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February 27, 2017

To: The Honorable Jill N. Tokuda, Chair,
The Honorable Donovan M. Dela Cruz, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Monday, February 27, 2017
Time: 9:30 a.m.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 425 SD1 Relating to Labor

I. OVERVIEW OF PROPOSED LEGISLATION

SB425 SD1 Part 1 adds a new section to the Payment of Wages and Other Compensation Law, chapter 388, Hawaii Revised Statutes (HRS). Part 1 requires employers with 50 or more employees to provide their "service workers" 40 hours of paid sick leave for employees of any place or portion thereof maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging, transporting, or otherwise handling food at the retail or wholesale level.

Similarly, employees may use this sick leave if they work in any place used for cleaning food equipment or utensils in support of another food establishment or any operation that is conducted in, or in conjunction with, a mobile, stationary, temporary, or permanent facility or location where food is served or provided to the public, with or without charge, regardless of whether the food is consumed on or off the premises.

The 40 hours of paid leave is for the service worker's personal illness, caring for a sick child or spouse, or when the service worker is a victim of domestic violence or sexual assault.

The proposed law applies only to employers with 50 or more employees, and to their service workers who are subject to the minimum wage and overtime provisions of

the Fair Labor Standards Act. It excludes employers in non-profit groups providing recreation, education and childcare.

Part II amends **§378-73 (Relationship to other leaves)** which provides that an employee need not exhaust family leave benefits under chapter 398, HRS, prior to taking victim leave under chapter 378, HRS. This extension of the Hawaii Family Leave Law is in addition to either the thirty or five days provided by §378-72.

DLIR appreciates the intent of the measure, but has serious concerns regarding the measure as drafted.

II. CURRENT LAW

In Hawaii, the law does not require paid vacation and sick leave. Under section 388-7(3), HRS, of the Payment of Wages and Other Compensation Law, employers that provide vacation and sick leave benefits must make their policies available to employees in writing or through a notice posted in a place accessible to the employees. The employer's policy determines the criteria to earn and use these benefits.

Chapter 378, HRS, Part VI Victims Protections, allows up to 30 days of protected, unpaid leave for employees working for an employer with 50 or more employees to take because of domestic violence or sexual assault. For employers with not more than 49 employees, victims of domestic violence or sexual assault are provided 5 days unpaid leave (**§378-72 Leave of absence for domestic or sexual violence.**)

The Hawaii Family Leave Law (chapter 398, HRS) provides four weeks of protected leave, not necessarily paid, for employees of employers with 100 or more employees, on the birth or adoption of a child or to care for family member who is seriously ill. The Hawaii Family Leave Law generally does not allow an employee under §398-3 to take leave for their own conditions.

FAQs for the Hawaii Family Leave Law are attached, which include sections on the interrelationship of Hawaii Family Leave Law, the federal Family and Medical Leave Act and Temporary Disability insurance.

Chapter 378, HRS, Part VI Victims Protections, allows up to 30 days of protected leave for employees working for an employer with 50 or more employees to take because of domestic violence or sexual assault. For employers with not more than 49 employees, victims of domestic violence or sexual assault are provided 5 days.

The Hawaii Temporary Disability Insurance (TDI) Law, §392, HRS, provides wage replacement benefits to an eligible employee unable to work due to the employee's own nonindustrial illness or injury. Some employers use sick leave as part or all of the TDI benefit. TDI is the only paid leave required in the law.

III. COMMENTS ON THE SENATE BILL

The definition of food establishment is highly problematic and very broad. The bill defines food establishment as “any place or portion thereof maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging, transporting, or otherwise handling food at the retail or wholesale level.” This statement could make the legislation apply to any number of types of establishments that are not primarily food service establishments. For example, various types of retail stores including building materials stores, gas stations, clothing stores, sporting goods stores, health stores, etc., and establishments such as museums, theaters, amusement arcades, and laundromats may sell some type of food products such as candies or snacks.

Warehousing and transportation companies may store and transport some food products facilitating the trade of goods whether or not food or even trade is their main business. DLIR’s Research & Statistics Office (R&S) assigns an industry code to each employer based on information provided by the employer about his or her major business activity in the state. However, beyond this primary activity, R&S would not know if a company has “any place or portion thereof maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging, transporting, or otherwise handling food at the retail or wholesale level.

The definition of “service worker” is an issue. R&S does not collect any occupational data on employees so it is not possible to differentiate which employees at an establishment are service workers.

R&S does not collect data for purposes of enforcement and is not allowed to modify BLS surveys to collect additional information. If collection of additional data for the purposes of this legislation, such as occupations and company activities beyond the primary business activity, are to be added on to the Unemployment Insurance (UI) system, changes to the State’s UI laws and millions of dollars will be required to upgrade the UI system.

Since UI does not need this information, they are not allowed to use their federal funds to pay for the system changes and the information would be passed on to another division for verification and enforcement. If R&S gets involved to verify business activities and to code employees for occupations, R&S will require more staffing and IT resources.

The definition of “employer” is problematic as drafted:

"Employer" has the same meaning as in section 388-1, but shall refer to employers who employ fifty or more individuals in the State in any one quarter of the previous year, which shall be determined on January 1, annually.

As employment is reported to the UI Division quarterly for each month in the quarter, it may be clearer to use month instead of quarter. If quarter were used, then further clarification such as to use the average employment for the quarter would be needed.

Complaints concerning violations of this proposal would go to the Wage Standards Division (WSD) under §388-9, HRS. The current backlog of wage-related investigations in WSD, which stems from loss of investigators in the 2009 reduction in forces (RIF), is projected to be at least two years. WSD has not obtained any staffing or resources since the RIF so restoring the Labor Law Enforcement Specialist positions lost in that RIF is essential to practical and timely enforcement of the law and any new responsibilities assigned to the Division.

DLIR notes that if enacted as drafted this measure would have a nexus with current Temporary Disability Insurance (TDI) law. Employers may provide TDI coverage in several ways:

1. Procuring statutory insurance to fund a TDI plan, or
2. Obtain approval from the Department for a self-insured plan, or
3. A combination of the two above.

The exact benefits of TDI plans vary depending on the plan procured by an employer and is subject to review and approval by the Department. Therefore, the exact impact of the measure is difficult to specify. Moreover, the method of providing TDI insurance coverage in tandem with the size of the employer creates a situation wherein the nexus between TDI coverage and this proposal is different for different employers:

- If the employer uses the statutory insurance to fund a TDI plan (26 weeks of benefits @58% of weekly wage subject to a maximum weekly benefit after a 1 week waiting period) then the bill would possibly require to establish a separate sick leave plan to account for and use the 40 hours for sick leave and the other domestic/sexual assault violence leave contemplated.
- If the employer is self-insured then leave in excess of 15 days from the first day can be utilized for leave contemplated by this bill. However, TDI sick leave applies only to medical conditions of the employee and does not extend to children, parents, etc.
- If the employer uses a combination of statutory insurance and self-insurance then it is difficult for DLIR to ascertain the impact and would need to scrutinize the sick leave plans submitted for approval to the Department in the proposal in conjunction with the employer's TDI coverage.

TDI plans can include the use sick leave, however, the requirements (eligibility, benefit amount, benefit duration, reasons for leave, etc.) for TDI are different from

those of §388, HRS. Due to these differences, employers may find it difficult to craft and administer a sick leave plan that complies with all requirements of both chapters, and the Department may also have issues in approving the sick leave plan to meet both statutes.



**Testimony to the Senate Committee on Ways and Means
Monday, February 27, 2017 at 9:30 A.M.
Conference Room 211, State Capitol**

RE: SENATE BILL 425 SD1 RELATING TO LABOR

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 425 SD1, which requires certain employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions; defines the terms "service worker" and "employer".

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We are opposed to SB 425, which requires certain employers to provide paid sick leave to service workers. This is another mandated benefit that will increase the cost to employers and could severely hurt job growth. In addition, it will require a huge burden on companies to manage the accumulation and usage of sick leave as written by this bill. Many small companies do not have a large administrative staff to help manage this new benefit.

Furthermore, we do not believe that any statutorily required sick policy should allow employees to have to carryover sick leave as this will create an undue administrative burden and create financial liability for companies.

Just as important, we also oppose the reasons for which workers may utilize sick leave that are beyond the employee's health. Sick leave is generally a benefit for the employee to take care of their own health. This provision provides a broader leave which will only provide additional burden to employers and may reduce benefits and compensation in other ways.

While most workers utilize their sick leave only when ill, there is a percentage of workers who abuse this benefit. CareerBuilder.com reported that 1 in 4 workers consider sick leave to be vacation time. This bill would make it very difficult for employers to manage their employees and the benefits provided.

We respectfully ask that this bill be deferred. Thank you for the opportunity to testify.

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To: Sen. Jill N. Tokuda, Chair
 Sen. Donovan M. Dela Cruz, Vice Chair
 Members of the Committee on Ways and Means

From: Victor Lim, Hawaii Restaurant Association

Subj: SB425 S.D. 1 Requiring Certain Employers to Provide Sick Leave

Date: February 25, 2017

The Hawaii Restaurant Association representing about 3,500 restaurants with about 90,000 food service jobs here opposes SB425 S.D. 1 for singling out our service industry to provide sick leave for those employers of fifty or more employees.

Here in Hawaii, we are trying to adjust with the scheduled minimum wage increases and at the same time paying for the double digit increases in our Pre-Paid Healthcare Law where our employers carry most of the cost of the premiums because we can only charge our employees no more than 1.5 % of Gross Wages. To compound all of this with the Hepatitis A outbreak, this mandate singling out our industry will cause further hardship and causing many restaurants to go under.

The provision in the bill allowing an employee to carry over up to 80 hours of sick leave from one calendar year to another is also problematic because most employers do not have extra employees so if more than one is out for an extended period of time, the business will be extremely short staffed to be able to serve the customer. We also have the many provisions that sick leave can be used for that has nothing to do with employees being sick.

For all of the above reasons, we urge you to not pass this bill out of your committee and thank you for allowing us to share our industry's point of view.

Aloha.

The Twenty-Ninth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii State AFL-CIO
February 27, 2017

S.B. 425, S.D.1 – RELATING TO LABOR

The Hawaii State AFL-CIO strongly supports S.B. 425, S.D.1 which requires certain employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions, defines the terms "service worker" and "employer" and provides that an employee need not exhaust all family leave benefits prior to using victim leave benefits.

Many union members working in Hawaii are fortunate to have access to paid sick days. Even a number of employers that do not have a collective bargaining agreement offer generous paid sick days to their employees and we commend them for providing such benefits. Regrettably, not all workers are provided access to paid sick days. In fact, according to the National Partnership for Women and Families, over 170,000 Hawaii workers or nearly 43 percent of the state's private-sector workforce are not able to take paid sick days when they are ill or when their children are ill. As a result, countless employees attend work sick as many of the 170,000 workers are low-wage service sector workers living paycheck to paycheck. This however can be changed for the better.

Supporting S.B. 425, S.D.1 will provide workers who need it the most with a few paid sick days a year. Children who are sick will finally be able to stay at home and recover and sick employees will finally have the opportunity to regain their health allowing them to return to work at full productivity. And most importantly, the spread of illness will be greatly reduced among co-workers, school children and the general public. Hawaii will become a healthier state, a more productive state and of course a state that recognizes the impact of how contagious the flu or other diseases can be to Hawaii residents. A small number of paid sick days a year can go a long way to improving the quality of life for many.

Thank you for the opportunity to testify.

Respectfully submitted,

Jason Bradshaw
COPE Director

The Twenty-Eighth Legislature
Regular Session of 2017

THE SENATE

Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
State Capitol, Conference Room 211
Monday, February 27, 2017; 9:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 425, SD1
RELATING TO LABOR**

The ILWU Local 142 **supports** S.B. 425, SD1, which requires employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions.

Providing paid leave for a worker's own illness or disability is a humane employment practice that fosters loyalty and productivity among employees while creating a healthful environment for employees as well as customers of the employer. The current law mandating Temporary Disability Insurance (TDI) is a means of providing paid leave for workers to address their own illnesses, but TDI starts only after a week of illness. TDI also pays 58% of wages for a maximum of 26 weeks.

While we support requiring employers to provide paid sick leave to their employees, we have concerns about the bill's effect on the current Temporary Disability Insurance law that has served us well for more than forty years. We recommend that language to protect and preserve the TDI law be inserted in the bill.

We are also concerned that employers who currently provide paid sick leave, equivalent to the TDI requirement but without a waiting period, may opt for the cheaper alternative that S.B. 425, SD1 proposes. We recommend that language be inserted into the bill to prohibit employers from moving to the paid sick leave proposed in S.B. 425, SD1 unless they are able to demonstrate financial hardship.

Finally, we are concerned that the distinction between allowing service workers to use paid sick leave for the illness of a child or spouse and providing family leave for a serious health condition must be made clear in the law. The two should not be confused, and language should be inserted in the bill to clarify this distinction.

The ILWU respectfully recommends passage of S.B. 425, SD1 with amendments as suggested by our concerns. Thank you for the opportunity to offer testimony on this measure.



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Lauren Zirbel, Executive Director

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TO: COMMITTEE ON WAYS & MEANS
Sen. Jill Tokuda, Chair
Sen. Donovan Dela Cruz. Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Monday, Feb. 27, 2017
TIME: 9:30 a.m.
PLACE: Conference Room 211

RE: SB 425, SD1- RELATING TO LABOR (PAID TIME OFF FOR SERVICE WORKERS)

Position: OPPOSE

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

Under the State of Hawaii's food safety code, enforced by the Department of Health, it is already illegal for employers to allow sick individuals to work in food service. All food service employees are aware that they are not to come to work when they are sick. The public health side of this bill is already addressed under existing law.

This bill appears to have a circular contradiction problem in that it states that a temporary worker is not a worker who works for a food establishment, yet also states that it only applies to food establishments but not temporary workers?

On page 2 "Day or Temporary worker" is defined as: "An individual who works for another person for less than twenty hours per week, except for an individual who works for a food establishment." On page 3 line 13 "Service worker" is defined as: "including an employee of a food establishment, excluding a day or temporary worker, who is paid on an hourly basis, or is not exempt from the minimum wage and overtime compensation requirements..."

We don't feel it is justified to change the definition of temporary worker to except food establishments, nor is it justified to single out food establishments for this onerous regulation of part time and temporary workers.

This bill will create a situation in which employers may have to track two different types of employees under the same business in different sick leave and paid time off accrual systems, their existing system and a system mandated under this bill for part time and temporary workers who are service workers. **This is an administrative nightmare and is completely unjustified given the lack of evidence that mandatory paid time off will improve any epidemiological issues. Food service epidemiological issues are very adequately addressed under the food safety code. We take food safety, and the safety of our customers very seriously.**

The vast majority of our member's foodservice employees are full time workers who have sick leave and paid time off.

This bill's proposed "one-size fits all" approach will hinder an employer's flexibility in providing sick leave and will result in additional costs, both directly and indirectly. Full time employees receive traditional paid sick leave as an earned benefit. Mandating paid time off for part time and hourly employees would greatly increase costs to employers and result in unintended negative consequences. For many businesses this could mean that they would no longer be able to afford to employ as many people and would be forced to eliminate jobs.

Small businesses are especially vulnerable to any increase in costs and **decreases in workforce flexibility**, especially those that operate on low margins such as retail grocers. A business with 51 employees is not a large business and **cost of tracking this mandate for all the part time employees would be significant**. Passage of this measure may also force many small employers to offset higher costs through lower wages to their employees, fewer work hours and pay raises, decreased discretionary benefits, or increased costs for consumers. Even worse, for those companies on the "tipping point," any increase may force them to close. **Many local businesses are on the brink of closing due to the increasing complexity and tremendous difficulty of complying with the seemingly endless list of federal and state regulatory requirements. This is especially true for the food industry, as we are one of the most tightly regulated industries in the world.**

At a time when the State is placing an emphasis on jobs and the economy, this measure and any other mandate that creates additional costs, will undermine those efforts, hinder economic progress and entrepreneurial activity, and deter business investment in our State.

In light of this, we respectfully request that this measure be held.

Thank you for the opportunity to testify.



Date: February 27, 2017

Time: 9:30 am

Place: Conference Room 211

To: Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Re: Support for SB 425, Relating to Health

Thank you for the opportunity to provide testimony. The Graduate Student Organization (GSO) at the University of Hawai'i at Mānoa writes in **support** of SB 425, Relating to Health. The GSO represents approximately 4,700 graduate students at the University of Hawai'i at Mānoa.

Our members compose a substantial portion of the local economy, and the vast majority of our members make wages and benefits far below the cost of living in Hawai'i. In addition to low-paying graduate assistantships, many are working extra to pay for the rapidly rising costs of basic goods and necessities. These jobs, including graduate assistantships, are commonly bereft of any benefits, including paid sick leave.

Paid sick leave is a basic building block of economic security. Studies show that workplaces benefit when their workers have access to paid sick days.¹ When sick workers can stay home, the spread of disease slows and workplaces are both healthier and more productive. Plus, workers recover faster from illness and have an opportunity to obtain timely medical care, which enables them to get back to work sooner and holds down overall healthcare costs. In fact, studies show that it is costlier to businesses to *not* have a paid sick leave policy. Yet, a substantial portion of local workers Hawai'i do not have access to paid sick days.

The access to financial security in the event of sickness is a human right. Sick leave policies enacted in other cities and states, as well as other countries, have been extremely successful and are strongly supported by workers and local businesses. Giving all workers in Hawai'i paid sick leave is a sensible policy that will benefit workers, businesses, community health, and the local economy.

1. [United States Department of Labor. "Get The Facts On Paid Sick Time." October 2015.](#)



MOTION PICTURE ASSOCIATION OF AMERICA

TESTIMONY

ON HAWAII SENATE BILL 425 SD1

Monday, February 27, 2017

State Capitol

Honolulu

The Motion Picture Association of America, Inc. (MPAA) submits this written testimony regarding Hawaii Senate Bill 425 SD1. MPAA members include the leading producers and distributors of television programs and motion pictures worldwide. In addition to CBS, which as you are well aware produces the locally based Hawaii 5-0 television series, MPAA members include Disney, Fox, Paramount, NBC Universal, Sony Pictures and Warner Bros.

MPAA and its member companies oppose SB 425 SD1, unless amended. This bill would require employers provide 5 days of paid sick leave to employees. Employees and employers in motion picture and television production are subject to collective bargaining agreements which specify wages, hours and terms and conditions of employment. The collective bargaining relationship in the motion picture industry has existed for more than 60 years.

This bill would interfere with the ability of the employers and their representatives to address the issue of paid sick leave through the collective bargaining process. MPAA urges the adoption of an amendment which would provide that the requirement for paid sick leave would not take effect until the expiration of any pending collective bargaining agreements. This amendment would enable the parties to discuss this issue and resolve it between the unions and the producers. MPAA's amendment would also permit the parties to waive the requirement of paid

sick leave, if such waiver was clearly and unambiguously expressed in the collective bargaining agreement.

It is well established that the wages, terms and conditions of employment within motion picture and television production exceed average wages, terms and conditions. The parties, through a mature collective bargaining process, discuss and resolve wages, terms and conditions, which are then memorialized in multiple collective bargaining agreements with various unions, including the International Alliance of Theatrical and Stage Employes, the International Brotherhood of Teamsters, SAG-AFTRA, and the Directors Guild of America. This bill should allow for the parties to resolve the issue of paid sick leave between themselves, at the bargaining table.

For these reasons, MPAA respectfully urges the adoption of its amendment. Without the inclusion of the amendment, MPAA urges a “no” vote on the SB 425 SD1.

Thank you for your consideration.

The Twenty-Eighth Legislature
Regular Session of 2017

THE SENATE

Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
State Capitol, Conference Room 211
Monday, February 27, 2017; 9:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 425, SD1
RELATING TO LABOR**

The ILWU Local 142 **supports** S.B. 425, SD1, which requires employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions.

Providing paid leave for a worker's own illness or disability is a humane employment practice that fosters loyalty and productivity among employees while creating a healthful environment for employees as well as customers of the employer. The current law mandating Temporary Disability Insurance (TDI) is a means of providing paid leave for workers to address their own illnesses, but TDI starts only after a week of illness. TDI also pays 58% of wages for a maximum of 26 weeks.

While we support requiring employers to provide paid sick leave to their employees, we have concerns about the bill's effect on the current Temporary Disability Insurance law that has served us well for more than forty years. We recommend that language to protect and preserve the TDI law be inserted in the bill.

We are also concerned that employers who currently provide paid sick leave, equivalent to the TDI requirement but without a waiting period, may opt for the cheaper alternative that S.B. 425, SD1 proposes. We recommend that language be inserted into the bill to prohibit employers from moving to the paid sick leave proposed in S.B. 425, SD1 unless they are able to demonstrate financial hardship.

Finally, we are concerned that the distinction between allowing service workers to use paid sick leave for the illness of a child or spouse and providing family leave for a serious health condition must be made clear in the law. The two should not be confused, and language should be inserted in the bill to clarify this distinction.

The ILWU respectfully recommends passage of S.B. 425, SD1 with amendments as suggested by our concerns. Thank you for the opportunity to offer testimony on this measure.



To: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Members of the Committee on Ways and Means

From: Lane Muraoka, President/Owner Big City Restaurants, Inc.

Subject: Opposition to SB425 S.D. 1, Relating to Labor

Date: February 26, 2017

Big City Diner is opposing SB425 S.D. 1 because it will not only have profound impact on our financial standing but also for us to continue to provide the quality service to our customers.

With six restaurants on Oahu, all of which employ more than fifty employees, we will be directly impacted by the measure. Preliminary calculations indicate that Big City Diner will labor cost will increase by more than \$138,000 annually. With the impact of the prior minimum wage increase, 2017 proposed minimum wage increase, double digit increases in medical premiums and proposed banning of take-out containers this measure could be devastating. These mandated expenses are forcing Big City Diner to continuously increase prices. We cannot continue to increase prices and expect customers to be willing to pay for the increase.

The Hawaii restaurant landscape is constantly changing. Over the past few years, we have seeing the closing of numerous long-time local restaurants, while more and more mainland owned restaurants are popping up. These national companies have a much greater buying power as well as bring in most of their goods. The local restaurants continue to struggle as they are determined to buy local and support our local communities.

Big City restaurants are known for their quality service. The impact of SB425 S.D. 1 will decrease our ability to sustain our service levels. The impact of a low unemployment rate and quick increase in mainland competitors has depleted the Hawaii staffing pool. Allowing employees to carry 80 hours of sick leave will force us to decrease our staffing and therefore decrease the quality of service. Contrary to what has been stated in SB425, there is no benefit for employers in the service industry. When an employee is out on sick leave, service providers must replace the missing employee. This results in double paying for the period an employee is out. This factor is also compounded by the fact that SB425 does not contain any provision to protect business' against sick leave abuse.

For all of the above reasons, we urge you to not pass this bill out of committee. Thank you for the opportunity to share our comments on SB425 S.D.1.

Mahalo,

Lane Muraoka
President/Owner Big City Restaurants, Inc



To: Senator Jill N. Tokuda, Chair.
Senator Donovan M. Dela Cruz, Vice Chair
Members of the Committee on Ways and Means

From: Michael Miller, Tiki's Grill & Bar
Subj: SB425 S.D. 1 Requiring Certain Employers to Provide Sick Leave
Date: February 26, 2017

Thank you for the opportunity to provide testimony. We, at Tiki's Grill & Bar, hereby oppose Senate bill SB425 S.D. 1 for singling out our industry, specifically, restaurant / service employers with 50 or more employees.

We are a locally owned and operated restaurant in our 15th year of business. Our owners and myself are all graduates of the University of Hawai'i at Manoa and are very active in our community.

With Hawaii's low unemployment rate, employees have the opportunity to work at other restaurants or food service establishments around town. We do offer paid time off as a competitive edge, compared to some other employers. Our employees enjoy discounts, company events and company sponsored activities outside of work.

Instead of a carryover policy, Tiki's and many other employers impose a "use it or lose it policy" to ensure that staff take time off to refresh and rejuvenate. This is especially important in industries where work may be physical or strenuous.

We urge you to rethink the notion of revenue per employee vs. size of company as a measure to impose certain rules. Different companies and industries have different cost structures. Restaurants are not known for their high profit margins and longevity in the industry so while employee size is one measure, it is a much less significant measure than other variables in regards to profitability and the ability to sustain increased costs.

We urge you not pass this bill out of committee and say, "Mahalo" for considering our point of view while making laws and rules that affect the state.

Mahalo,

Michael Miller / Director of Operations
michaelm@tikisgrill.com

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 25, 2017 9:51 PM
To: WAM Testimony
Cc: dirk@ILGelato-Hawaii.com
Subject: Submitted testimony for SB425 on Feb 27, 2017 09:30AM

SB425

Submitted on: 2/25/2017

Testimony for WAM on Feb 27, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Dirk Koeppenkastrop	IL Gelato Hawaii	Oppose	No

Comments: My name is Dirk Koeppenkastrop and I am the founder and owner of IL Gelato Hawaii. I am a graduate from the University of Hawaii and as there are no higher-level jobs as a chemist my wife and I started a small business here in Honolulu six years ago. We make all natural high quality gelato (ice cream) here in Hawaii and sell wholesale to restaurants and operate two retail locations. We have approximately 45 employees and most of them part time. We have plans to grow and to expand our business so that we soon will have over 50 employees. The proposed Bill SB425 will highly impact our payroll cost. The proposed bill in addition to increasing minimum wage will challenge the existence of our gelato business. In our gelato factory and stores we offer entry-level jobs to unskilled workers. If wages and associated payroll cost - introduced through mandatory paid sick leave - will increase, we will have a problem to stay in business. We cannot pass additional cost to our customers. A scoop of ice cream at our store is \$3.75 and already considered to be too expensive for local families. We get a lot of comments via social media and Yelp reviews that we are too expensive. Our food costs in Hawaii are the highest of the nation. Our rents are the highest of the nation. Energy and insurance cost are higher than anywhere else. It is very difficult to operate a business in Hawaii. We cannot increase our scoop prices, as we would lose our local customers. If payroll costs continues to increase so substantially we need to close our business, which would challenge our existence and we could no longer offer employment. We strongly oppose to proceed with proposed bill SB425. Sincerely, Dirk Koeppenkastrop, Ph.D.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Opposed to SB425 Mandatory Sick Leave Pay for Food Service Workers

While Ruby Tuesday Hawaii and Gyu-kaku Hawaii is committed to providing a living wage and time off for our employee's health and family related issues, we strongly opposed mandatory sick leave pay for food service workers.

- The state health code already prohibits employees from working while ill.
- The cost to restaurant businesses would be a significant financial and administrative burden.
- The bill is unfair due to the disparity of business size and focus on only the food service industry.

With all due respect, we recommend that this bill not be passed.

Sincerely,
Lyle Matsuoka
COO
Rt Hawaii Restaurants
Gk Hawaii Restaurants
808-754-6476



LATE

Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

SB425 HD1

RELATING TO LABOR

COMMITTEE ON WAYS AND MEANS

Monday, February 27, 2017, 9:30am

Conference Room 211

Dear Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 175 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA **opposes SB425 HD1**, which requires certain employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions. Defines the terms "service worker" and "employer". Provides that an employee need not exhaust all family leave benefits prior to using victim leave benefits.

MHLA does not believe that this benefit should be mandated by legislation. Employers already manage numerous mandated benefits for employees, which have steadily increased the employer's burden as well as the cost of doing business in Hawaii.

Additionally, most employees are already afforded generous vacation and sick leave benefits which can be utilized for the purposes of caring for themselves or a family member who is ill or needs medical care. This bill would allow workers to utilize sick leave that are beyond the employee's health, as well as creating an opportunity for potential misuse and abuse of this benefit.

For these reasons, we are in opposition of SB425 HD1.

Thank you for the opportunity to testify.

LATE

**Testimony to the House Committee on Labor & Public Employment
February 25 2017**

Re: Senate Bill 425 RELATING TO LABOR

Members of the Committee on Ways and Means: Chair Sen. Jill Tokuda, Vice Chair Donavan Dela Cruz

POSITION: STRONGLY OPPOSE

My name is Monica Konanimakamae Toguchi Ryan, and I own a 70-year old family business, Highway Inn.

The objective of ensuring that people in the state that need time off from work to prevent the propagation of illness at the workplace is laudable and has our support. Many companies, including ourselves, provide that benefit to our full-time workers. Moreover, many of our part-time workers already have full-time employment benefits (and may double-dip if benefits are thus extended), and many of our part-time workers are seasonal (e.g. college students), or they are part-time employees who value the flexibility to work when they want, and do not treat their part-time work with us a primary source of income.

In other words, the population of workers this bill is targeting is very small in proportion of total workers, and it is even more unlikely that these employees retain their employment for more than a year – that is simply the way it is, regardless of employer or industry. Therefore, burdening small businesses with this task will simply make employers pay more attention to the work history of the part-time employees they hire, and raise businesses' costs more than the benefit that would flow to those people genuinely in need of time off from work. Therefore, not only will this bill have limited effectiveness, it will do nothing to address a serious situation where employees of all classifications went to during the Hepatitis A outbreak last year, where symptoms did not show for weeks, but contagion nonetheless was present.

Moreover, the system will get abused and likely generate more administrative costs for the state. The Department of Labor, Labor Lawyers and Employers will burn more time and energy on the application and interpretation of this law than the benefits it aims to convey. A very practical example is determining what specific time-off a part-time employee is requesting when that part time employee is not on the work schedule beyond the current week.

We firmly believe that the way this issue is resolved is through creating a sick-leave insurance program for the targeted population or other state managed solution, and not further burdening small businesses, resulting in increased consumer prices, and let small businesses make a vibrant economy such that the state's tax budget is met.

I strongly oppose HB425 and believe it should not be progressed. Thank you for the opportunity to submit this testimony.

February 25, 2017

To: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Committee on Ways and Means

LATE

From: Deborah Zysman, Executive Director
Hawaii Children's Action Network

Re: **SB 425 – Relating to Labor**
Hawaii State Capitol, Room 211, February 27, 2017, 9:30 AM

On behalf of Hawaii Children's Action Network (HCAN), we are writing to offer comments on SB 425 – Relating to Labor.

Sick leave policies make economic sense not just for the employee but also for the employer. These policies provide the employee job security, better health, less stress, and more satisfaction with their job while reducing costs for employers by eliminating the need to replace workers and sickness of additional workers. An Oxfam America survey of low-wage working mothers found 19 percent reported losing a job because they were sick or they had to care for a sick child. It is estimated that 63% of young children in Hawaii have working parents with 31% of Hawaii's children living in single parent households.

According to the US Department of Labor:

- Four in ten private sector workers, over 40 million people, do not have access to paid sick time.
- Seven in ten low-wage workers whose earnings are in the bottom 25 percent of earners, lack access to paid sick time.
- For those employed in the accommodation and food services industries, 75 percent must choose between losing pay and showing up to work sick or leaving a sick child at home alone.
- Without sick leave, workers are more likely to go to work and infect others. A recent survey of food workers showed that nearly 90 percent went to work when they were sick, including more than half who did so "always" or "frequently." And of those who worked while sick, almost half (45 percent) reported going to work sick because they could not afford to lose pay.

However, this bill does not go far enough. It should be expanded to cover all categories of workers such as health care and retail, and it should also cover all sizes of businesses since many service establishments are small businesses with less than 50 employees.

HCAN is committed to building a unified voice advocating for Hawaii's children by improving their safety, health, and education. Last fall, HCAN convened input in person and online from more than 50 organizations and individuals that came forward to support or express interest for a number of issues affecting children and families in our state that resulted in the compilation of 2017 Hawai'i Children's Policy Agenda, which can be accessed at <http://www.hawaii-can.org/2017policyagenda>.



Eggs 'n Things Hawaii Inc. DBA Eggs 'n Things
343 Saratoga Road,
Honolulu, HI 96815
www.eggsthings.com

February 27th, 2017

RE: OPPOSITION TO SB 425 RELATING TO LABOR (PAID TIME OFF FOR SERVICE WORKERS)

TO: COMMITTEE ON JUDICIARY AND LABOR & OUR SENATORS

Thank you for your time and this opportunity to provide our testimony. We at Eggs 'n Things hereby oppose Senate Bill 425, relating to Paid Sick Leave for Service Workers.

Eggs 'n Things has been in Hawaii for 43+ years, and we would love to be here in Hawaii for many more years to come, but the future of operating a Restaurant in Hawaii is looking more and more challenging. We have 3 locations here in Hawaii and many over seas, but the margins for our Hawaii operations are much harder to manage because of the regulations, laws and restrictions that are exclusive to our operations here in Hawaii.

We believe that there are already measures in place to prevent any one who has any type of contagious illness from coming to work and working without violating some strict industry and company policies. All of our full time worker get a great a minimum of 40 hours paid time off as an earned benefit. All of our managers and supervisors are ServSafe certified and are trained to know which types of symptoms are critical in sending an employee home, i.e. high fever, nausea, vomiting, etc. The strict state health codes that we have to adhere to also address this issue.

The idea behind this bill is understandable, but it does show a clear detachment from understanding the current workforce in Hawaii. Getting workers to call out sick for work is not a problem. Getting them to show up to work even when they are fully healthy is. Giving a good majority of our workers this option would make it extremely hard to do any type of scheduling and run a consistent operation without hurting the servicing of our customers. Having worked here at Eggs 'n Things for over 9 years and having over 20 years of experience in the industry, the current workforce is different than it was just a few years ago. At any of our 3 Hawaii locations, I have not had to deal with any employee that was even remotely sick still trying to work through it in years. We do have to deal with employees calling out sick for the strangest of reasons on a daily basis. Taking away one of the key reasons that motivates our employees to show up to work would be detrimental to our business operations.

We would like to humbly ask you to Not pass this bill. Thank you again for taking your time to hear our thoughts and testimony.

Sincerely,

Michael Skedleski, Director of Operations

(808) 923-3447 michael@eggsthings.com



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

LATE

The Twenty-Ninth Legislature, State of Hawaii
The Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association

February 27, 2017

S.B. 425, S.D. 1 - RELATING TO LABOR

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 425, S.D. 1 which requires certain employers to provide a minimum amount of paid sick leave to employees.

We represent more than 27,000 public-sector employees who enjoy the benefit of paid sick leave for healthcare. No employee should be forced to choose between their well-being and their job. Taking time off to care for one's illness not only protects the employee, but also protects their families, colleagues, and customers by reducing the chances of spreading illness. Providing employees with a few days of paid sick leave is an investment that not only supports the employee, but our community as a whole.

Thank you for the opportunity to testify in support of S.B. 425, S.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director

To: Committee on Ways and Means
From: Anthony Lenzer, PhD
Re: Comments on SB 425 SD 1
Hearing: Monday, 2/27/17, 9:30 a.m.
Conference Room 211, State Capitol

Chair Tokuda and Committee Members:

On behalf of the Policy Advisory Board for Elder Affairs (PABEA) I am writing to offer comments on SB 425 SD 1, related to Paid Family Leave. PABEA is an advisory body to the Executive Office on Aging (EOA) re issues related to aging, and serves as an advocate for Hawaii's Kupuna and their families. PABEA's views do not necessarily reflect those of the EOA.

We strongly support enactment of a Hawaii Paid Family Leave law, but have concerns about this measure as written. HB 425 SD 1 requires employers with 50 or more employees to offer up to 40 hours of paid sick leave per year to employees defined as "service workers." It allow such leave for the worker himself or herself, and for certain family members (not including parents or grandparents. Thus, while there are some positive elements in this bill,
we recommend that the Committee consider the stronger and more comprehensive policy described in HB1362.

It is time for Hawaii to pass a strong Family Leave Insurance policy. Employees need subsidized time off of work to care for a newborn, newly adopted or foster child, or an ill family member. Paid Family Leave guarantees that employees can cover basic costs of living, and also provide care to family members when they need it most.

Four other states (California, New Jersey, Rhode Island, and New York) have passed laws that provide employees with paid family leave for parenting and caregiving for family members. A 10 year study of the California law found increased employee loyalty, a healthier workforce, longer breastfeeding rates, lower rates of postpartum depression, and more gender equity in child care and caregiving. Businesses report little negative consequences after the law was enacted, and laws such as this do not impose additional financial burdens on the State.

Under federal and state law, the only leave allowed to families with a newborn child or unexpected caregiving responsibilities is unpaid leave. Hawai'i has no paid family leave, unless an employer willingly provides it.

Ideally, Legislative Proposals for Paid Family Leave Should Include:

- Universal paid family leave--- all employees pay in, and all employees can take out.
- A broad definition of family to encompass Hawaii's cultural views of the term "family."

- Wage replacement program for caregivers. More progressive wage replacement for lower income workers is preferred, in order for low income workers to actually be able to utilize the leave.
- A cap on wage replacement so higher income workers do not exhaust the fund.
- At least 12 weeks. Biological mothers should not be foreclosed from also using TDI.

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

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2017 9:27 PM
To: WAM Testimony
Cc: mauilady3@gmail.com
Subject: Submitted testimony for SB425 on Feb 27, 2017 09:30AM

SB425

Submitted on: 2/26/2017
Testimony for WAM on Feb 27, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Mary D Wagner	Individual	Support	No

Comments: We cannot control our health. Life happens and our pay should not be affected by illnesses. Our expenses continue when we are sick and mortgages, rent, and utilities still need to be paid. Please support and pass this measure to protect the well-being of workers and their families.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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