



New York State Association of REALTORS®, Inc.

New York State Association of REALTORS®, Inc.

130 Washington Avenue | Albany, NY 12210-2220

P 518.463.0300 | F 518.462.5474

info@nysar.com | www.NYSAR.com

## 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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PAID SICK LEAVE TESTIMONY

MARCH 22<sup>ND</sup>, 2013

DEBRA COOPER

DEMOCRATIC STATE COMMITTEEWOMAN 67<sup>TH</sup> AD

The time for paid sick leave is NOW.

This hearing has been long awaited. And I am glad to be one of many people who have supported this absolutely crucial measure.

This is about health in more senses than one. Let me say upfront it is about the health of this society. It is about the literal health of this society and the people of this city. It is also about the economic health of this society. And crucially it is about the political health of this city government.

Let me get to each one.

1000000 New Yorkers do not have paid sick days, the majority of whom are women and immigrants. People who need the most protection. However the rest of us also need protection from illness as well.

People should not be put into the position of having to choose between their health and the loss of pay or the money for the rent and maybe even the loss of their job. It is simply unjust.

However, by forcing people to work when they are sick, the health of the rest of us is endangered. Disease vectors spread to everyone in scores of pathways. In NY we live close to each other, we ride crowded public transportation. We recently just had a bad flu season which was made worse by the fact that sick low income workers had to come to work. One of the important measures of economic output is productivity. It is obvious that productivity is enormously impacted by illness and the increased impact by those who are made ill by workers who must drag themselves feverish and sneezing to the job.

I heard a doctor, at this very hearing, say that 48,000 emergency room visits could be eliminated if the City had paid sick days. What does that cost the health system? What does it cost our private and our public hospitals?

Those are negative economic consequences.

And that brings us to the economics of paid sick days. The opponents of paid sick leave contend that the economics don't work. That it harms the economy. These are the same people who say that the minimum wage and increasing the minimum wage has a negative impact on jobs and the economy.

There is now sufficient evidence this is wrong about the minimum wage. Doing the right thing, not only for workers, but for the rest of us is an economically sound measure for this Council to enact. Going to work sick harms productivity all over the city. The loss of wages has a negative impact on those who do not have them to spend. And it harms the businesses that do provide paid sick leave who have to compete on a skewed playing field. It harms businesses as well as workers.

The final measure of health is political. Democracies measure their vitality by how well they govern and how well they represent the will of the governed. When a measure is both sound and popular it should be allowed to come to a vote.

Let me say it is amusing to hear those who have said this is a good thing but government shouldn't make laws about it. They have said this ever since the beginning of the progressive era to the present. Those who said that now are like those who have in the past said "I don't think children should work from dawn to dusk, but government shouldn't stop it. I don't oppose a 40 hour workweek but government shouldn't mandate it. I don't oppose a minimum wage but government shouldn't mandate it. Who have said "I think the elderly should live in dignity but government shouldn't provide Social Security." Or "I think that pollution is bad but government shouldn't make rules about pollution." There is almost no single social or political advance that the right has not made this claim about. You drag them kicking and screaming to finally admit a measure is the right thing to do but then the last line of defense is "This is not something that government should do". However in all the instances I just cited if the private sector had already instituted these important advances there would be no need for government to do anything.

Just as if paid sick leave was already provided there would be no reason to act. But it isn't that way at all. This IS something government must do.

## 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

little but frustrate the collective bargaining process. At best, such language could stall negotiations while employers and union representatives deliberate the application of this legislation. At worst, it may result in litigation if there is disagreement between the parties on the exact terms of implementation, or how a municipal law incorporates into the parties' obligations under the National Labor Relations Act. This law could create unprecedented challenges to both sides, which are already constrained by extensive State and Federal law governing collective bargaining.

This proposal essentially imposes the City Council's judgment upon union leaders, directing priorities during negotiations. Every union has unique concerns and, depending on countless factors, paid sick time may not be as important as employer pension contributions. These exchanges do not take place in a vacuum and every term introduced into an employment contract requires a reexamination of the entire document with a determination of the value of that new term and the appropriate consideration the other side must offer. Employer and union representatives need absolute flexibility when negotiating and all parties to the discussions must be on equal footing.

We respectfully submit that this legislation, no matter how well intended, would unacceptably disrupt the careful balance unions and employers have worked to create over the decades in order to accommodate the unique environment we operate in. Accordingly, we strongly urge the committee to rethink this issue and revise the proposal by providing a clear, unambiguous exemption for all employees working pursuant to a bona fide collective bargaining agreement.

Another concern lies with a part-time workers. The purpose of a part-time employee is to fill gaps in a full-time staff and, since part-timers are physically at an office fewer hours than a full-time employee, it is essential they work when scheduled. However, a part-time employee also enjoys free hours during the workweek, which a full-time employee may not, when he or she can readily schedule non-employment related appointments.

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.



# HOTEL ASSOCIATION OF NEW YORK CITY, INC.

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320 PARK AVENUE, NEW YORK, NY 10022-6838

(212) 754-6700 FAX (212) 754-0243

## TESTIMONY IN OPPOSITION

Int. 97-a (Brewer, et. al)  
New York City Council  
Civil Service and Labor Committee  
March 22, 2013

The Hotel Association of New York City opposes City Council Int. 97-a in relation to the provision of paid sick time earned by employees.

The Hotel Association is a trade organization representing 270 of the finest hotels in New York City, with more than 74,000 hotel rooms and over 34,000 employees.

The vast majority of the industry's employees are represented by the New York Hotel Trades Council and their terms and conditions of employment are covered by a New York City – Wide Collective Bargaining Agreement, commonly referred to as the Industry Wide Agreement or "IWA". The IWA is the product of over 70 years of collective bargaining with the New York Hotel Trades Council. It is not hyperbole to state that the IWA makes our employees the highest paid in the United States. In addition to their wages, our Association member hotels provide our employees with:

- Family major medical and hospitalization at no cost to the employee
- Family dental care at no cost to the employee
- Pension benefits, up to \$1,500 per month, for eligible employees
- Family pharmaceutical benefits at no cost to the employee
- Optical
- Life Insurance
- Up to five (5) weeks of paid vacation
- 9 paid holidays
- 3 paid personal days
- 3 paid bereavement days; and
- 8 paid sick days which may be carried over for up to 15 days from year to year.

As you can see, we provide as much as 49 paid days off per year, almost 10 paid weeks per year.

In the true spirit of collective bargaining, these benefits have been negotiated between the Association and the Union and they establish and reflect an extraordinarily comprehensive wage and benefit package.

We urge the City Council to recognize, as has the U.S. Supreme Court, that a central purpose of federal labor laws is to protect and encourage the practice and procedure of collective bargaining between employers and unions, so that they themselves may determine the terms and conditions of employment of Hotel employees.

The Hotel Association strongly objects to the section of Int. 97-a that contravenes the law governing collective bargaining by usurping the parties' bargaining rights and interfering with the bargaining process. Int. 97-a would negate the "quid pro quo" which the Association received in return for the comprehensive wage and benefit package it negotiated with the Union.

We strongly believe that those employers who provide paid sick leave and other employee benefits under a bona-fide collective bargaining agreement should simply be exempt from this legislation.

Among the non-union hotel members of our organization, most have equivalent benefits of those that are outlined in the bill. We urge that the Committee review §17-1503(i) which addresses equivalent time and clarify the provision to ensure that all leave time is included and that employers will not be forced to either give a different benefit or face additional penalties in the future. Toward that end we urge that the language unambiguously state that those employers who offer the number of paid leave days the bill mandates, be exempted from the bill's requirements.

Thank you for the opportunity to testify on this matter. The members of the Hotel Association of New York City look forward to working with the Committee as this issue moves forward.