an employee's use of this time will actually be for its intended purpose. It may very well come to pass that days will be used for other purposes once earned, and will *not* be available when the employee actually gets sick!

The bill's provision to count heads instead of accumulated employee hours is also disturbing. It discriminates against employers who hire part-time workers (such as working mothers, auditioning actors, and students) and will severely discourage the hiring of these individuals.

Worst of all, this bill has been drafted with an *Us vs. Them* approach. The need for law enforcement doesn't justify such a massive level of intrusive monitoring. This bill is aimed squarely at the struggling small-business community, the sector of our economy that generates two-thirds of the City's jobs. These businesses should be nurtured for their efforts, not picked apart to fill the city budget.

They should be recognized for the greater good they provide to the job market, not used as pawns in a game of budgetary "gotcha." It is wrong to throw them all into a box with a "caution" label upon it, for in the end, we will all pay the price such political posturing.

It's not the intent of this legislation – it is the impact that will decide its purpose. Everyone will be affected by this legislation, not just sick employees and their employers. In the end, when growth and expansion are hindered and eventually frozen (or reversed) by the unintended effects of this legislation, we will all suffer the consequences. The Speaker is right to be concerned about this bill, and as leaders of their districts and the businesses they represent, so should every member of this Council.

**TESTIMONY OF LAWRENCE A. MANDELKER on behalf of the  
NEW YORK METROPOLITAN RETAIL ASSOCIATION (NYMRA) before the  
COMMITTEE ON CIVIL SERVICE AND LABOR**

**Chair: Hon. Michael Nelson.**

**Friday, March 22, 2013**

**Council Chambers – City Hall**

**Friday, March 22, 2013**

**NYC COUNCIL INTRO. NO. 97A (2010)**

**EARNED SICK TIME**

Chairman Nelson and Members of the Committee, I appear on behalf of the New York Metropolitan Retail Association known as NYMRA. Our members are national chain retailers operating in the City. They appreciate the hard work you've put into this issue and recognize that you have attempted to lighten the heavy burden on doing business in the City – and it is a heavy burden – that this legislation would impose. But "lighten" is a relative term. The bill still doesn't address NYMRA's industry specific needs and concerns; and would still unfairly burden business in the City. Moreover, the provisions of this bill will be a floor at which collective bargaining will begin. NYMRA continues to oppose passage of this legislation.

**Blackout Periods:** There are two periods of time when retailers require that all employees be present: (a) the day or days when inventory is taken and (b) the make or break Christmas season<sup>1</sup>. During these periods of time, no leave is permitted, except at the employer's discretion, in case of dire emergency. We propose that the bill recognize such blackout periods as follows:

Blackout period(s) would be defined as the annual date(s) on which inventory is taken and such other period not exceeding 60 days during which a retailer receives at least 40% of its annual revenue. During blackout periods, the employee would not be entitled to take paid sick time even if she was out for a reason that would otherwise qualify for paid sick time. However, upon the employee's return to work, the employer could retroactively agree to allow the employee to take paid sick time. The fact that an employee took time off during a blackout period for which paid sick time was not allowed would not, in and of itself, be grounds for adverse employment action. Suggested language appears in an appendix following the testimony.

**Seasonal Workers:** The purpose of hiring seasonal workers is to fill in when full time workers are on vacation or during blackout periods. Use of seasonal employees is a win-win proposition for retailer and retail employee. It allows permanent employees to take their vacations without degrading customer service, while at the same time creating

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<sup>1</sup> Other businesses have other blackout periods, for example: accounting firms, February 15-April 15; restaurants, Thanksgiving Day, Christmas Day, Easter, and New Year's Eve; florists Valentine's Day and Mother's Day; supermarkets, two weeks before the Fourth of July, Labor Day, Passover, Easter, Christmas, Kwanza, etc..

temporary jobs for those looking for work or to earn extra money. The retailer is able to maintain customer service, sell more goods and generate more tax revenue to support services for those in need. Although the bill would not entitle seasonal workers to take paid sick time, it would entitle them to accrue and take unpaid sick time. This would undermine the whole purpose of hiring seasonal workers in the first place.

**Notice:** The legislation provides that an employer may require reasonable notice of the need to use sick time, where such need is foreseeable, and as soon as practicable where it is not. Providing reasonable notice is not difficult for the employee. Failure to provide reasonable notice imposes an unnecessary scheduling difficulty for the employer, particularly during a blackout period. No employee should be entitled to take a paid sick time if she has failed to provide the employer with reasonable notice where the need is foreseeable and as soon as practicable where it is not.

**Transfers:** The legislation should make it clear that transferees will not be able to carry-over accrued paid sick time unless they are transferring between two locations located within the City of New York. The Council may not impose a law on those branches of a business that do not operate within the City of New York.

**Reduce Rehired Employee Carry-Over Period:** the bill would allow a separated employee to carry over any accrued unused paid sick time as of his date of separation if he is rehired by the same employer within six months. Although the proposed carry-over period has been reduced from the one year provided in Intro No. 1059, it is still too long. It should be reduced to 60 days. In addition, the bill should specify that the separation and rehiring must respectively be from and to a job site located within the City.

**Family Members:** Upon commencement of employment, an employee should be required to list the names, addresses and relationships of all of his or her "family members" as that term is defined in this bill on his employment application. The employee should amend the information as needed. Paid sick time should not be used to either care for a family member or help the family member keep a medical appointment unless the name of the family member appears on the employee's personnel record.

**Documentation:** No employee should be allowed to take paid sick time for three consecutive days until she has provided the employer with reasonable documentation of the need to do so. To allow employers to require reasonable documentation of the need to take three consecutive paid sick days and then prevent an employer from either delaying payment until the documentation has been provided or denying it if no documentation is provided, makes the employers' right to receive reasonable documentation illusory.

We also think that it is not unreasonable for an employer to require reasonable documentation after the second consecutive day of absence, or after an aggregate of three days of absence within any two-week period.

**Administrative Complaints:** The legislation provides that any individual claiming to be aggrieved may file a complaint with DOH within 18 months of the alleged violation.

There is no reason why filing more than six months after the alleged violation should be permitted. Complaints should be filed and hopefully resolved while memories are fresh and witnesses are available.

The bill provides that issuance of a notice of violation by DOH is to constitute prima facie evidence of the facts alleged therein and commences an administrative adjudicatory proceeding. The legislation should require that the complainant should be identified in the notice and the facts constituting the alleged violation should be set forth with particularity. It should also provide that by issuing the notice, DOH has made due inquiry of the facts and has satisfied itself that there is a good faith basis for the notice to have been issued.

The bill permits monetary damages and civil penalties to be imposed on "any entity or individual." Monetary damages and civil penalties should only be imposed on employers. Likewise, monetary damages and penalties should be available to any employer who establishes that the administrative proceeding has not been filed in good faith

**Judicial Proceedings:** The legislation provides that an employee retains the right to go to court regardless of whether the employee has filed an administrative complaint. An employee who has not filed an administrative complaint should not have the right to go to court.

If the employee has filed a timely administrative complaint, the legislation should require the employee to wait for the administrative proceeding to be determined before filing a court action and require that the court action be filed within ninety (90) days after the administrative proceeding has been determined.

**Counsel Fees:** We believe that many complaints will be prosecuted by advocacy groups. The bill provides at several places that an employee who prevails in a judicial proceeding would be entitled to an award of counsel fees. It does not provide that an employer that prevails would be entitled to an award of counsel fees – even if there is a finding that the proceeding has not been filed in good faith. The United States Civil Rights Act permits whoever prevails in a Section 1983 case, be it the plaintiff or the defendant, and the Real Property Actions and Proceedings Law permits whoever prevails in a Landlord-Tenant proceeding, be it a landlord or a tenant, to collect reasonable counsel fees and disbursements. We therefore believe that under this bill, the prevailing party – regardless of whether it is the employee or the employer – should be entitled to collect reasonable counsel fees and disbursements.

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(See Appendix on Page 4)

## APPENDIX

A retailer which during a calendar year conducts audits of its entire store and receives at least 40% of its annual gross revenues during a defined period of time not exceeding 60 days, may declare in its labor contracts, employee manuals or other materials provided to new employees at the commencement of their employment that the annual period during which such audits are actually conducted and the annual period during which the retailer receives at least 40% of its annual receipts, as periods of significance in the employer's retail promotion calendar. Notwithstanding the provisions of this Chapter, during periods of significance in the employer's retail promotion calendar, the employer will have sole and exclusive responsibility for determining all leave schedules for any particular days falling within such period.



**Testimony in Support of *A local law to amend the administrative code of the city of New York, in relation to the provision of sick time earned by employees***

By Douglas Hall, Ph.D  
Director of the Economic Analysis and Research Network  
Economic Policy Institute

New York City Council  
Committee on Civil Service and Labor  
March 22, 2013

Chairman Nelson, and Members of the Committee on Civil Service and Labor

My name is Douglas Hall. I am the Director of EARN, a network of state and local think-tanks that share a commitment to improving the well-being of working families, growing the middle-class, and moving to greater shared prosperity.

Earned sick time is a wise investment for New York's employers, workers, and the general public.

**The Economic Case for Paid Sick Leave**

Adopting paid sick time for New York's businesses gives workers the ability to earn paid sick days, protecting worker's ability to provide for and care for themselves and their families. In addition, while the costs to business owners are practically negligible, both businesses and the people of New York will gain from a more productive and healthier workforce.

The many employers that already provide paid sick leave would have a level playing field with their competitors, and all would more easily maintain a healthy workplace. While any new labor standard generates concerns about the business climate and job creation, the evidence from jurisdictions that have legislated earned paid sick days has all been positive. The first jurisdiction to set a paid sick days standard was San Francisco, where employers have been required to offer earned paid leave since 2007. Fears that the law would impede job growth were never realized. In fact, during the last five years, employment in San Francisco grew twice as fast as in neighboring counties that had no sick leave policy. San Francisco's job growth was faster, according to the Institute for Women's Policy Research, even in the food service and hospitality sector, which is dominated by small businesses and viewed as vulnerable to additional costs.

Connecticut became the first state to enact a sick-days standard last year, and while it is probably too early to speak definitively about its experience so far, my Economic Policy Institute colleague Elise Gould and I calculated the potential impact of Connecticut's law before it passed and concluded that the cost of allowing employees to earn five days of paid sick leave a year would be very small relative to sales (if Connecticut employees with no sick leave were given the ability to earn five days of paid leave and used it as much as employees who already had access to leave, the cost was predicted to be only 0.19 percent of sales,

including firms of all sizes. For employers already providing five or more days of leave, there would be no cost at all).

Dr. Gould and I have also looked at New York City, and while available data prevented us from arriving at a "bottom line" number for New York City, at we were able to show that as a share of total sales, the impact on available industrial sectors in NYC would range from 0.06% in wholesale trade to 0.54% in the administrative support sector. These and other New York specific data are available in our policy memorandum, *Paid Sick Days: Measuring the Small Cost for New York City Businesses*.

Further, while any additional costs may be easily absorbed through small changes in other forms of compensation, hours, prices, or profits, earned sick time may actually save employers money through reduced turnover, higher productivity, and reduced "presenteeism" (the cost that businesses bear when sick employees come to work).

Because The Earned Sick Time Act applies to all private sector firms of five employees or more, it explicitly levels the playing fields between all employers, raising the quality of jobs across the board. Firms choosing between available channels of adjustment do so knowing their competitors are weighing the same alternatives.

Opponents of this legislation argue that this is not a good time. While the recovery has not been as robust as it needs to be to get back to pre-recession levels of employment, employers have been enjoying record levels of profits. And it is precisely in times of a less robust economy that workers need the protection of a labor standard to allow them to take sick time as it is needed, without fear of employment (or income) repercussions.

New Yorkers are proud of their City. It's correctly seen as the greatest city in America, and certainly among the greatest in the world. It should be a great city for workers, too. No parent should have to choose between caring for a sick child, and being able to afford to feed and clothe that child. It's time for New York to join cities like San Francisco and Portland as American cities that provide paid sick time to the women and men that make those cities great.

**Testimony Before the New York City Council Committee on Civil Service and Labor in favor of the Earned Paid Sick Time Act, Int. 97A**

**Submitted by Sherry Leiwant,**

**Co-President**

**A Better Balance: The Work and Family Legal Center**

**March 22, 2013**

Thank you for the opportunity to submit testimony on this important bill introduced by Council member Gale Brewer and endorsed by 38 council members. This is my third time testifying in support of this bill. In the time since I first testified in favor in November, 2009 much has happened. My title changed, my organization's address changed and many more jurisdictions have passed paid sick days. Today in addition to San Francisco, Milwaukee and the District of Columbia which had passed paid sick days when our bill was first introduced, the State of Connecticut, Seattle, Washington, Portland, Oregon and Philadelphia, Pennsylvania have all passed paid sick days legislation. Our bill is very similar to the Seattle, Portland and Philadelphia bills although both Seattle and Philadelphia provide more paid sick days than we provide in the New York City bill. The other thing that has happened is that we have amended this bill both at re-introduction in 2010 and again last Fall to address the problems that businesses had identified with the bill. We drafted 19 business friendly amendments that are currently in this A bill which I testify in support of today.

**A. A Better Balance: The Work and Family Legal Center – Statement of Interest.** I am Sherry Leiwant, Co-President of A Better Balance: The Work and Family Legal Center. My organization is a legal advocacy organization whose mission is to promote equality and expand choices for men and women at all income levels so they may care for their families without sacrificing their economic security. We employ a range of legal strategies to promote flexible workplace policies, end discrimination against caregivers and value the work of caring for families.

Integral to our mission is the need for women to have time off when they need it to care for their families without risking their economic security. For the first time in our nation's history, as recently laid out in the Shriver Report, women are half of all U.S. workers and mothers are the primary breadwinners or co-breadwinners in nearly two-thirds of American families. Indeed, the most significant demographic change in labor over the last 30 years has been the increase in the participation in the labor force of mothers. Since 1975, the labor force participation of mothers of children under 18 has increased from 47% of all such mothers working to 72%. And the biggest increase was among mothers with children under the age of 3, a tremendous increase from 34% to 61%. At the same time, the poverty rate of parents with children, particularly single parents with children, has become astronomical. Single parenthood is one of the major predictors of poverty: while 12.4% of all women live in poverty, 35.5% of all single mothers live in poverty; while 8.9% of men live in poverty, 19.1% of single men with children live in poverty.

As also highlighted in the recent Shriver report, the American workplace has failed to respond to the changes in the make-up of the workforce. Low-income workers, especially single parents, are particularly affected. They are often in jobs with no benefits and no vacation or sick leave. Nationwide, 46 million workers, most in the private sector, most with lower earnings, have no paid sick leave in their jobs. In New York City, 1.3 million workers have no paid time off at all. Low-income workers face not only loss of income if their children are ill or need them, but they also often face the most dramatic of all economic sanctions – loss of their job when they need to take leave to attend to the basic needs of their family. Hardest hit are single parents, already the poorest segment of our society. Recognizing the importance of paid time off for illness and to care for family members, we have been at the center of the campaigns for paid sick days around the country and at the Federal level since 2006, doing the legal work necessary to craft and defend the laws guaranteeing paid sick time for all workers.

**B. The San Francisco Experience.** In November, 2006, San Francisco voters approved a referendum that guaranteed paid sick time to all workers in the city. The San Francisco ordinance is almost identical to Intro 97A. Changes that have been made to our bill were made to address the few issues that arose in implementation of the San Francisco law.

All evidence examined since the law took effect shows that there have been no adverse effects on San Francisco business. In “Job Growth Strong with Paid Sick Days,” by Vicky Lovell and Kevin Miller published by the Institute for Women’s Policy Research in October, 2008, researchers looked at job growth in San Francisco and surrounding counties in the year following implementation of the paid sick days law. Despite an economic slowdown in the region, they found that San Francisco maintained a competitive job growth rate that exceeded the average growth rate of nearby counties. They found that in the 12-month period following the effective date of the new policy, employment in San Francisco expanded by 1.1 percent, the same rate as Marin and San Mateo counties and substantially above the rate of employment change in Alameda, Contra Costa, and Santa Clara counties (-0.5, -0.5, and 0.5 percent, respectively). Particularly notable was the strength of the labor market in the restaurant industry, which was heavily effected by the paid sick days law as most employers in that important industry in San Francisco had not previously provided paid sick days (as is the case here in New York City). In that sector, employment increased by 3.9 percent between the 4th quarter of 2006 and the 4th quarter of 2007—a higher growth rate than in the year before the new paid sick days policy was implemented, and stronger growth than any nearby Bay Area county except San Mateo.

There was also significant business growth in San Francisco in the year following implementation of the paid sick days law. According to the Office of the Tax Collector of San Francisco the number of businesses increased dramatically from 104,291 in 2006 to 118,030 in 2007. Furthermore, although California’s unemployment rate jumped from 4.8% to 6.1% between Dec. 2006 and Dec. 2008—a rate well above the national average—the San Francisco metropolitan area’s

unemployment rate (4.2% in December) has essentially remained the same.

With respect to implementation issues, a recent study was requested by the San Francisco Board of Supervisors ("Implementation Status of the Paid Sick Leave Ordinance" (BOS File No. 018- 09) (August 26, 2009). That report shows that implementation of the paid sick days law has been smooth with very few complaints from business and very few problems. The Office of Labor Standards Enforcement, responsible for implementing paid sick days in San Francisco reported very few complaints in the first two and a half years -- approximately 156 cases were opened due to complaints, most resolved quickly.

Surveys and interviews with leaders of the business community in San Francisco indicated that the paid sick days law had not been a major issue for employers. Kevin Westlye, Director of the Golden Gate Restaurant Association, stated, "Sick leave is one issue where people just looked at adjusting their policies and moved on. It hasn't been a big issue." Carol Piasente, Vice President, San Francisco Chamber of Commerce stated, "There was a lot of concern when it passed, and we've heard less about it since." Donna Leavitt, Manager of the Office of Labor Standards Enforcement stated, "We haven't heard of any rampant paid sick leave abuse. We also haven't heard that the costs of paid sick leave have ended up being anything employers couldn't manage." James Freeman whose small business, Blue Bottle Coffee, thrived with the paid sick days law in San Francisco so much that he was able to take his company national and open outlets here in New York City (creating jobs) has submitted testimony read by one of his managers that the paid sick days law was a good thing for his business in San Francisco and would be a good thing if passed here in New York.

**C. Paid sick time laws around the country.** Following San Francisco's lead, paid sick time laws have been introduced throughout the country. Five other cities have followed San Francisco's lead and enacted paid sick days laws. Washington D.C. passed paid sick days legislation in March, 2008 and Milwaukee, Wisconsin passed a

paid sick time law by referendum in November, 2008. Seattle passed a paid sick days law in September, 2011 and Portland, Oregon and Philadelphia passed paid sick days laws just last week. These laws are very similar to the proposed law here in New York City – except that they require more sick days than the New York City law does for larger businesses. The State of Connecticut in 2011 became the first state to pass a state-wide paid sick days law.

In addition, 14 other states and cities have introduced paid sick days laws that are pending. The legislation introduced throughout the country is based on the same model legislation that was drafted by the National Partnership for Women and Families and A Better Balance with extensive consultation with the Office of Labor Standards Enforcement in San Francisco. And it is that legislation that is the basis for the New York City paid sick days law although it has been drastically modified as business suggestions have been taken into account.

Legislation has also been introduced in the U.S. Congress. The Healthy Families Act, was introduced on Wednesday (March 20, 2013) in the House of Representatives and will be introduced in the Senate next week. That bill guarantees seven days of paid sick time to all workers in the nation who work for employers with fewer than 15 workers. However, as indicated in a letter written by Rep. Rosa De Lauro, principal sponsor of the Healthy Families Act in the House, for the first hearing on paid sick time in New York City, despite the existence of Federal initiatives, it is essential that local legislation be enacted. Action on these issues by states and cities is an essential prerequisite for Congress to act. This has always been the case with respect to progressive legislation – e.g. minimum wage, family and medical leave – and is no less true with respect to guaranteeing workers paid sick time.

**D. The Law.** Following passage of the San Francisco paid sick days law, the National Partnership for Women and Families and my organization, A Better Balance, began work on a model paid sick days law based on the San Francisco law, but also with attention paid to issues that arose as San Francisco began

implementation of their law. The model law was constructed with extensive consultation with the Office of Labor Standards Enforcement in San Francisco and circulated to labor lawyers, human resources executives and advocates around the country. The resulting model is the basis of the New York City law.

There are several key principals under the law:

- **Paid sick time is earned.** Workers earn paid sick time based on their hours worked. Under the New York City bill, every worker earns one hour of paid sick time for every 30 hours s/he works for an employer.
- **There is a limit on how much paid sick time can be used in a year.** Employees are limited to a maximum of 5 days of paid sick time. The bill defines small businesses as those that employ fewer than 10 employees.
- **Purposes for which workers can use paid sick time are:** for their own or for a relative's illness or need for preventative care; when a business or school is closed due to a health emergency.
- **Only workers in "mom and pop" shops are excluded from the law.** The only exclusions from the law are workers in "mom and pop" businesses of fewer than 5 workers (although domestic workers are included), work study students and independent contractors.
- **Employers that currently have leave policies that provide the same amount of leave required under the statute that an employee can use for the same purposes required by the law is in compliance and does not have to change their practices.** The law is very clear that employers providing paid leave in the same amount as that required by the law comply with the law as long as that leave can be used for the same purposes as required under the bill. This means that employers who currently have paid time off policies or personal day policies that include as much time off as required under the bill (5 days) do not have to change their policies as long as the employee can use the time when s/he or a family member is ill, for preventative care or for domestic violence purposes. Similarly if businesses provide vacation time but not paid sick leave, they do not have to add days off as long as a worker can use that vacation time when s/he is sick. The

pertinent language is in (c)(9) and reads as follows:

(9) Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as paid sick time under this section is not required to provide additional paid sick leave or paid sick time.

This language is the same language used in the San Francisco ordinance and has been implemented so that businesses which provide at least the same amount of time off that can be used for sick time purposes do not need to change their practices in any way. It is also the language in the Healthy Families Act which was changed this year to include that language in order to assure that employers with generous time off policies would not have to make major changes. The intent is that such businesses will also not need to change their bookkeeping practices even if their method of accounting for paid leave is different from that specified in the law. This is the way the language has been interpreted in San Francisco and has been specifically stated in regulations; we would expect the provision to be interpreted in the same way in New York City through regulations. We have drafted additional specific language that could be used to insure bookkeeping policies need not be changed.

- **Employers are never required to provide more than 5 days of paid sick time.** Employees don't lose their earned sick time so that they never have to be without any hours to draw on, but the employer is never required to allow more than 5 days of use in the year. Here's how it works: Employees don't lose their paid sick time (so there will be no incentive to use up remaining days at year-end) BUT an employer is only required to provide 40 hours in a year.
- **Employers never have to pay employees for unused days either at the end of a year or when they leave their job.** There is no cash out for unused paid sick days under this law.
- **There is a waiting period of 120 days before an employee can begin to use paid sick time.** There must be a clear attachment to the employer in order for the employee to be able to use paid sick time so there is a 90 day waiting period before

paid time off can be taken. This means that most seasonal workers will not be able to use paid sick time.

- **Employers are free under the bill to discipline employees who abuse paid sick time (or any other) policies, require reasonable advance notice of foreseeable need for time off under the bill, and require verification when an employee is out for more than 3 days.** Many businesses in New York City already provide paid sick days and do not experience problems. Rather, provision of paid sick days creates a more positive work environment, improves morale and increases employee loyalty. Furthermore, studies show that most people do not use all their available sick days when paid sick time is offered. In any event, employers can discipline workers who abuse sick leave (or other leave policies) and the bill provides specifically that an employer can require reasonable advance notice of foreseeable leave and can require verification of absences longer than 3 days.
- **All workers who work within the geographic boundaries of New York City are covered by the law.** In order to be covered by the law, a worker must work in New York City. The law provides that a worker must work at least 80 hours in the geographic confines of New York City worker. Therefore, if a business is headquartered outside of New York City but has employees within New York City, those employees are covered by the paid sick time act but employees who do not work in New York City are not; by the same token, if a company is headquartered in New York City, employees working outside the confines of New York City are not covered by the paid sick time act.
- **Collective bargaining agreements can provide for an “opt out” to this law for the building trades and for other unions if something equivalent is provided in the agreement and the agreement clearly provides for the opt out.** The equivalency could be in the form of other kinds of leave or additional money or benefits.
- **The question of whether a worker is an “employee” and thus subject to the law or a “contractor” and thus not so subject is a matter of state law and will be interpreted in the same way the question is determined for other labor standards such as minimum wage.** The law applies to “employees” of

“employers.” It does not apply to “independent contractors.” Whether a worker is an employee depends on things like whether the worker is paid a salary, whether the employer pays payroll taxes, whether the employer controls work hours. Some workers on commission will be covered and some will not.

- **Enforcement will be by a combination of administrative agency acceptance and investigation of complaints and possible court action by the worker.** The bill provides for the Department of Health to have the power to investigate complaints and assess fines if non-compliance is found. It also provides that a worker may maintain a court action. Fines are provided in the bill as they are for all laws enforced by the city. An administrative enforcement mechanism was added to the paid sick time law due to business concerns about having a court-only remedy. The Paid Sick Time Act’s proposed penalties—to levy a \$1,000 fine for first time violations, \$2,000 for second violations, and \$3,000 fine for subsequent violations—are comparable to an array of other New York City laws and regulations.<sup>1</sup> In a previous paid sick time hearing before the New York City Council, Donna Levitt of the San Francisco Office of Labor Standards provided testimony that “[t]he implementation of our [paid sick time] law has been quite smooth and businesses have not reported compliance with the law to be a major problem.”

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<sup>1</sup> For comparable penalty amounts, *see, e.g.*, NYC Admin. Code § 8-603 (civil penalties up to \$100,000 for person who violates law regarding discriminatory harassment and violence); *id.* § 10-116 (civil penalties between \$10,000 and \$25,000 for person who willfully damages a house of religious worship); *id.* § 15-216(b) (civil penalty of up to \$10,000 for failing to comply with fire rules and regulations); *id.* § 24-178 (civil penalty of up to \$10,000 for violating asbestos work rules); 48 RCNY § 3-123 (default civil penalty of \$10,000 for violation of sewer control rules); 56 RCNY § 1-07 (civil penalty of up to \$10,000 for violating the Department of Parks and Recreation’s rules of park use); 35 RCNY § 1-86 (civil penalty of up to \$10,000 for taxicab drivers who avoid inspection or use false credentials).

For laws, rules, and regulations with escalating civil penalty structures to deter and punish repeat offenders, *see, e.g.*, NYC Admin. Code § 16-118(b)(1)-(f)(1)(i) (penalties of \$2,000 for the first offense and \$5,000 for each subsequent offense regarding littering and recyclable materials); *id.* § 15-229(a) (penalties of \$1,000 for the first violation and \$2,000 for subsequent violations of laws or regulations enforceable by the Fire Department); 15 RCNY § 41-14 (escalating civil fines for failure to file an inventory form or risk management plan under the Department of Environmental Protection’s right-to-know laws: \$250 to \$2,500 for a first violation; \$1,750 to \$5,000 for a second violation; \$3,750 to \$10,000 for each subsequent violation).

Attached to this testimony are the twenty amendments that have been made to this bill since the original introduction in 2009 to address business concerns. We have listened to businesses around the city and amended and amended and amended again to deal with issues raised. We believe this bill provides a clear solution to the problem of over a million workers in New York City lacking paid sick days. It has worked in San Francisco. It is the model for 14 states and the Healthy Families Act. It considers the rights of workers but also the needs of employers. It is broad in the sense of providing coverage for all employees, but there are a large variety of ways an employer can meet the obligations under this law to provide paid sick time for all workers. After more than 1,000 days, 3 hearings, hundreds of meetings with business, and many amendments, it is time for this bill to be enacted to protect the health of all New Yorkers and their families.

## **NEW YORK CITY EARNED PAID SICK TIME ACT TWENTY AMENDMENTS TO ADDRESS BUSINESS CONCERNS**

Since 2009, when the New York City Earned Paid Sick Time Act was first introduced, the bill's sponsors have met with countless businesses throughout the city and have made significant changes to the bill to address their concerns. The following changes have been made from the original bill (Int 1059-2009) and are now reflected in the current bill (Int 97-A-2010):

- **Small businesses do not have to provide paid sick time.** 64% of businesses in New York City employ fewer than 5 workers. Section 17-1502(d). The original bill covered all businesses in New York. The current bill requires that businesses with fewer than 5 workers need not provide paid sick leave although they can't fire workers for taking up to 5 sick days.
- **Maximum days required has been reduced to 5 days a year.** The original bill provided up to 9 days of paid sick time for workers in businesses with more than 10 employees (5 days for businesses with fewer than 10 employees). The current bill requires no more than 5 days a year for any business. Section 17-1503(b)(2).
- **Any paid time off policy counts for purposes of this law.** Any type of paid leave – paid time off, vacation, personal days, etc. – counts for purposes of complying with this law. Businesses that prefer not to designate specific time to sick leave need not do so and businesses providing any kind of leave in the same amounts as required by the law need not change their policies. Section 17-1503(i)
- **There is a waiting period of 4 months before sick leave can be used.** The waiting period was increased from 90 days to 4 months so that seasonal summer workers will not be able to use sick days; all businesses can keep this longer waiting period for use. Section 17-1503(f).
- **If there is a break of employment of more than 6 months, employers are not required to reinstate paid sick leave.** Originally, workers were entitled to keep paid sick time if there was up to a year break in service; this was changed to 6 months to make bookkeeping easier for employers and to insure that employers with summer-only staff would not need to reinstate sick leave for returning summer employees. Section 17-1503 (k).
- **If shift workers trade shifts within a pay period, the employer need not pay for sick time.** The practice in some sectors with respect to shift workers is that there is often trading of shifts so that no pay is actually lost when the worker is sick. The amended bill provides that if an employer and worker mutually agree to a trading of shifts within a pay period, the employer does not have to provide paid sick time; a shift change is totally voluntary on the part of the worker. Section 17-1505.

- **Work-study students are excluded.** The original bill covered all workers. Section 17-1502(c).
- **Paid sick leave provisions do not apply to employers regulated by the Public Service Commission in times of declared public emergency.** This was added due to complaints by Commission employers that in a public emergency all workers may be needed. Section 17-1506.
- **Workers who volunteer for shifts with higher rates of pay will earn their standard pay rate if they take sick time during those shifts.** The amended bill clarified that workers who volunteer for shifts that pay more than the worker normally earns are not entitled to more than their normal pay for sick time taken. This addressed the concern of the restaurant industry regarding workers who volunteer for premium pay banquets but then are sick and don't work the banquet, but it is also applicable to those volunteering for overtime work who are then unable to work that overtime due to illness. Section 17-1502(h).
- **The list of relatives for whom an employee can take sick leave to provide care was narrowed to children, spouses, parents and domestic partners.** Grandparents, siblings, and those related by blood or affinity (the standard for federal workers) were originally included but are now excluded. Section 17-1502(e).
- **Employers do not have to change their bookkeeping practices to comply with the law.** Specific language states that employers do not have to make changes to their current bookkeeping practices to comply with the law. Sections 17-1503(g), 17-1510.
- **Increments of use are to be determined by the employer.** The original bill required that sick time be allowed in hourly increments; the bill now provides businesses can determine time increments of use for sick time up to half a work day. For example, if a business has a policy of requiring workers to take at least half a day of time when they call in sick, that policy does not need to be changed. Section 17-1503(e).
- **Businesses can allot paid sick time at the beginning of the year, rather than through the accrual process outlined in the law, if they prefer.** The law specifically provides for employer flexibility in calculating sick leave. Section 17-1503(g).
- **Administrative remedy added.** The original bill provided only for enforcement in court. Employers were concerned with potential litigation costs. The current bill provides a full, complaint driven administrative remedy housed in the Department of Health. Section 17-1514.
- **New small businesses will have a year to comply with the law.** Because of the difficulties of starting a new business, new small businesses (under 20

employees) will have a year before they have to give paid sick time. Section 17-1503(f).

- **The law will not affect current collective bargaining agreements.** The effective date for the law will be at the end of the collective bargaining agreement if workers are covered by a cba. Section 4.
- **Language clarifies that non-retaliation provisions and administrative remedy only apply to paid sick time violations.** This clarifies that worker protections in the bill apply only to sick time and do not extend to other disciplinary actions. Section 1.
- **Model policies, notices and forms will be available for businesses through an online resource.** This will make it easier for businesses to comply with the law. Section 17-1510.
- **A statute of limitations was added to limit the time for complaints to be filed with the agency or the court.** A provision was added to require complaints to be filed within 18 months of learning of a violation. Section 17-1514 l.
- **Domestic violence purposes were deleted from the bill.** Although many paid sick days bills contain paid time off for victims of domestic violence to go to court or relocate, these provisions were deleted from the New York City bill in response to business complaints that they don't allow use of sick leave for domestic violence purposes.

Proposed Int. No. Q7-A

By Doreen Zayer, Small Business Owner, Employee of Relax On Cloud Nine Incorporated, NYS Licensed Massage Therapist, Mother of 3.

“The Council finds that providing paid sick time is affordable for employers and good for business.”

**All businesses are not the same.** What this bill fails to recognize is my small business and businesses like mine. When an employee needs off for any reason the clients that were booked with them are notified and rescheduled to another day. Often our clients have a relationship with a particular therapist and prefer to wait for their return.

How is it possible to afford this? Here is an example of the result this bill will have on my business;

A therapist is paid on average \$19 an hour in an eight hour shift they receive \$152. The business pays into employee social security, unemployment, disability, and health insurance and matches their IRA contributions, which increases this expense by approximately 11% for a total of \$168.72

We average \$58.30 per hour gross income to the business if we are completely booked with an hour for lunch we have the potential to generate \$408.10 in service sales.

The therapist calls out. We call the clients tell them their therapist is not coming in and they reschedule to another day.

Now we have just lost the \$408 for the day and also do not have the \$152 payroll expense.

This bill will force the business to incur a \$152 payroll expense per day the employee is out up to 5 days in a calendar year.

Multiply this times 10 employees each receiving 5 paid days;

This will cost my business \$7,600 annually (\$8,436 when factoring in current benefits fees of approximately 11%)

While at the same time reducing sales by \$20,405

How anyone can say this is affordable and good for business is not considering all businesses. This bill has good intentions and is an attempt to protect low income workers who live in fear of losing their jobs if they call out for any reason. Yet my business which employs skilled workers who make their own schedules and take off as they need without any fear of retaliation will be put out of business. My business offers the best benefits package it can afford it is important to my business to keep and retain excellent staff and so far I've been able to do that. I could not continue to employ the people I currently have at the hourly wage they earn under this bill I would be forced to lay people off. I would think the council would be looking into meaningful ways to help employers employ not force them to incur additional expenses, additional record keeping, and make it difficult for them survive and thrive. I have been in business over 17 years am a member of the Staten Island Chamber of Commerce, an Executive Officer in Staten Islands premier networking group "The Bucks", and an active volunteer at many local fund raising events. Since 2008 I've had to close one location, sell a mobile unit which was used for on site free services at local fund raising events and try and survive the most difficult economic time I have ever experienced. I hope the council seriously recognizes the devastating impact this will have on many "good" businesses that have good employees earning good wages.

MY NAME IS WILLIAM SHUZMAN AND I AM THE EXECUTIVE DIRECTOR OF ALLIED BUILDING METAL INDUSTRIES, THE N.Y.C TRADE ASSOCIATION OF STRUCTURAL STEEL AND MISCELLANEOUS IRON CONTRACTORS. ALLIED REPRESENTS CONTRACTORS BOTH LARGE AND SMALL. THE ONE THING ALL ALLIED MEMBERS HAVE IN COMMON IS THAT ALL OF THEIR IRON WORKERS ARE UNION MEMBERS.

YOU MIGHT BE SURPRISED TO HEAR THAT OUR ASSOCIATION IS GENERALLY IN SUPPORT OF THE PROPOSED LEGISLATION WITH ONE VERY IMPORTANT AND SPECIFIC EXCEPTION. THAT EXCEPTION RELATES TO THE LANGUAGE IN §17—1513(B) WHICH REFERS TO EMPLOYEES IN THE BUILDING AND CONSTRUCTION INDUSTRY COVERED BY A COLLECTIVE BARGAINING AGREEMENT.

OUR OBJECTION RELATES TO THE LANGUAGE WHICH EXEMPTS EMPLOYERS WHO HAVE A CONTRACT WITH A UNION FROM THE OBLIGATION TO PROVIDE SICK LEAVE, ONLY IF SICK LEAVE IS EXPRESSLY WAIVED IN THE COLLECTIVE BARGAINING AGREEMENT.

EVERY FEW YEARS, ALLIED NEGOTIATES CONTRACTS WITH THE IRON WORKERS. AS WOULD BE EXPECTED, ONE OF THE ISSUES DISCUSSED IS PAID TIME OFF. OUR INDUSTRY HAS DEALT WITH THE ISSUE BY CREATING A

FUND WHICH PAYS EMPLOYEES WHEN THEY DO NOT WORK BECAUSE OF HOLIDAYS, VACATION, SICKNESSES ETC.

SO... FOR EVERY HOUR WORKED BY AN IRON WORKER, HIS EMPLOYER CONTRIBUTES \$16.00 TO THIS FUND WHICH IS DEPOSITED IN THE INDIVIDUAL WORKER'S PERSONAL ACCOUNT.

IRON WORKERS ACTURALLY RECEIVE \$84 OF THE \$108/HOUR ECONOMIC PACKAGE PAID BY EMPLOYERS; THE REST BEING PAID INTO POOLED FUNDS. WITH THIS HOURLY RATE OF \$84, THE \$16.00/HOUR, OR \$640 PER WEEK WHICH IS PAID, IS EQUIVALENT TO MORE THAN 7½ HOURS OF PAID TIME OFF FOR EVERY WEEK WORKED, SO... AN IRON WORKER WORKING 47 WEEKS IN A YEAR HAS ADDED TO HIS INDIVIDUAL ACCOUNT MORE THAN \$30,000, DOLLARS OR THE EQUIVALENT OF 45 DAYS PAY FOR TIME NOT WORKED DUE TO VACATION, SICKNESS, HOLIDAYS OR ANY OTHER REASON.

SO AN EMPLOYEE TAKING THREE WEEKS VACATION AND TEN PAID HOLIDAYS, WOULD STILL HAVE TWENTY DAYS PAY LEFT IN HIS INDIVIDUAL ACCOUNT. THIS IS FAR IN EXCESS OF THE FIVE DAYS PROVIDED FOR IN THE BILL.

DOES SUCH AN EMPLOYEE NEED AN ADDITIONAL FIVE DAYS PAY?  
HOW MANY OF US IN THIS ROOM GET 45 PAID DAYS OFF IN A YEAR?

WHAT I HAVE JUST DESCRIBED TO YOU IS THE BARGAIN THAT THE UNIONS AND THE EMPLOYERS IN THE STRUCTURAL STEEL INDUSTRY HAVE AGREED UPON. TO NOW GIVE THE UNION AN ADDITIONAL FIVE DAYS OF PAID TIME OFF FOR THEIR MEMBERS UNLESS THE EMPLOYERS CAN OBTAIN A WAIVER UNFAIRLY TIPS THE BALANCE IN ALL FUTURE NEGOTIATIONS. AS WOULD BE EXPECTED, THE UNIONS WON'T VOLUNTARILY AGREE TO SUCH A WAIVER UNLESS THERE IS SOME QUID PRO QUO. IN SHORT, IT WILL COST THE EMPLOYERS SOMETHING TO OBTAIN THIS WAIVER.

FOR IRON WORKERS, THIS SICK LEAVE PROVISION OF THIS BILL ARE WORTH MORE THAN \$4,300 PER EMPLOYEE PER YEAR. WHAT THIS MEANS IS THAT BEFORE THE PARTIES SIT DOWN TO NEGOTIATE, THE EMPLOYERS ARE FACING A \$4,300 PER EMPLOYEE PER YEAR INCREASE IN THEIR LABOR COSTS.

IN A CITY SUCH AS OURS WHERE CONSTRUCTION COSTS ARE HIGHER THAN ANYWHERE ELSE, DO WE NEED THIS AUTOMATIC AND UNWARRANTED INCREASE?

ONE FINAL NOTE. YOU SHOULD BE AWARE THAT WHEN WE REACH AN AGREEMENT WITH OUR UNIONS, TYPICALLY WE ARRIVE AT A DOLLAR AMOUNT; FOR EXAMPLE A \$10.00 PER HOUR INCREASE OVER THE COURSE OF THE AGREEMENT. HISTORICALLY THE UNION IS GIVEN THE UNILATERAL RIGHT TO ALLOCATE THIS \$10.00 IN ANY WAY IT SEES FIT. SO... FOR EXAMPLE IF THE UNION WANTS TO ALLOCATE THE ENTIRE \$10.00 TO THE FUND WHICH ACCUMULATES PAY AS I DESCRIBED EARLIER, IT IS FREE TO DO SO.

SHOULD THEY NOW GET AN ADDITIONAL SUM OF MONEY TO ALLOCATE FOR THIS PURPOSE? IS THAT THE PRUDENT THING TO DO?

WE BELIEVE THAT EMPLOYERS SHOULD BE RESPONSIBLE FOR THEIR EMPLOYEES NEED FOR PAID TIME OFF. A BILL DESIGNED TO ADD SUCH A REQUIREMENT IN INDUSTRIES WHERE THERE ARE NO PROVISIONS FOR PAID TIME OFF IS CERTAINLY WARRANTED. BUT UNIONIZED CONSTRUCTION EMPLOYERS ARE NOT PART OF SUCH AN INDUSTRY. EMPLOYERS IN THE UNIONIZED CONSTRUCTION INDUSTRY ARE RESPONSIBLE EMPLOYERS AND HAVE MET THEIR OBLIGATION. WE SHOULD NOT NOW BE PENALIZED BY REQUIRING US TO PAY AGAIN FOR A BENEFIT THAT HAS ALREADY BEEN PROVIDED. WE SHOULD NOT BE ROBBED OF THE FRUITS OF OUR NEGOTIATIONS. WE THEREFORE URGE PASSAGE OF THIS BILL WITH THE ONE EXCEPTION MENTIONED EARLIER....REMOVAL OF THE LANGUAGE IN

**SECTION 17-1513(B) WHICH REQUIRES THAT EXEMPTION FROM THE BILL'S  
REQUIREMENTS BE CONDITIONED ON AN EXPRESS CONTRACTUAL WAIVER  
OF SICK LEAVE BENEFITS.**

**THANK YOU,**

**Testimony Provided to the New York City Council in the  
Matter of Pay Sick Leave Legislation**

**Testimony delivered by Joseph Leo, President Atlantic Contracting &  
Specialties, LLC**

Good Morning

My name is Joseph Leo. I am President of Atlantic Contracting & Specialties, LLC. Atlantic Contracting is a Union, Building & Construction Trades Construction Company specializing in Heat & Frost Insulation. Our New York City operation is locally signed to Heat & Frost Insulators Union Local 12, New York City.

I am also, President of the Insulation Contractors Association of New York City, which is an association of 28 affiliated Union contractor members all signed to the Local 12 Collected Bargaining Agreement.

I am here today to provide testimony on behalf of Atlantic Contracting as well as the ICA of NYC, while we are in favor of the overall proposed legislation of the Paid Sick Leave Bill, we do have just one exception.

We do believe there is a need for such legislation for the benefit of those employees with no other remedies with regard

to sick leave pay; however that is not the case with the craft employees of Union Local 12.

Our exception is related to the provision in section K. paragraph 2, stated as follows;

“The provision or the section shall not apply to any employee in the building and construction industry covered by a bona fide collective bargaining agreement IF SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENT.” If you could just put a period before the end of the last sentence, this would solve our issue with the proposed legislation. It’s that simple. However, since the end of the last sentence reads;

“IF SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENT.”

We would now have to negotiate this language into the CBA.

Local 12 Heat & Frost Insulators are currently paid \$91.17 an hour, as per the bona fide collective bargaining. This hourly pay amounts to \$153,165.60 a year when these employees work their normal 35 hour work week for 48 weeks a year, and before overtime pay, this is double time.

For the last 11 or so years I have been the Employer Association's lead negotiator and have served on the negotiation team for over twenty years in New York City. At no time has the City Association ever had any authority as to how the total wage package was disseminated. That being said, Local 12, has always had their membership vote every six months as to how the package is split between wages, vacation, welfare as well as many other Benefit Trust Funds.

As the current Co-Chair of the Heat & Frost Trust Funds and a Trustee of the Funds for well over twenty years, I can attest to the fact that the Trustees at no time have ever had authority as to how the wage package was disseminated.

Currently the employees have voted to have \$5.62 an hour split into their Vacation Fund, this amount of money totals to \$9,441.60, calculated as I stated earlier in my testimony. These nine thousand dollars equates to 24 days of pay for time off each and every year.

As I stated earlier, if the end of the last sentence in paragraph 2, "IF SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENT.", is to remain this would force every Building Trades Construction Company to collectively bargain the language into our next contract.

In a city where most of the current construction projects are PLAs (Project Labor Agreement), why would you propose legislation to increase the direct labor cost even further, this could lead to the loss of many good paying Union construction jobs.

This seemly simple sentence is asking for an express waiver over something our City association members have no

authority. This would be very costly to our association membership and an unwarranted intrusion into our CBA process.

Since the intent of section K is to exclude our industry from the legislation because we already provide such benefits to our employees, the inclusion of the end of the last sentence in paragraph 2 will require our industry to negotiate new language. This unnecessary new language will cost the industry at the bargaining table the exact amount of the cost of doing business without the exemption, 1.6 million dollars. 500 craft employees x 5 days x 7 hours per day. This accounts for the 5 paid sick days that we will now have to negotiate because we currently do NOT have this language as a part of our contract. Nothing in negotiation is ever free from either side of the table.

Contract negotiation is a very delicate process, this intrusion would throw this balance off and create a one sided issue with no way for our City Association members to recover. Why would you allow this one sentence, which is unneeded in this

matter, have such a one sided effect on the Building Trades Construction Industry.

We believe that our employers as well as all employers should be responsible for paid time off for their employees, which this legislation would provide. Since our current CBA allows for 24 days off a year, and we do so provide such avenues for work leave, we should be relieved from this proposed legislation.

In closing, on behave of my company and the members of Insulation Contractors Association of New York City, I urge you to remove the end of the last sentence of the proposed legislation from the Pay Sick Leave bill.

Thank you.



## Paid Sick Days Testimony Pablo Martínez

Good morning. My name is Pablo Martinez and I'm a member of Make the Road New York. I'm originally from Veracruz, Mexico. I'm 47 years old and I have three children en Mexico. Two of them are studying at private school.

I have been living in this lovely country for six years and during that time, I have worked at two different car washes. I currently work at the LMC Car Wash in Astoria.

It's an honor to be here today to share with you the importance for workers to have paid sick days. As a worker I have had the sad experience of having to work while I am sick. I have kidney problems; I also suffer from hypertension and arthritis. I have had to go to work in serious pain and work for twelve-hour shifts. At one point, I was hospitalized for ten days and during that time, I did not receive any salary and it was extremely difficult for me because I could not pay my phone bill, the rent, or my children's education.

Many other workers suffer the same thing I have suffered when they get sick because our employers do not provide us with paid sick days.

That's why I'm here today to ask the members of the City Council to take into consideration what a serious problem this is and to pass a law which would recognize this basic workers' right. Thank you.

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Buenos días. Mi nombre es Pablo Martínez y soy miembro de Se Hace Camino Nueva York. Soy mexicano procedente de Veracruz, México. Tengo 47 años y 3 hijos en México, dos de ellos están estudiando en una universidad privada.

Llevo 6 años viviendo en esta hermosa nación y durante este tiempo he trabajado en 2 car washes. Actualmente trabajo en el LMC Car Wash en Astoria.

Es un placer estar con ustedes en este momento para compartir la importancia de que los trabajadores tengamos días de enfermedad pagados.

Yo como trabajador tengo la triste experiencia de trabajar enfermo, tengo problemas en los riñones, padezco de hipertensión arterial y artritis.

Aun con los fuertes dolores tengo que presentarme a trabajar y cumplir doce horas por jornada, me tuvieron que hospitalizar por 10 días y durante este tiempo no me pagaron ningún salario, me afectó muchísimo porque no pude pagar mi servicio telefónico, la renta y los gastos de la educación de mis hijos.

Así como sufrí yo, así sufren muchos empleados cuando se enferman porque los empleadores no nos reconocen los días de enfermedad.

Por eso pido a los legisladores que consideren la importancia de este problema y que decreten una ley donde se reconozca este derecho laboral. Muchas gracias.



## Paid Sick Days Testimony Celina Álvarez

Good afternoon. My name is Celina Alvarez and I'm a member of Make the Road NY. I came to New York from Michoacán, Mexico two years ago. I came because my children are here and because I wanted to save money and build a house for my family in Mexico. I have worked in restaurants since I arrived here because in Mexico I had my own restaurant. When I first got here, I thought workers in this country would receive better treatment - like how I had treated my workers in Mexico. But I found out that the opposite is true and that many employees - especially low-wage, immigrant workers - are treated very badly. We work very long hours for little pay. And I had a bad experience when I lost my job just because I'm a human being and I got sick.

In 2011 I began to work at the Taqueria El Idolo at 91-07 Corona Avenue in Elmhurst. At this restaurant, all the workers begin by cutting food downstairs in the basement. After a while, I began to work as the cook, upstairs in the kitchen, and I even had an assistant. But one day - it was a Sunday in February of this year - the owner told me that he was going to send me back to work in the basement. I felt that he was being very unfair and in that moment I suddenly felt the blood rush from my head and I fainted. I felt worse and worse all week, but I couldn't schedule an appointment with the doctor until that Friday. Even though I felt ill, I kept going to work. I couldn't take any time off because I didn't have paid sick days.

When I finally saw the doctor on Friday, February 24, he said I was in very bad shape and needed to stay in the hospital overnight to be monitored. I ended up staying in the hospital for four days because the doctor said I was not well enough to leave. When I left the hospital I had a heart monitor and he ordered me to rest for the next two weeks. I called my employer, Ruben Quispi, to tell him what had happened. When I told him what the doctor said, he said he would let me know if there was any work for me after my two weeks of rest. But he never called me back. In other words, I lost my job just because I got sick and couldn't go back to work right away.

I am currently working at another Taqueria in Queens, preparing tacos. I don't have any paid sick days at my current job. When I'm sick, I have to go to work because I don't have paid sick days. I don't ever take a day off when I'm sick because I don't want the same thing to happen to me again.

Unfortunately, many workers in New York are faced with this problem every day. If you don't have paid sick days and you get sick, you have to choose between going to work sick and missing a days' pay. And if you get so sick that you can't go to work, you risk losing your job like what happened to me. We don't miss workdays because we want to - only when we have to - and it's always a difficult decision to miss work.

I support the Paid Sick Days Act because workers should be paid for the days they miss when they or their family members are sick. And workers should not be afraid of losing their job just because they get sick. I am here today to ask the City Council to take action on behalf of the thousands of workers without paid sick days. Thank you.

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Buenas tardes. Mi nombre es Celina Álvarez y soy miembro de Se Hace Camino Nueva York. Vine de Michoacán, México a Nueva York hace dos años. Vine porque aquí están mis hijos y quise ahorrar para construir una casa para mi familia en México. Desde que llegué, he trabajado en restaurantes porque en México yo tenía mi propio restaurante. Cuando llegué, pensé que en este país se trataría muy bien a los trabajadores - como yo había hecho cuando fui dueña de negocio en México. Pero me di cuenta que aquí es lo opuesto. Hay mucho maltrato de los empleados - especialmente los trabajadores inmigrantes de bajos ingresos. Trabajamos horas muy largas para un salario muy bajo. Y yo tuve una mala experiencia cuando perdí mi trabajo simplemente porque soy ser humano y me enfermé.

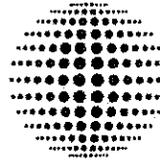
En 2011, comencé a trabajar en la Taquería El Ídolo que se encuentra en 91-07 Corona Avenue en Elmhurst. En este restaurante, todos los trabajadores empiezan picando comida en el sótano. Después de un tiempo trabajando en el sótano, llegué a ser cocinera arriba, en la cocina, hasta tuve un ayudante. Pero un día - fue un día domingo en el mes de febrero - el patrón me dijo que me iba a quitar de la cocina y que me iba volver a poner en el sótano. Yo sentí que fue una decisión muy injusta y en ese momento me puse muy tensa, sentí mucho coraje y de repente sentí que la sangre se fue de mi cabeza y me desmayé. Me empecé a sentirme progresivamente mal durante la semana, pero solamente pude sacar cita para el próximo viernes. Aunque me sentía mal, seguí yendo al trabajo. No pude faltar en el trabajo porque no tenía días de enfermedad pagados.

Cuando finalmente el doctor me vio el viernes 24 de febrero, me dijo que estaba en muy malas condiciones y que me tenía que internar por 24 horas. Pero resulté quedándome internada por cuatro días porque el doctor no me veía en condiciones para salir. Salí del hospital con un monitor y orden de reposo por quince días. Llamé a mi empleador, el señor Ruben Quispi, para decirle qué pasó. Cuando le dije lo que me había dicho el doctor, él me respondió que me iba a avisar si hubiera trabajo para mí después de los 15 días de reposo. Pero nunca me volvió a llamar. En otras palabras, perdí mi trabajo simplemente porque me enfermé y no pude regresar al trabajo luego.

Actualmente estoy trabajando en otro en Taquería en Queens preparando tacos y no tengo días de enfermedad pagados. Cuando estoy enferma, tengo que trabajar porque no tengo ningún día de enfermedad. No puedo tomar un día de enfermedad, porque puedo perder mi trabajo y no quiero que me pase lo que me pasó antes.

Desafortunadamente, muchos trabajadores en Nueva York enfrentan este problema cada día. Si no tienes días de enfermedad pagados y te enfermas, tienes que escoger entre ir al trabajo enfermo y perder el pago de un día de trabajo. Y si te enfermas tanto que no puedes trabajar, enfrentas la posibilidad de perder tu trabajo, como lo que me pasó a mí. Uno no pierde días del trabajo porque quiere - solamente cuando es necesario - y siempre es una decisión muy difícil tener que perder el día de trabajo.

Yo apoyo el Acta de Ley de Días de Enfermedad Pagados porque los trabajadores deben ser pagados por los días que pierden cuando se enferman o cuando se enferma algún familiar. Los trabajadores no deben tener miedo de perder su trabajo solamente porque se enferman. Estoy aquí hoy para pedir que el Consejo Municipal actúe de parte de los miles y miles de trabajadores que no tienen días de enfermedad pagados. Muchas gracias.



**PARTNERSHIP**  
for New York City

**TESTIMONY BEFORE THE CIVIL SERVICE AND LABOR COMMITTEE**  
**OF THE NEW YORK CITY COUNCIL**

**FRIDAY, MARCH 22, 2013**

**KATHRYN WYLDE**  
**PRESIDENT & CEO**

**THE PARTNERSHIP FOR NEW YORK CITY**

The Partnership represents New York City's largest employers, all of whom provide paid time off for employees who are sick or have a sick child. Employers in New York are competing every day for good, reliable workers. They typically offer their employees the very best benefits they can afford. That is why most employers think that a city government mandate that requires them to offer paid sick leave is not going to be effective or enforceable. Employers who are in a position to offer this benefit are doing it now.

Paid sick leave legislation has been debated for three years. Yet no one has come up with a bill that does not add to the costs and threaten the viability of small employers in sectors of the economy where low margins or the standard terms of employment do not provide for a formal paid sick leave policy – primarily construction, restaurants and hospitality, neighborhood retail and small nonprofits. In 2010, the Partnership commissioned Ernst & Young to conduct the only credible survey of NYC employers on this subject. E&Y calculated that the original legislation would cost employers \$789 million a year, with the burden falling overwhelmingly on small businesses that would have to employ fewer people or reduce other costs in order to afford to add the proscribed sick leave benefit. Survey results identified that 88% of the city's private sector employees currently have access to some form of paid time off when they or their children are sick. Many others have access to reasonable alternatives, such as swapping shifts with co-workers. Estimates of a million New Yorkers without paid sick leave are grossly exaggerated. San Francisco implemented the first municipal sick leave mandate in 2007, at the height of an economic boom, and a survey of employers in that city found that two years later more than half of that city's lowest wage workers experienced a loss of other benefits, increase in work demands, or layoffs.

Paid sick leave is not a standalone issue. It must be considered in combination with the state minimum wage increase, the Wage Theft Prevention Act, health care reform costs, the MTA payroll tax, and myriad other laws and regulations that city and state legislators consider individually, but that slam employers in the aggregate. Every one of these laws may have a worthy rationale, but their cumulative impact on jobs and the economy is very negative.

In a national survey by the Kauffman Foundation, entrepreneurs ranked our city as the least friendly place to start a small business. The Council has taken steps to address regulations and fees that are obstacles to small business growth, but much more needs to be done. We are submitting data today that documents this problem. Over the last decade, the city has had a surge of startup businesses, but they are not growing. In fact, there has been no net increase in the number of businesses with more than fifty employees in the past decade.

For large companies operating in multiple jurisdictions, a municipal benefits mandate will lead to complex administrative burdens and has implications for maintaining parity among their employees across the country. We recently submitted an amicus brief to the United States Supreme Court on the Defense of Marriage Act based on the argument that national employers cannot be forced to comply with contradictory or different benefits standards. The same principal applies to this legislation. This legislation is so prescriptive that *virtually no private sector employer offers the exact package of benefits it demands*.

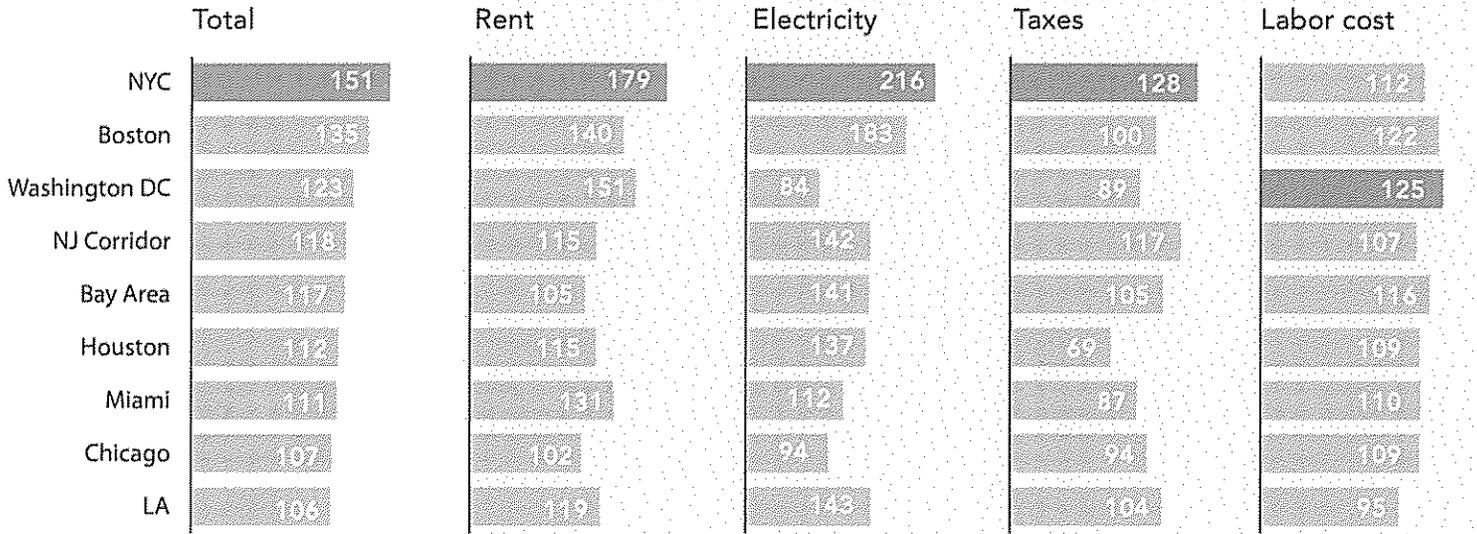
Obviously, responsible employers also object to enforcement of a local law via a private right of action, where an employee would have to sue their employer to secure enforcement. It is clear that more litigation will not help the city's business environment and that most of the employees that do not already have this benefit would be hard pressed to take their employer to court.

Today's bill is more intrusive, more costly and more difficult to enforce than the previous iterations, despite efforts to make it more "business friendly." The city does not have a department of labor to enforce the law. The affected employers, by and large, do not have human resources departments or other capacity to comply with it. This bill gives an already over-burdened agency, the Department of Health and Mental Hygiene, extraordinary new and far-reaching powers to investigate every employer in the city with almost complete impunity. Half the city's small business owners are immigrants who may be unlikely to even know about the legislation.

We urge the City Council to hold this bill and turn their attention to working on legislation that will reduce burdens on small business, encourage job creation and grow the economy, which is the long term solution to our fiscal and economic problems. Thank you.

## The Cost of Doing Business in NYC is the Highest in the Country

### Cost of Doing Business Index, 2009



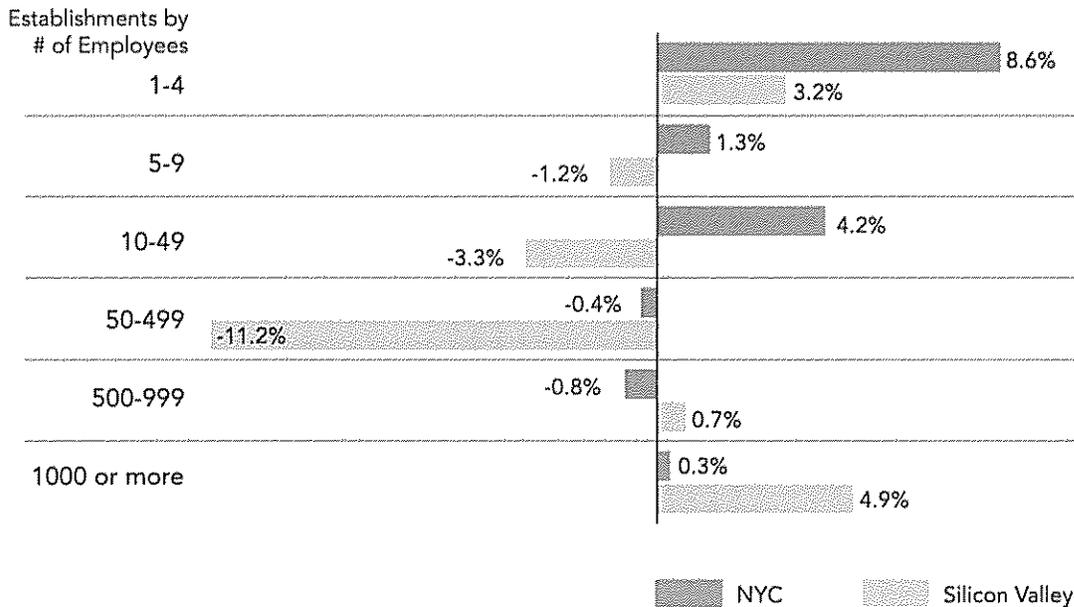
**NOTES:**

- 1) US Average: 100.
- 2) Boston includes Boston and Cambridge.
- 3) NJ corridor includes Trenton, Newark and Edison.
- 4) All data at the MSA level.

SOURCE: Moody's Economy.com

## NYC Small Businesses are Not Scaling Up as Quickly as Competitors

### Percentage Change in Number of Establishments by Size (2003-2010)



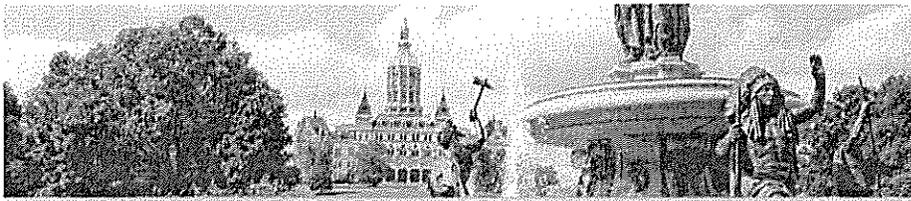
SOURCE: County Business Patterns, US Census



# Employment Policies

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# PAID SICK LEAVE IN CONNECTICUT

## A Pilot Study of Businesses' Responses to the Law

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### Executive Summary

"Everybody benefits." That's what proponents of Connecticut's first-in-the-nation state paid sick leave law told legislators and the public during the debate that preceded the law's passage. Business owners weren't so sure—public hearings on the legislation contained testimony from a number of businesses concerned about the effects of the law on their operations.

The state's sick leave law took effect at the beginning of 2012, and the point of this study is to capture businesses' early experiences with and reactions to the law. Were the concerns expressed early on during the legislative debate worth considering, or was it just business owners "crying wolf"?

Between April and October of 2012, we surveyed a broad list of business owners provided to us by the Connecticut Business and Industry Association and Connecticut Restaurant Association, and conducted in-depth follow-up interviews with four of the responding businesses. The results should not be interpreted as being representative of the experience of all businesses in the state, but indicative of some of the challenges that businesses in a wide range of industries have faced while implementing the law.

Of the 156 businesses that responded to the survey, 86—or 55 percent—had started providing sick leave to comply with the new law. Prior to the law taking effect in January 2012, 31 of the businesses surveyed had scaled back on employee benefits or reduced paid leave (or both) to account for the cost of the new law. Twelve had cut back employee hours, and another six reduced employee wages. Nineteen businesses raised consumer prices, six laid off employees, and three converted part-time positions to full-time positions. Sixteen businesses indicated they

had decided to limit or restrict their expansion within the state.

Perhaps more concerning were the future actions that state businesses were likely or highly likely to take in response to the law: Thirty-eight businesses said they would hire fewer people as a consequence. Other actions included offering fewer raises, scaling back on overtime, raising prices, and increasing the cost of other benefits like health insurance.

Also surprising was the perception of the public health problem the law was intended to solve. Contrary to rhetoric used during the campaign, nearly 90 percent of all responding businesses indicated that sickness in the workplace was not a serious problem prior to the law taking effect; just 3 businesses described it as a serious problem.

Employers were also skeptical of the projected savings from the law. Of the employers in Connecticut that started providing sick leave, only two responded that it would reduce employee turnover, and another two anticipated that it would increase employee productivity. Forty-six businesses worried that the law would increase unscheduled absences in their workplace. One of the companies surveyed already had experience with this phenomenon, where employees call out sick on Monday and make a "miraculous recovery" the following day.

Perhaps most telling was that, of the 83 employers who responded to the question of whether the law was good for their business, 57 of them—or 69 percent—said it was not. Even for businesses not affected by the law economically—like the utility company that participated in the follow-up survey—the law created a new liability, or "another thing employees can sue us over."

*(continued)*

During the follow-up interviews, business owners expressed frustration with the “employers vs. employees” narrative that was put forth during the debate. One restaurateur said his business “always took care of its people,” and that the lack of a paid policy was never an issue until labor unions decided to make it one. The owner of a daycare center was upset at the notion that he forced employees to choose between their jobs and their health: “Everybody’s happy—some of my employees have been here 20, 25 years. If things were so terrible, I wouldn’t have that kind of longevity.”

A full accounting of the law’s impact will take additional time, and this study makes no claim of being representative of the broader Connecticut business population. But it does suggest that the law has not been a cost-free endeavor, and that there have been consequences for both employers and employees as a result. Other cities and states considering similar laws should take these consequences under consideration.



# PAID SICK LEAVE IN CONNECTICUT

A Pilot Study of Businesses'  
Responses to the Law

Michael Saltsman  
Employment Policies Institute

February 2013

Employment  
Policies

INSTITUTE

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**T**he Employment Policies Institute (EPI) is a nonprofit research organization dedicated to studying public policy issues surrounding employment growth. Among other issues, EPI research has quantified the impact of new labor costs on job creation, explored the connection between entry-level employment and welfare reform, and analyzed the demographic distribution of mandated benefits. EPI sponsors nonpartisan research that is conducted by independent economists at major universities around the country.

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# PAID SICK LEAVE IN CONNECTICUT

## A Pilot Study of Businesses' Responses to the Law

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# PAID SICK LEAVE IN CONNECTICUT

## A Pilot Study of Businesses' Responses to the Law

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### Executive Summary

“Everybody benefits.” That’s what proponents of Connecticut’s first-in-the-nation state paid sick leave law told legislators and the public during the debate that preceded the law’s passage. Business owners weren’t so sure—public hearings on the legislation contained testimony from a number of businesses concerned about the effects of the law on their operations.

The state’s sick leave law took effect at the beginning of 2012, and the point of this study is to capture businesses’ early experiences with and reactions to the law. Were the concerns expressed early on during the legislative debate worth considering, or was it just business owners “crying wolf”?

Between April and October of 2012, we surveyed a broad list of business owners provided to us by the Connecticut Business and Industry Association and Connecticut Restaurant Association, and conducted in-depth follow-up interviews with four of the responding businesses. The results should not be interpreted as being representative of the experience of all businesses in the state, but indicative of some of the challenges that businesses in a wide range of industries have faced while implementing the law.

Of the 156 businesses that responded to the survey, 86—or 55 percent—had started providing sick leave to comply with the new law. Prior to the law taking effect in January 2012, 31 of the businesses surveyed had scaled back on employee benefits or reduced paid leave (or both) to account for the cost of the new law. Twelve had cut back employee hours, and another six reduced employee wages. Nineteen businesses raised consumer prices, six laid off employees, and three converted part-time positions to full-time positions. Sixteen businesses indicated they had decided to limit or restrict their expansion within the state.

Perhaps more concerning were the future actions that state businesses were likely or highly likely to take in response to the law: Thirty-eight businesses said they would hire fewer people as a consequence. Other actions included offering fewer raises, scaling back on overtime, raising prices, and increasing the cost of other benefits like health insurance.

Also surprising was the perception of the public health problem the law was intended to solve. Contrary to rhetoric used during the campaign, nearly 90 percent of all responding businesses indicated that sickness in the workplace was not a serious problem prior to the law taking effect; just 3 businesses described it as a serious problem.



Employers were also skeptical of the projected savings from the law. Of the employers in Connecticut that started providing sick leave, only two responded that it would reduce employee turnover, and another two anticipated that it would increase employee productivity. Forty-six businesses worried that the law would increase unscheduled absences in their workplace. One of the companies surveyed already had experience with this phenomenon, where employees call out sick on Monday and make a “miraculous recovery” the following day.

Perhaps most telling was that, of the 83 employers who responded to the question of whether the law was good for their business, 57 of them—or 69 percent—said it was not. Even for businesses not affected by the law economically—like the utility company that participated in the follow-up survey—the law created a new liability, or “another thing employees can sue us over.”

During the follow-up interviews, business owners expressed frustration with the “employers vs. employees”

narrative that was put forth during the debate. One restaurateur said his business “always took care of its people,” and that the lack of a paid policy was never an issue until labor unions decided to make it one. The owner of a daycare center was upset at the notion that he forced employees to choose between their jobs and their health: “Everybody’s happy—some of my employees have been here 20, 25 years. If things were so terrible, I wouldn’t have that kind of longevity.”

A full accounting of the law’s impact will take additional time, and this study makes no claim of being representative of the broader Connecticut business population. But it does suggest that the law has not been a cost-free endeavor, and that there have been consequences for both employers and employees as a result. Other cities and states considering similar laws should take these consequences under consideration.

## Introduction

### *About the Law*

Beginning in January of 2012, Connecticut became the first state in the country to require employers to provide paid sick days. Prior to Connecticut, two cities (San Francisco, CA, and Washington, DC) had similar laws on the books; since the passage of the Connecticut law, Seattle's City Council approved a similar law.

Public Act 11-52 requires certain Connecticut businesses to provide employees with one hour of paid time off for health-related issues for every 40 hours worked. The law applies to a specific list of service occupations and exempted manufacturers and 501 (c) 3 non-profit organizations. It covers employees at businesses with 50 or more employees in any one quarter of the previous year.<sup>1</sup> The leave begins accruing as of January 1st or on the first day of hire, although employees must work 680 hours before using the leave. Up to 40 hours can be carried over from one year to the next.

The campaign to pass the first-in-the-nation law centered on public health. Proponents argued that no one should have to choose between their job and their health (or the health of a family member), and that "everybody benefits" from employees having paid days off to recover from an illness.

Employers, on the other hand, worried about human resource difficulties from tracking accrued sick leave, the potential for employee absenteeism, and new costs in an uncertain economic environment.

### *About the Study*

During the debate over the sick leave law, advocates

argued that the policy would be good for business, citing the experience of individual business owners in the state that already adopted paid sick leave. However, early news reports following the law's passage found that some businesses were taking steps to minimize the law's cost; for instance, one business laid off some of their part-time employees and converted the rest in to full-time employees, to remain under the law's 50-employee threshold.<sup>2</sup> Additionally, strategy documents from subsequent sick leave campaigns suggest that business owners rallying in favor of sick day campaigns were not representative of the broader business community.<sup>3</sup>

While it's too early to fully understand the law's impact, businesses in Connecticut now have experience adapting to the law and planning for the future. The point of this pilot study is to understand how members of the state's business community responded to this first-in-the-nation state sick leave law.

The Connecticut Business and Industry Association (CBIA) worked with the Employment Policies Institute (EPI) to survey 727 members most likely to be impacted law. (The state restaurant association also sent the survey to its 75 members most likely to be impacted by the law.) This group of roughly 800 businesses was sent a survey via email in April 2012 asking about their experience with the state's paid sick leave law. (A list of the questions is available in the Appendix.) An introductory note describing the project and a link to the survey were emailed to each business. (Three follow-ups to the initial survey link were also sent over the following months.)<sup>4</sup>

The CBIA also emailed respondents to the initial survey regarding an in-depth follow-up interview, to provide addi-

<sup>1</sup>Employee thresholds of this sort have been described as a "hiring notch," which give marginal employers an incentive to consolidate below the threshold. See Yelowitz (2006).

<sup>2</sup><http://www.ctpost.com/news/article/Paid-sick-leave-drives-hiring-concern-2346890.php#ixzz1fDpn3Bv>. Last accessed 8/21/2012.

<sup>3</sup>Seattle Coalition for a Healthy Workforce (2012).

<sup>4</sup>The survey was conducted using Qualtrics software, which prohibits any one business from taking the survey more than once.

tional detail on the law's impact. The follow-up interviews were conducted via telephone by EPI.

One weakness of the report is that response rates for the survey were low—roughly 20 percent. The survey's results shouldn't be viewed as representative of the experience of all Connecticut businesses. In particular, businesses most likely to respond may have been those most likely to hold strong feelings about law.

Holding these concerns in mind, the research still provides an early glimpse of the actual experiences of the state's business community with this sick leave law. The responses come from across industries. Additionally, since the "pro-business" case in support of the law during the sick leave debate was largely anecdotal, this study's results and observations should also merit careful consideration by the state's policymakers.

## Survey Results

Among those responding to the survey, recognition of the law was high—149 of those 156 responding had heard of the law. Among those who had heard of the law, 86—or 55 percent—had started providing sick leave to comply with the law.<sup>5</sup> The distribution of industries represented among respondents who had to comply is provided at left.<sup>6</sup>

### *Illness in the Workplace*

Among all respondents surveyed, one noteworthy result is how few reported a serious problem with flu and illness in the workplace prior the law's passage. Out of 152 who

responded to the question, nearly 90 percent indicated that sickness in the workplace was not a serious problem prior to the law's passage. Just three respondents indicated that it was a serious issue.

Finance/Insurance	8%
Food/Beverage	23%
Healthcare	13%
Hospitality (Hotel/Meeting)	1%
Professional Services	10%
Retail	18%
Wholesale	4%
Energy/Utility	2%
Childcare/Social Services	5%
Transportation	2%
Construction	2%
Other	12%

Businesses were also asked for a rough estimate of how many of their employees showed any cold or flu symptoms in the workplace in a typical workweek. The mean response was 2.2 percent and the median response was 1 percent.<sup>7</sup>

How Serious a Problem was Sick Employees in the Workplace?	
Not at all Serious	135
Somewhat Serious	14
Serious	3

While not representative of the state as a whole, these responses suggest that reports of widespread workplace illness during the campaign for a sick leave law may have been exaggerated.<sup>8</sup>

<sup>4</sup>The survey was conducted using Qualtrics software, which prohibits any one business from taking the survey more than once.

<sup>5</sup>Not providing sick leave does not necessarily mean that the business was not in compliance with the law. The law applies to a very specific set of occupations, so not all businesses that received the survey were covered by its provisions. Other businesses already provided the benefit to their employees.

<sup>6</sup>*n*=84. Two respondents didn't provide an industry.

<sup>7</sup>One plausible policy motivation for a sick leave mandate is negative externalities, the idea that neither an employer nor employee bears the full cost of infecting others with an illness. However, at least for this sample, this seems to be more of a theoretical concern than an actual one.

<sup>8</sup><http://www.westhartfordnews.com/articles/2011/05/12/news/doc4dccc44f0a354d323370361.txt>. Last accessed 8/21/2012.

## ***Actions Taken In Anticipation of the Sick Leave Law***

Early news reports suggested that some Connecticut businesses were adapting to the new law prior to its implementation.<sup>9</sup> Surveyed businesses were provided with a range of potential actions to determine how (if at all) they've adapted to prepare for the new law. (Businesses were allowed to select more than one option.)

Forty-six of the responding businesses took none of the actions listed. The remaining businesses—about 47 percent—took one or more of the actions listed. (A full list is available below.)

<b>Actions Taken in Anticipation of Sick Leave Law</b>	
	<b># of Companies</b>
<b>Raised Consumer Prices</b>	<b>19</b>
<b>Scaled Back on Other Benefits</b>	<b>17</b>
<b>Restricted Expansion within Connecticut</b>	<b>16</b>
<b>Scaled Back on Vacation Leave</b>	<b>14</b>
<b>Reduced Current Employee Hours</b>	<b>12</b>
<b>Required Employees to Pay More for HI</b>	<b>7</b>
<b>Fired or Laid Off Employees</b>	<b>6</b>
<b>Reduced Wages</b>	<b>6</b>
<b>Expanded Elsewhere Instead of CT</b>	<b>5</b>
<b>Converted Part-Time to Full Time Positions</b>	<b>3</b>
<b>Replaced Employees with Temps</b>	<b>2</b>
<b>Scaled Back on Hours of Operation</b>	<b>1</b>

Seventeen of the businesses surveyed had scaled backed on employee benefits to account for the cost of the new law, and fourteen scaled back on vacation leave. Another six reduced employee wages, and twelve reduced employee hours. Nineteen businesses raised consumer prices, and six fired or otherwise laid-off employees. Sixteen indicated they had decided to limit or restrict their expansion within the state.

While these actions aren't representative of all employers in the state, they do suggest that some employers viewed the potential costs of the new sick leave policy as more than incidental.

## ***Future Plans and Effect on the Cost of Business***

Among those businesses that started providing sick leave to comply with the new law, 43 said it would have a large effect on their cost of business, 30 said it would have a small effect, and 12 said it would have no effect. (One business opted to not respond to the question.)

To gauge businesses' future responses to the law, we provided a range of options that could be marked highly likely, likely, unlikely, or highly unlikely. Notably, just six of the responding businesses indicated that they were "highly unlikely" to take any of the listed actions.

<b>Future Plans in Response to Law, Likely or Highly Likely</b>	
	<b># of Companies</b>
<b>Reduce Profits</b>	<b>42</b>
<b>Scale Back Overtime</b>	<b>40</b>
<b>Pay More for HI</b>	<b>38</b>
<b>Hire Less</b>	<b>38</b>
<b>Raise Prices</b>	<b>32</b>
<b>Fewer Raises</b>	<b>35</b>
<b>Expand Outside CT</b>	<b>26</b>
<b>Scale Back Vacation Leave</b>	<b>29</b>
<b>Reduce Employee Hours</b>	<b>26</b>
<b>Restrict Expansion w/in CT</b>	<b>27</b>
<b>Replace Employees with Temps</b>	<b>18</b>
<b>Fire/Lay Off Employees</b>	<b>16</b>
<b>No Health Insurance</b>	<b>12</b>
<b>Reduced Wages</b>	<b>9</b>
<b>Scale Back Hours</b>	<b>8</b>
<b>Reduce Quality/Quantity</b>	<b>2</b>

<sup>9</sup><http://www.ctpost.com/news/article/Paid-sick-leave-drives-hiring-concern-2346890.php#ixzz1fIDpn3Bv>. Last accessed 8/21/2012.

The chart on the previous page provides the number of respondents who indicated they were **highly likely** or **likely** to take the listed actions. Forty-two indicated that the law would reduce their profits, and thirty-eight said they would hire fewer people as a consequence. Other actions included offering fewer raises, raising prices, and increasing the cost of other benefits like health insurance.

While these actions aren't representative of all employers in Connecticut, they again suggest that the law is not a cost-free proposal for employers. Of the 83 employers who responded to the question of whether the law was good for their business, 57 of them—or 69 percent—said it was not. (Nineteen employers said it was good for their business, and seven didn't know.)

### ***Effect on Employees***

It's also possible that the law will have an effect on employees' behavior. For instance, pro-sick leave research groups like the Institute for Women's Policy Research (IWPR) claimed that Connecticut employers would save \$73 million annually, due mostly to cost savings from reduced employee turnover.<sup>10</sup> However, a survey of employers in San Francisco following passage of that city's sick leave law found that very few identified reduced turnover as a benefit of the law.<sup>11</sup> As one employer pointed out, requiring all employers to provide a specific benefit reduces the incentive of an employee to stay with one employer over another.

Of the employers in Connecticut that started providing sick leave, just two responded that it would reduce employee turnover; similarly, only two anticipated that it would increase employee productivity. Nineteen employers felt that the law would reduce the number of employees who come to work sick. However, 46 of the

<b>Anticipated Effect on Employees</b>	
	<b>Number of Companies</b>
<b>Reduce Employee Turnover</b>	<b>2</b>
<b>Reduce # Who Come to Work Sick</b>	<b>19</b>
<b>Reduce Spread of Flu</b>	<b>16</b>
<b>Improve Productivity</b>	<b>2</b>
<b>Increase Unscheduled Absences</b>	<b>46</b>
<b>Improve Morale</b>	<b>9</b>

employers felt that the law would increase unscheduled absences in their workplace.

While it will take time to determine the true effect on employees, these preliminary results suggest that the monetary benefits of sick days were overstated in Connecticut—much as they were in San Francisco.<sup>12</sup>

### **Narrative Case Studies**

To provide additional context for the survey results, EPI conducted four 30-minute phone interviews with businesses impacted in some way by the Connecticut sick leave law: a utility company, a day care center, a private transportation company, and a casual-dining restaurant. In all cases, we spoke with a person directly responsible for implementing the sick leave law in the workplace.

None of the companies interviewed indicated that presenteeism—the presence of sick employees in the workplace—was a problem for them prior to the law's passage. Either the employer already provided some sort of paid leave, or the employees were offered schedule flexibility to get have their shift covered and make it up later.

<sup>10</sup>Miller and Williams (2010)

<sup>11</sup>Boots et al (2009)

<sup>12</sup>For instance, Drago and Lovell (2011) report that 80 percent of employers in San Francisco reported that "presenteeism" (i.e. coming to work sick) was unchanged following passage of the city's sick leave mandate.

One company was concerned about the legal risks the law created; another called it a book-keeping “nightmare.” One company raised prices and planned to reduce employee benefits to offset the law’s costs. In all cases—even for companies that were minimally affected economically by the new law—there was some sort of consequence to the state government requiring this new benefit.

- *Company #1: Water Utility*

Water utilities have historically provided their employees with generous benefits package. The respondent at one Connecticut utility explained that, due to the unique needs of the business, it’s a challenge to find utility operators who are licensed. Generous benefit packages are thus critical in attracting and retaining employees—they’re an industry standard.

At this 250-person company, that benefit package includes unlimited personal sick days at 100 percent of pay, as well as 10 days of paid sick time for sudden, family-related emergencies. The company also offers anywhere from two to six weeks of paid vacation, depending on the employee’s tenure. Employees are also eligible for short-term and long-term flex time arrangements which allow them to tend to personal business without drawing down their paid time off. Finally, employees receive two personal days each year and thirteen paid holidays.

Because the company is a regulated utility, the rates they’re granted to charge their customers cover employee salaries and benefits (although those rates don’t cover executive compensation.)<sup>13</sup> The sick leave law, which requires the company to provide fewer days than they currently offer, has no economic effect on the company.

However, the company’s human resources officer emphasized that the law has already had a significant effect on their risk management. While the company’s original leave policy was more generous than the law required in terms of days provided, there were differences in the reasons that leave could be used by employees. The company was concerned about legal risk—it was, in the words of the human resources executive, “another thing employees can sue us over.”

As a result, she and her team devoted considerable effort making sure their leave practices are fully auditable, should an employee decide to accuse the company of having a leave policy that violates the state law. In this regard, the new sick leave law has the potential to come between what was previously a healthy relationship between employer and employee. The company’s human resources officer put it this way: “We treat people with respect, and trust people, but we’re concerned about the first employee who decides we have not complied with their understanding of the law.”

- *Company #2: Day Care Center*

At a 50-employee day care in a suburb of Hartford, the paid leave package prior to passage of the law was generous, but didn’t specifically include paid sick leave. The business owner offered 1 week of paid vacation after 6 months of employment, 2 weeks of paid vacation after one year, and 3 weeks of paid vacation after five years. Employees were also given six paid holidays, a paid day off on their birthday, and one personal day each year. (Employees could earn additional personal days by not taking time off for three months in a row.)

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<sup>13</sup>Utilities are allowed to earn a rate of return on infrastructure in the ground, which is where compensation for company executives comes from.

When the law first passed, the owner planned to eliminate a few part-time positions to remain under the 50-employee threshold at which the law applied. However, he subsequently found out that the 50-employee threshold applied to any quarter in the previous year. The company has to staff up on part-time employees in the summer months to allow full-timers to take a vacation. (Mandatory staffing ratios don't allow a child care business like this one to operate short-staffed.)

As a result, the center's employees began accruing sick leave at the beginning of this year. The owner described it as a book-keeping "nightmare." The company's national payroll firm couldn't help track the time, because the law only applies in Connecticut. As a consequence, the owner has been tracking the accrued sick time by hand—a process he described as time-consuming. Next year, the company will provide all employees with five paid sick days up front, to avoid the hassle.

Because the business still has to meet an adult-to-child ratio, the owner said the law is particularly costly for the daycare center, as they have to pay the absent employee and the employee's replacement. As of January 1st, the Center raised prices somewhat to try and offset this cost. (The owner emphasized that prices couldn't be raised too much—their biggest competitor, the YMCA, was exempted from the law.) To accommodate future costs, the company is planning to eliminate paid personal days and the three-week vacation tier.

The owner expressed frustration with the law, and the state's business climate more generally. He said the law won't put him out of business, but that it's "like someone with a hatchet chipping away"—the portion of the law's cost that can't be offset through

higher prices and reduced benefits will come out of his modest profits. He also challenged the notion that employees were being forced to choose between their jobs and their health: "Everybody's happy—some of my employees have been here 20, 25 years. If things were so terrible, I wouldn't have that kind of longevity."

- *Company #3: Special Needs Student Transportation*  
At this mid-sized transportation company with 100 employees, paid sick leave wasn't offered to the mostly-hourly staff prior to the new law taking effect. Instead, employees were required to find someone to cover their shift. The nature of the transportation business means that a missing employee can't be overlooked—it's necessary to have someone to operate the school bus.

The human resources manager who spoke with EPI indicated that employees utilized this "shift-swapping" system, which allowed sick employees to stay home and still gave the employer the workplace coverage it needed.

With the new law in place, the company has been forced to hire standby employees to cover shift should a regular employee unexpectedly call out. The respondent indicated that this was a real concern, as employees who were eligible for sick leave had already started using it, with a particular spike in people calling out on Mondays. (One employee had asked if they could forgo the sick days and just get five days of sick pay in a lump-sum check.)

Tracking leave hasn't been as problematic for this company as it was for the day care center, as their particular payroll firm was able to adapt to the new law and track employee accruals. However, the company is planning other adjustments in response to

the law's cost. The human resources manager indicated that employee hourly pay would be adjusted downward accordingly, since the cost of the new law is being treated as a component of compensation. That's especially the case because the company suspects that employees are using paid sick leave as paid vacation time—making, as the respondent said, a “miraculous recovery” when they return to the job on Tuesday.

- *Company #4: Casual Table-Service Restaurant*  
During the sick leave debate, restaurants were a poster child for why a sick leave mandate was essential. Advocates for the law created signs that said “No Boogers in my Burger” and “No Coughing in my Coffee,” suggesting to the public that restaurant workers were frequently forced to work (and handle food) while ill.

The owner of a 30-year-old Connecticut restaurant challenged that assertion. He said that healthy employees were crucial in the restaurant business, but that a formal paid policy had never been required to keep sick employees out of the workplace. Rather, fellow co-workers would trade shifts to give the employee a chance to make up the missed income.

Once the law took effect, the owner said the biggest challenge was managing employees' perception of the law. There was a concern that employees would perceive the sick days as theirs for the taking, for whatever reason. As the owner put it, he worried that “five days of sick time not used would be viewed as five days lost.”

Absenteeism creates major problems for a restaurant, particularly on a busy evening. As a result, the business designed a policy that rewards employees for not using leave. Employees earn five

days of paid time off each year, which can be used for any reason—not just illness. If the employee has time over at the end of the year, they'll be paid for that unused time.

He and his management team looked for opportunities to raise prices to offset the cost, but concluded that with the delicate economy the room for a price hike wasn't there. Instead, the cost of the law will come out of his already-narrow profits (which are off a few percent from previous years.)

The owner expressed frustration in the “antagonistic relationship” the law created between him and his employees. He said the business “always took care of its people,” and that the lack of a paid policy was never an issue until labor unions decided to make it one. He said the sick leave law itself wouldn't cause him to close his business, but that it was “one more anti-business piece of regulation” that makes Connecticut less-friendly to job growth.

## Conclusion

The Connecticut paid sick leave law has been in effect for only a year at the time of this report's release, and as such it's too early to make a definitive judgment about its impact. Future data from the Census Bureau's Current Population Survey and American Community Survey will help determine in a statistically robust manner whether there are specific benefits or consequences associated with the law.

The purpose of this pilot study is to provide an early glimpse at how the state's employers are reacting to the law. While not representative of all employers in the state, some of those responding indicated that the law's costs have created consequences, including higher prices and a reduction in employee hours and benefits. Addi-

tionally, many employers indicated that the law would cause them to hire fewer people in the future. This evidence suggests that the law in Connecticut needs fur-

ther study before other cities and states proceed with similar legislative proposals.

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## Appendix: Survey Questions

Note: Data from some of the questions has been reserved for a follow-up policy piece and thus was not included in this pilot study.

1. Connecticut's Paid Sick Leave law which went into effect January 1, 2012, requires certain companies with 50 or more employees not already offering the equivalent of one hour of paid sick leave for every 40 hours worked to start doing so. The leave can be used for treatment of an illness, preventative care, or service related to "family violence" for the employee, the employee's spouse, and his/her child. Documentation would be required after three or more consecutive days of absence. Have you heard about this law?
2. Have you started providing paid sick leave for some of your employees to comply with the new law?
3. Would you say this sick leave law will have a big effect on your costs of business, a small effect, or no effect?
4. If you've started providing sick leave to comply with the new law, what would you estimate as the annual dollar cost of this policy for your business?
5. In the last year, have you done any of the following in anticipation of the new law? (check all that apply)
  - a. Fired or laid off employees
  - b. Replaced employees with temporary or contractual workers
  - c. Reduced wages
  - d. Converted part-time positions into full-time positions
  - e. Scaled back on vacation leave
  - f. Scaled back on other employee benefits
  - g. Require employees to pay more for their health insurance
  - h. Stopped offering health insurance
  - i. Raised consumer prices
  - j. Scaled back hours of operation
  - k. Restricted expansion within Connecticut
  - l. Expanded elsewhere instead of growing in Connecticut
  - m. Reduced current employee hour
6. On a scale of 1 to 4, where 1 means highly unlikely, 2 means unlikely, 3 means likely, and 4 means highly likely, how likely is it that your company will take the following actions in response to the sick leave law in the coming year (mark 5 if you don't know, haven't thought about it, or still need to evaluate):
  - a. Reduce wages
  - b. Offer fewer pay raises in the future

- 
- c. Scale back vacation leave
  - d. Scale back on overtime hours
  - e. Hire less in the future
  - f. Reduce hours for existing employees
  - g. Fire or lay-off employees
  - h. Not offer health insurance
  - i. Require employees to pay more for their health insurance
  - j. Raise consumer prices
  - k. Reduce quantity or quality of product
  - l. Scale back hours of operations
  - m. Reduce profits
  - n. Restrict expansion within Connecticut
  - o. Expand your business outside of Connecticut

7. The new law was passed with the intention of reducing the number of sick employees in the workplace. How serious of a problem has this been at your company?

- a. Serious
- b. Somewhat Serious
- c. Not At All Serious

8. Roughly what percentage of your employees show cold- or flu-like symptoms in the workplace in a typical work week?

9. Do you anticipate that the new law will have any of the following effects on your employees (check all responses that apply)?

- a. Reduce employee turnover
- b. Reduce the number of employees who come to work sick
- c. Reduce the spread of flu in the workplace
- d. Improve employee productivity
- e. Increase unscheduled employee absences
- f. Improve employee morale

10. Do you think the new paid sick leave law is good for your business?

- a. Yes
- b. No
- c. Don't Know

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: RUTH MESSINGER

Address: 91 Cent Pl W 7A

I represent: myself

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/23/13

(PLEASE PRINT)

Name: Richard McGale

Address: Milano School, of Urban Policy, New School

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Rev. Raymond RIVERA

Address: 14 W. 190 ST Bx 10452 NY

I represent: Latin Pastoral Action Center

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97a Res. No. \_\_\_\_\_

in favor  in opposition

Date: 03-22-13

(PLEASE PRINT)

Name: HEIDI SIEGHEP

Address: 221 EAST 2nd ST #4

I represent: NON-NYS

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: RON REGINS

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0097A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: BARBARA YOUNG

Address: 5803 Calloway Street

I represent: National Domestic Workers

Address: 330 7th Ave New York NY 10001

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: TVI JONES

Address: 1121 GREENE AVENUE BKLYN, NY 11221

I represent: Retail Action Project #2A

Address: 140 W. 31st St., New York, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: ZYAD HAMDAD

Address: 327 NOSTRAND AVE, BROOKLYN, NY

I represent: RETAIL ACTION PROJECT

Address: 140 WEST 31<sup>ST</sup> ST. NEW YORK, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Lou Coletti

Address: \_\_\_\_\_

I represent: BTEA

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Thomas Ferrugio

Address: \_\_\_\_\_

I represent: The Broadway League, Inc.

Address: 729 7th Ave, 5th Fl

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Zulema Wiscovitch

Address: 30-50 Whitestone Expressway, Flushing NY

I represent: National Supermarket Association

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Robert Bookman

Address: 325 Broadway, NYC

I represent: N.Y.C. Hospitality Alliance

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/10/13

(PLEASE PRINT)

Name: Carolyn Richmond

Address: 325 Bay St

I represent: N.Y.C. Hospitality Alliance

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97-4 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 03/22/2013

(PLEASE PRINT)

Name: DAVID J. LOYIE

Address: 217 PARK ROW NY NY 10038

I represent: DAVID J. LOYIE INC -

Address: 217 PARK ROW 3RD FL. NY 10038

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Lawrence A. Mandelker

Address: 51 East 42nd Street NY NY 10017

I represent: New York Metropolitan Retail Assoc (NYMRA)

Address: 162 West 34th Street, New York, NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: RABBI MICHAEL FEINBERG

Address: 235 W. 102ND ST. NY NY 10025

I represent: GREATER NY LABOR-RELIGION COALITION

Address: 125 MAIDEN LANE NY NY 10038

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97D Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Bronx Borough President Ruben DIAZ

Address: 851 Grand Concourse

I represent: Bronx Boro Pres.

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: WILLIAM SHUZMAN

Address: ~~107th~~ 211 E 43 ST

I represent: ALLIED BUILDING METAL INDUSTRIES

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22

(PLEASE PRINT)

Name: STEWART O'BRIEN

Address: \_\_\_\_\_

I represent: Association of Plumbing Contractors

Address: 74 West 28<sup>th</sup> St. N.Y. 10001

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Denise Richardson

Address: 60 east 42nd St #3510

I represent: General Contractors Association

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Joseph Leo

Address: 31 Straw Lane Hicksville NY 11801

I represent: Atlantic Contracting & The ICA of NYC

Address: 925 Saw Mill River Rd, Yonkers NY 10710

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

Name: Pablo Martinez (PLEASE PRINT)

Address: 11-38 Willincourt Astoria 1102

I represent: Not - trabajador

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Shirley Aldebel (PLEASE PRINT)

Address: 25 W 18th St

I represent: SEIU 32BJ

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Jorge Ortiz (PLEASE PRINT)

Address: 21 West 11th St

I represent: SEIU 32BJ

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

20

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Joel Shufro

Address: 95 SHORMAN ST BROOKLYN

I represent: NEW YORK COMMITTEE FOR OCCUPATIONAL SAFETY

Address: & HEALTH

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

21

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: William Jordan

Address: 229 W 116th St, #2B, New York, NY 10026

I represent: PUBLIC HEALTH ASSOCIATION OF NEW YORK CITY

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

22

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: James R. Copland

Address: \_\_\_\_\_

I represent: Manhattan Institute for Policy

Address: Research

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

23

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Denise Richardson

Address: 35-46 79 St Jackson Hts NY 11372

I represent: GENERAL CONTRACTORS ASSOC of NY

Address: 60 E. 42nd St NY NY 10165

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

24

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Shara Siegel

Address: \_\_\_\_\_

I represent: The New York Academy of Medicine

Address: 1216 5th Ave NY NY 10029

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

25

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Linda M. Baran

Address: 130 Bay St SI, NY 10301

I represent: Staten Island Chamber of Commerce

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

26

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Doreen Zayer

Address: 130 Bay St St, NY 10301

I represent: Relax on Cloud 9

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

27

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: TOM MINNIC

Address: 152 WASHINGTON AVE ALBANY

I represent: THE BUSINESS COUNCIL OF NYS

Address: ALBANY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

28

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Sherry Leitwint

Address: 375 Riverside Drive, Apt 8B, N.Y. 10025

I represent: A Better Balance

Address: 80 Maiden Lane, N.Y. 10038

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Maria  
Delcarmen  
arroyo

Appearance Card

361

I intend to appear and speak on Int. No. 97A Res. No. 3/22/13

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: WILLIAM E. THOMPSON

Address: 160 Amsterdam Ave NY, NY

I represent: 160 Amsterdam Ave, NY, NY

Address:

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

29

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3-22-13

(PLEASE PRINT)

Name: KEVIN FINNEGAN

Address: 12 CHARLES ST, 4RD NYC

I represent: 1199 SEIU

Address: 310 W 43RD ST NYC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

30

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: MARCH 22, 2013

(PLEASE PRINT)

Name: ROSINA RUBIN

Address: 565 West End Avenue, NY 10024

I represent: ATTITUDE NEW YORK, INC.

Address: 526 WEST 53RD ST, NY 10024

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

32

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Anne Bove

Address: \_\_\_\_\_

I represent: New York State Nurses Assoc.

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

33

I intend to appear and speak on Int. No. 97-2010A Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Nancy Rankin

Address: 360 E. 88<sup>th</sup> St, 35C NY NY 10128

I represent: Community Service Society

Address: East 22<sup>nd</sup> St & Park Ave. South

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

34

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Andrew Moesel

Address: \_\_\_\_\_

I represent: New York State Restaurant Association

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

35

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Jay Peltz

Address: 1385 Boston Post Rd, Carlmont, ny

I represent: Food Industry Alliance of ny

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

SMALL BUSINESS POWER

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: JOHN BONIZIO

Address: 265 CLEARVIEW EXP. BAYSIDE

I represent: S BORO COMITON / WEST. SQ. BID

Address: 25 WESTCHESTER SQ. BX 10461

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

35

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Shane McMorrow

Address: \_\_\_\_\_

I represent: Mechanical Contractors Association

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

36

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: STEWART O'BRIEN

Address: \_\_\_\_\_

I represent: Association of Contracting Plumbers

Address: 44 West 28<sup>th</sup> St. N.Y.C. 10001

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

37

I intend to appear and speak on Int. No. 0097A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: REGINA SMITH

Address: 103 W. 130<sup>th</sup> ST, NYC 10027

I represent: HARLEM BUSINESS ALLIANCE

Address: 275 LENOX AVE., NYC 10027

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

38

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Kathryn Wylde

Address: \_\_\_\_\_

I represent: The Partnership for New York City

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL  
THE CITY OF NEW YORK

39

Appearance Card

39

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Manisha Sharma, MD

Address: 3411 Wayne Ave, 8D

I represent: Doctors For America - NY

Address: Same as Above NATL HQ Wash, DC

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

40

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: SOCHETITA MENG

Address: \_\_\_\_\_

I represent: NEW YORK CIVIL LIBERTIES UNION

Address: 125 BROAD STREET NY, NY 10002

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

41

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 3.22.13

(PLEASE PRINT)  
Name: Donna Dolan

Address: \_\_\_\_\_

I represent: New York Paid Leave Coalition

Address: 46 CWA 80 Pine St 37<sup>th</sup> fl, NY, NY 10005

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL**  
**THE CITY OF NEW YORK**

translator  
Pablo  
Martinez

Appearance Card

42

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Pablo Martinez

Address: \_\_\_\_\_

I represent: MRNY

Address: \_\_\_\_\_

**THE COUNCIL**  
**THE CITY OF NEW YORK**

translator  
Julissa  
Bisano

Appearance Card

44

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Celina Alvarez

Address: 41-09 108<sup>th</sup> St #A4 Corona NY

I represent: MRNY

Address: 92-10 Roosevelt Ave

**THE COUNCIL**  
**THE CITY OF NEW YORK**

Appearance Card

43

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: ~~3/22/13~~ 3/22/13

(PLEASE PRINT)

Name: Celina Alvarez

Address: 41-09 108 St #A4 Corona NY

I represent: Make the Road New York

Address: 92-10 Roosevelt Ave Jackson Heights NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

45

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Vincent Alvarez

Address: 275 7<sup>th</sup> Ave. NY NY 10001

I represent: New York City Central Labor Council

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

46

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MEL WYMORE

Address: \_\_\_\_\_

I represent: MEL 2013

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

47

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: RICHARD AVILES

Address: \_\_\_\_\_

I represent: BRIDGE CLEANER + TAILORS

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

51

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Andrea

Address: \_\_\_\_\_

I represent: SELF

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

49

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: MARTI COPPLEMAN

Address: 60 PINEAPPLE ST. #1D, BKLYN 11209

I represent: WORKSITES FOR WELLNESS, INC.

Address: see above

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

48

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/2013

(PLEASE PRINT)

Name: NORANEAKIS

Address: 64-39 B 186 LH FREEIT MDUS NY 11365

I represent: NATIONAL CLNRS ASSOC

Address: 252 W. 29th ST NYC NY 10001

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

52

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Shirley A. Webb (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: SEIU Local 32BJ

Address: 25 W 18th St

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

53

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: VINCENT ALVAREZ (PLEASE PRINT)

Address: 275 SEVENTH AVENUE NY, NY 10001

I represent: NY C. CENTRAL LABOR COUNCIL, AFL-CIO

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

54

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Robyn Overman (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: GMHC (Gay Men's Health Crisis)

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

55

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Kate Barut (interpreter Armando Uribe)

Address: \_\_\_\_\_

I represent: NY Communities for Change

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

56

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Armando Uribe

Address: \_\_\_\_\_

I represent: NY COMMUNITIES FOR CHANGE

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

57

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Celina Alvarez

Address: 41-09 108 St. Corona NY Apt 4

I represent: Make the Road NY

Address: 92-18 Roosevelt Avenue Jackson Heights

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

58

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Sasha Ariuia

Address: 26 Bleeker Street, NY, NY

I represent: Planned Parenthood of NYC

Address: 26 Bleeker St.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

59

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Derrick Chandler

Address: 143 West 130th Street

I represent: Housing Works, Inc

Address: 57 Willoughby S

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

60

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Derrick Chandler

Address: 143 West 130th Street

I represent: Housing Works, Inc

Address: 57 Willoughby S

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Debra Cooper

Address: 290 West End Ave

I represent: Democratic State Committee Women (67th AD)

Address: 290 West End Ave NY NY 10023

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Frank Proscia, M.D.

Address: 50 Broadway NY NY

I represent: Doctors Council SEMU

Address: 50 Broadway NY NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3-22-13

(PLEASE PRINT)

Name: Jarany Elamy

Address: 26/20th Avenue Dr. NY 10562

I represent: Director of Health

Address: 2 Bridge St. Irvington, NY 10533

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: James Essey/Walter

Address: 6/20 Lexington Avenue NY 10170

I represent: New York Staffing Association

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: ED OTT

Address: 275 7th Ave

I represent: MURRAY JUST. COUN.

Address: 25 W 4th ST

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0097 Res. No. \_\_\_\_\_

in favor  in opposition

Date: March 22, 13

(PLEASE PRINT)

Name: DOUGLAS HALL

Address: 141 Columbia Dr. Amherst MA

I represent: Economic Policy Institute

Address: 1333 H St. NW Washington DC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/15

(PLEASE PRINT)

Name: Dr. L. Tom Lewis

Address: 116 Hancock St 3, Brooklyn

I represent: SEIU Healthcare

Address: 330 W 42nd St, NY NY 10036

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Phil Andrews

Address: 310 Van Buren St, Brooklyn

I represent: RWDSU

Address: 30 E. 29th St, NYC 10016

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: SUSAN VIERCZHALEK, M.D.

Address: BELLEVUE HOSP., DEPT. OF PEDIATRICS

I represent: AMER. ACAD. OF BREASTFEEDING MEDICINE

Address: SEARLES AND NYC BREASTFEEDING LEADERSHIP COUNCIL

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Carol Soginaw

Address: 200 West End Ave, 11A

I represent: Center for Children's Initiatives

Address: 322 8th Ave

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0097 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: LISA DAUS

Address: 36-36 33rd St Suite 500

I represent: Therapeutic Resources

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Liz Margolies, LCSW

Address: 136 West 16 St NY NY 10011

I represent: National LGBT Cancer Network

Address: same

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ronald Regins

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3-22-13

(PLEASE PRINT)

Name: Jason Coates

Address: 734 15th St. NW Washington, DC 20005

I represent: National Hispanic Council on Aging

Address: 734 15th St NW Washington, DC 20005

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97 A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/2013

(PLEASE PRINT)

Name: Jeffrey A. Hayes, Ph.D

Address: 1852 Columbia Rd NW #603  
Wash, DC 20009

I represent: Inst Institute for Women's Policy Research

Address: 1200 18th St NW Suite 301, Washington, DC  
20036

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Paid Sick Days Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Monifa Bandede

Address: 66 Van Buren Street BKlyn, NY

I represent: Moms Rising.org

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Brett Lavett

Address: 57 P.H. St 100 NY NY

I represent: Blue Bottle Coffee Co.

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

WITH: LISA DAVIS

(PLEASE PRINT)

Name: Marilyn Roscoe

Address: 315 East 68th St NY

I represent: Therapeutic Resources

Address: 36-36 33rd St Long Island City

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MARIA CASTANEDA

Address: 1199 310 W 43rd NYC 10036

I represent: 1199 SEIU

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Kelwyn Diaz

Address: 450 54th Street

I represent: New York City Community for change ~~NYCC~~

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Sherry Leitman

Address: 375 ASD NY, NY 10028

I represent: A Better Delancey

Address: 80 Maiden Lane, NY NY 10038

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Robert S. Altman (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: BIANYC / QBBA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: HEMANT SINDHU (PLEASE PRINT)

Address: 7 HEGEMANF AVE #11c Brooklyn NY

I represent: CIR-SEIU

Address: Saw

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 7-22-17

Name: DOREEN ZAYER (PLEASE PRINT)

Address: 694 cloud rd

I represent: RELAX on cloud 9 inc.

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Erica Rothschild

Address: \_\_\_\_\_

I represent: Gay Men's Health Crisis

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/22/13

(PLEASE PRINT)

Name: Susan Verczhaiek

Address: 462 1<sup>st</sup> Av NY NY

I represent: American Academy of Pediatrics

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 97A Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: ZYAD HAMMAD

Address: 327 NOSTRAND AVE, BROOKLYN, NY

I represent: Retail Action Project

Address: 140 W. 31<sup>st</sup>, New York NY

Please complete this card and return to the Sergeant-at-Arms