

SB 425, SD2

RELATING TO LABOR.

LAB, FIN

SB425 SD2



Submit Testimony

Measure Title: RELATING TO LABOR.

Report Title: Labor; Employment; Family Leave; Sick Leave; Service Workers; Victim Leave

Description: 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. Allows parties to a valid collective bargaining contract executed on or after 1/1/2018 to waive the paid sick leave requirement if certain notification requirements are met. Takes effect 1/7/2059. (SD2)

Companion: [HB986](#)

Package: None

Current Referral: LAB, FIN

Introducer(s): KEITH-AGARAN, BAKER, ENGLISH, GREEN, K. RHOADS, TOKUDA, Dela Cruz, Kidani, Nishihara, Shimabukuro

Sort by Date		Status Text
1/20/2017	S	Introduced.
1/23/2017	S	Passed First Reading.
1/23/2017	S	Referred to JDL, WAM.
2/9/2017	S	The committee(s) on JDL has scheduled a public hearing on 02-14-17 9:00AM in conference room 016.
2/14/2017	S	The committee(s) on JDL recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDL were as follows: 4 Aye(s): Senator(s) Keith-Agaran, K. Rhoads, Kim, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Gabbard.
2/17/2017	S	Reported from JDL (Stand. Com. Rep. No. 512) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.

2/17/2017	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/24/2017	S	The committee(s) on WAM will hold a public decision making on 02-27-17 9:30AM in conference room 211.
2/27/2017	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 7 Aye(s): Senator(s) Tokuda, English, Galuteria, Harimoto, K. Kahele, Riviere, Taniguchi; Aye(s) with reservations: none ; 0 No(es): none; and 4 Excused: Senator(s) Dela Cruz, Inouye, Shimabukuro, Wakai.
3/3/2017	S	Reported from WAM (Stand. Com. Rep. No. 739) with recommendation of passage on Third Reading, as amended (SD 2).
3/3/2017	S	48 Hrs. Notice 03-07-17.
3/7/2017	S	Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/7/2017	H	Received from Senate (Sen. Com. No. 162) in amended form (SD 2).
3/9/2017	H	Pass First Reading
3/9/2017	H	Referred to LAB, FIN, referral sheet 27
3/13/2017	H	Bill scheduled to be heard by LAB on Thursday, 03-16-17 9:00AM in House conference room 309.

A BILL FOR AN ACT

RELATING TO LABOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. Chapter 388, part I, Hawaii Revised Statutes,
3 is amended by adding a new section to be appropriately
4 designated and to read as follows:

5 "§388- Paid sick leave; service workers. (a) As used
6 in this section:

7 "Child" means an individual who is:

8 (1) Less than eighteen years of age and is:

9 (A) A biological, adopted, foster, or step-child of a
10 service worker;

11 (B) A legal ward of a service worker; or

12 (C) An individual for whom a service worker stands in
13 loco parentis; or

14 (2) Eighteen years of age or older and is:

15 (A) Incapable of self-care because of a mental or
16 physical disability; and



1 (B) An individual for whom a service worker stands in
2 loco parentis.

3 "Day or temporary worker" means:

4 (1) An individual who works for another person for less
5 than twenty hours per week, except for an individual
6 who works for a food establishment; or

7 (2) An individual who works:

8 (A) On a per diem basis; or

9 (B) On an occasional or irregular basis for only the
10 time required to complete such work, whether the
11 individual is paid by the person for whom work is
12 performed or by an employment agency, as defined
13 in section 373-1.

14 "Employer" has the same meaning as in section 388-1, but
15 shall refer to employers who employ fifty or more individuals in
16 the State in any one quarter of the previous year, which shall
17 be determined on January 1, annually. The term "employer"
18 excludes any nationally chartered organization exempt from
19 taxation under section 501(c)(3) of the Internal Revenue Code,
20 as amended, that provides recreation, child care, or education
21 services.



1 "Family violence" has the same meaning as in section 571-2.

2 "Food establishment" means:

3 (1) Any place or portion thereof maintained, used, or
4 operated for the purpose of storing, preparing,
5 serving, manufacturing, packaging, transporting, or
6 otherwise handling food at the retail or wholesale
7 level;

8 (2) Any place used for cleaning food equipment or utensils
9 in support of another food establishment; or

10 (3) Any operation that is conducted in, or in conjunction
11 with, a mobile, stationary, temporary, or permanent
12 facility or location where food is served or provided
13 to the public, with or without charge, regardless of
14 whether the food is consumed on or off the premises.

15 "Service worker" means an employee, including an employee
16 of a food establishment, excluding a day or temporary worker,
17 who is paid on an hourly basis, or is not exempt from the
18 minimum wage and overtime compensation requirements of the Fair
19 Labor Standards Act of 1938 and the regulations promulgated
20 thereunder, as amended.



1 "Sexual assault" means any sexual offense under part V of
2 chapter 707.

3 "Spouse" means a person who is lawfully married to another
4 person under the laws of the State or is in a civil union.

5 (b) An employer shall provide paid sick leave annually to
6 each of the employer's service workers. The paid sick leave
7 shall be earned beginning January 1, 2018, or the date
8 thereafter upon which the service worker commences employment,
9 as follows:

10 (1) At a rate of at least one hour of paid sick leave for
11 every forty hours actually worked; and

12 (2) In one-hour increments up to a maximum of forty hours
13 per calendar year.

14 A service worker shall be entitled to carry over a maximum of
15 forty unused earned hours of paid sick leave from the current
16 calendar year to the following calendar year; provided that no
17 service worker shall be entitled to carry over more than an
18 aggregate of eighty hours of earned paid sick leave.

19 (c) A service worker shall be entitled to the use of
20 earned paid sick leave as follows:



1 (1) If the service worker was hired before January 1,
2 2018, upon the completion of the six-hundred-eightieth
3 hour of employment from January 1, 2018; or

4 (2) If the service worker was hired on or after January 1,
5 2018, upon the completion of the service worker's
6 six-hundred-eightieth hour of employment from the date
7 of hire;

8 provided that the employer may agree to an earlier date of
9 entitlement if desired. A service worker shall not be entitled
10 to the use of earned paid sick leave if the service worker did
11 not work an average of ten or more hours per week for the
12 employer in the most recent complete calendar quarter.

13 (d) An employer shall be deemed to be in compliance with
14 this section if:

15 (1) The employer offers any sick leave or other paid
16 leave, or combination of other paid leave, that may be
17 used for the purpose of subsection (g); and is earned
18 at a rate greater than the rate in (b) (1) and (2); or

19 (2) The employer has a sick leave policy approved by the
20 director.



1 For the purposes of this subsection, "other paid leave" may
2 include paid vacation, personal days, or paid time off.

3 (e) An employer shall pay each service worker for paid
4 sick leave at a pay rate equal to the greater of either the
5 normal hourly wage for that service worker, or the minimum wage
6 under section 387-2 for the pay period during which the employee
7 used paid sick leave. For any service worker whose hourly wage
8 varies depending on the work performed by the service worker,
9 the "normal hourly wage" shall mean the average hourly wage of
10 the service worker in the pay period prior to the one in which
11 the service worker used paid sick leave.

12 (f) Upon the mutual consent of the service worker and
13 employer, a service worker who chooses to work additional hours
14 or shifts during the same or following pay period, in lieu of
15 hours or shifts missed, shall not be deemed to have used earned
16 paid sick leave for the hours or shifts missed.

17 (g) An employer shall permit a service worker to use the
18 paid sick leave earned under this section for the following
19 purposes:

20 (1) For a service worker's:

21 (A) Illness, injury, or health condition;



- 1 (B) Medical diagnosis, care, or treatment of a mental
- 2 illness or physical illness, injury, or health
- 3 condition; or
- 4 (C) Preventative medical care; or
- 5 (2) For a service worker's child's or spouse's:
- 6 (A) Illness, injury, or health condition;
- 7 (B) Medical diagnosis, care, or treatment of a mental
- 8 or physical illness, injury, or health condition;
- 9 or
- 10 (C) Preventative medical care.
- 11 (h) If a service worker is a victim of family violence or
- 12 sexual assault, an employer shall permit that service worker to
- 13 use the paid sick leave earned under this section for the
- 14 following purposes:
- 15 (1) For medical care or psychological or other counseling
- 16 for physical or psychological injury or disability;
- 17 (2) To obtain services from a victim services
- 18 organization;
- 19 (3) To relocate due to the family violence or sexual
- 20 assault; or



1 (4) To participate in any civil or criminal proceedings
2 related to or resulting from the family violence or
3 sexual assault.

4 (i) Unless an employee policy or collective bargaining
5 agreement provides for the payment of earned fringe benefits
6 upon termination, no service worker shall be entitled to payment
7 of unused earned paid sick leave under this section upon
8 termination of employment.

9 (j) Nothing in this section shall be construed to:

10 (1) Prevent employers from providing more paid sick leave
11 than is required under this section;

12 (2) Diminish any rights provided to any employee or
13 service worker under a collective bargaining
14 agreement;

15 (3) Preempt or override the terms of any collective
16 bargaining agreement effective before January 1, 2018;
17 or

18 (4) Prevent the parties to a valid collective bargaining
19 contract from waiving the provisions herein, so long
20 as the waiver of paid sick leave is clearly and



1 unambiguously stated in any collective bargaining
2 contract effective on or after January 1, 2018.

3 (k) A termination of a service worker's employment by an
4 employer shall constitute a break in employment. If that
5 service worker is subsequently rehired by the employer following
6 a break in employment, the service worker shall:

7 (1) Begin to earn paid sick leave in accordance with this
8 section; and

9 (2) Not be entitled to any unused hours of paid sick leave
10 that had been earned prior to the service worker's
11 break in service unless agreed to by the employer.

12 (1) An employer shall provide notice to each service
13 worker of the following information:

14 (1) The entitlement to paid sick leave for service
15 workers, the amount of paid sick leave provided to
16 service workers, and the terms under which paid sick
17 leave may be used; and

18 (2) That the service worker has a right to file a
19 complaint with the department of labor and industrial
20 relations for suspected violations of this section by
21 the employer.



1 Employers may comply with this section by displaying a poster
2 that contains the information required by this subsection and
3 that is posted in a conspicuous place, accessible to service
4 workers, at the employer's place of business."

5 **PART II**

6 SECTION 2. The legislature finds that victims of domestic
7 violence often need to take leave from their employment to
8 attend to various health or legal matters and that addressing
9 such matters should not pose a risk to their personal health and
10 well-being, financial security, or safety due to a fear of
11 adverse consequences from their employers. Although state law
12 currently requires that employers allow victim leave for victims
13 of domestic or sexual violence, victim employees are required to
14 exhaust all other paid and unpaid leave accrued for the calendar
15 year before victim leave may be applied. Thus an employee may
16 exhaust all sick leave in order to seek safety or medical
17 attention for themselves or their minor child or to take legal
18 action against an abuser, leaving little to no sick leave
19 available for the rest of the calendar year.

20 The purpose of this part is to amend victim protections
21 under Hawaii employment practices law to allow an employee to



1 take victim leave, separate from family leave, related to
2 domestic or sexual violence against the employee or the
3 employee's minor child.

4 SECTION 3. Section 378-73, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~§~~§378-73~~§~~] Relationship to other leaves. If an
7 employee is entitled to take paid or unpaid leave pursuant to
8 other federal, state, or county law, or pursuant to an
9 employment agreement, a collective bargaining agreement, or an
10 employment benefits program or plan, which may be used for the
11 purposes listed under section 378-72(a), the employee shall
12 exhaust such other paid and unpaid leave benefits before victim
13 leave benefits under this chapter may be applied[~~—The~~];
14 provided that in the case of family leave taken by an employee
15 pursuant to chapter 398, the employee need not exhaust family
16 leave benefits before victim leave benefits may be taken.
17 Except in the case of victim leave benefits under this section,
18 the combination of such other paid or unpaid leave benefits that
19 may be applied and victim leave benefits shall not exceed the
20 maximum number of days specified under section 378-72(a)."



1
2
3
4
5
6
7

PART III

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on January 7, 2059.



Report Title:

Labor; Employment; Family Leave; Sick Leave; Service Workers;
Victim Leave

Description:

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. Allows parties to a valid collective bargaining contract executed on or after 1/1/2018 to waive the paid sick leave requirement if certain notification requirements are met. Takes effect 1/7/2059. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association

March 16, 2017

S.B. 425, S.D. 2 - RELATING TO LABOR

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 425, S.D. 2 which requires certain employers to provide a minimum amount of paid sick leave to employees in the service industry. However, we prefer the language provided in H.B. 4 that crossed over to the Senate.

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. 2, but with a preference for the language provided in H.B. 4.

Respectfully submitted,

Randy Perreira
Executive Director



Randy Perreira
President

HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441
Fax: (808) 593-2149

The Twenty-Ninth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO
March 16, 2017

S.B. 425, S.D. 2 – RELATING TO LABOR

The Hawaii State AFL-CIO supports S.B. 425, S.D. 2 but prefers the language of H.B. 4, H.D. 1 which requires employers to provide a minimum amount of paid sick leave to employees to be used to care for themselves or a family member who is ill or needs medical care.

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. 2 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,

Randy Perreira
President

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 11:13 AM
To: LABtestimony
Cc: wao-hsl@WeAreOne.cc
Subject: Submitted testimony for SB425 on Mar 16, 2017 09:00AM

SB425

Submitted on: 3/14/2017

Testimony for LAB on Mar 16, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments: This should be done sooner, better than later. It is time for government to support the people over corporations and toxic profit. The corporations have the money, the people do not. Tax the rich, they can afford it. www.WeAreOne.cc

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 9:35 AM
To: LABtestimony
Cc: rswindell@bridgedeck.org
Subject: *Submitted testimony for SB425 on Mar 16, 2017 09:00AM*

SB425

Submitted on: 3/14/2017

Testimony for LAB on Mar 16, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Swindell	IOMM&P	Support	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



TIM VANDEVEER
Chair

MARGARET WILLE
SEAN SMITH
Legislation Committee Co-Chairs

Support for SB 425 SD2 “Relating to Labor”

House Committee on Labor
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
March 16, 2017 9:00 a.m. State Capitol Conference Room 309

Submitted On Behalf of the Democratic Party of Hawai‘i

The Democratic Party of Hawai‘i supports SB 425 SD 2 Relating to Labor, the intent of which is to require that hourly workers be able to earn up to 40 hours of paid sick leave per year.

Establishing the right of workers in Hawaii to accrue paid sick leave is one of the Democratic Party of Hawai‘i’s legislative priorities for the 2017 legislative session.

Mahalo for the opportunity to testify on this bill.

Respectfully submitted,

Tim Vandever
Chair of the Democratic Party of Hawai‘i

/s/ Margaret Wille
/s/ Sean Smith
Legislative Committee Co-chairs



March 14, 2017

House's Committee on Labor
Hawai'i State Capitol
415 South Beretania Street, Room 309
Honolulu, HI 96813

Hearing: Thursday, March 16, 2017 – 9:00 a.m.

RE: **STRONG SUPPORT for Senate Bill 425 SD 2** – RELATING TO EMPLOYMENT

Aloha Chairperson Johanson, Vice Chair Holt and fellow committee members,

I am writing in STRONG SUPPORT to Senate Bill 425 Senate Draft 2 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. SB 425 SD 2 will require 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. Allows parties to a valid collective bargaining contract executed on or after 1/1/2018 to waive the paid sick leave requirement if certain notification requirements are met.

SB 425 protects the employee, as well as the general public by helping to ensure that an employee in the service industry does not have to go to work when they are sick. If they know that they will get paid at least 5 days a year - they can stay home and get better and not spread their illness to others. This is an imperative especially in the Aloha state where tourism is our one number one industry.

This bill would not be a necessity if all owners & managers in the service industry were already looking out for the well being of their customers and their employees. But that is just not the case. For as we all know too many people have to work multiple jobs just to keep food on the table and roof over their heads – this bill will help make sure they can do that even if they get sick.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
LGBT Caucus for the DPH



MOTION PICTURE ASSOCIATION OF AMERICA, INC.
1600 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006

**STATEMENT IN SUPPORT OF HAWAII
SENATE BILL 425 SD2
SUPPORT, AS AMENDED
MARCH 16, 2017
HOUSE LABOR COMMITTEE**

The Motion Picture Association of America, Inc. (MPAA) submits this written testimony in support of Hawaii Senate Bill 425 SD 2. 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.

Senate Bill 425 SD 2 includes an important provision, subdivision (j)(4), which provides that where the employers and employees are subject to a collective bargaining contract, the sick leave requirement may be waived by the parties. This allows employers and employees, in the limited circumstances where the terms and conditions of employment are governed by a collective bargaining contract, to address the issue of sick leave in a way that best meets the needs of the parties. The amendment provides that such waiver must be set forth in the contract in clear and unambiguous language.

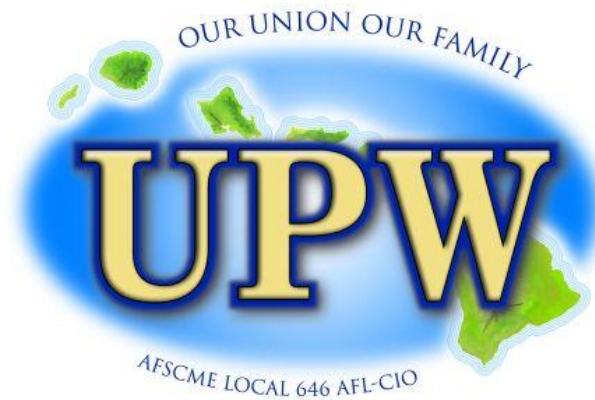
The collective bargaining relationship in the motion picture and television industry has existed for more than 60 years. Over many decades, the parties have addressed many issues regarding wages, hours and terms and conditions of employment. The bill now permits the parties to resolve this issue of paid sick leave directly, at the collective bargaining table.

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 now allows for the parties to resolve the issue of paid sick leave between themselves, at the bargaining table.

For these reasons, MPAA respectfully urges the language of (j)(4) in Senate Bill 425 SD 2 be retained in the bill and the bill be approved by the Committee.

Thank you for your consideration.

March, 2017



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2017

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
The Honorable Representative Aaron Ling Johanson, Chair
The Honorable Representative Daniel Holt, Vice Chair

DATE OF HEARING: Thursday, March 16, 2017
TIME OF HEARING: 9:00 a.m.
PLACE OF HEARING: State Capitol, Rm. 309
415 South Beretania Street

TESTIMONY ON SENATE BILL SB425 SD2 RELATING TO LABOR

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO (“UPW”)

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

SB425 SD2 requires employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions. The terms “service worker” and “employer” are defined. The bill provides that an employee need not exhaust all family leave

benefits prior to using victim leave benefits. The bill also allows parties to a valid collective bargaining contract executed on or after 1/1/2018 to waive the paid sick leave requirement if certain notification requirements are met.

This bill will help to keep our eating establishments with fifty or more workers including hotels to have sick service workers take leave and thereby, maintain a safe environment for other workers and patrons in the establishments. It is common sense. It is in the public interest for health and safety that sick workers be given sick leave to promote their recovery and mitigate the spread of disease. We can only remember the Hepatitis scare to understand the significance of service employees having sick leave.

The UPW supports having sick leave for service workers and that employees do not need to exhaust their family leave benefits prior to taking victim leave. The UPW supports SB425 SD2 and requests the committee to pass it out.

Thank you for the opportunity to submit this testimony.

Board of Directors

Tom Jones
Gyotaku / AGU a Ramen Bistro

Pat Kashani
Tropics Tap House

Ben Dowling
Ocean House

Hide Sakurai
Shokudo, Būho, Bread + Butter

Eric Waddell
Fleetwood's on Front Street

Mark Noguchi
Pili Group

Gary Manago
Hilton Waikiki Beach Hotel

Michelle Brumblay
Kahala Hotel and Resort

Eki Locke
Bill's Sydney

Jetsun Dutcher
Kona Brewing Company

Patrick Fass
Turtle Bay Resort

Hideo Simon
Square Barrels

Yuka Raso
Nobu Restaurants

Nick Roschi
Luana Hospitality

Dr. Thomas E. Metzger
CiCi's Pizza

Dianne Vicheinrut
Outrigger Hotels

Jed Roa
Lola's Grill & Puppu Bar

Paul Yokota
FCH Enterprise / Zippys

Conrad Nonaka
Culinary Inst. of the Pacific

Jim Cremins
Y. Hata

James Baloalao
SWS- Red Bull

Naomi Azama
HMAA

Len Delekta
Image Apparel Hawaii

Thomas Frigge
TOBE Co. Food Safety

Biff Graper
Colliers International

Doug Harris
Harris Agency

Anne Lee
HONOLULU Magazine

Sharon Shigemoto
Hawaii Gas

Gordon Chow
C&S- Hansen

Advisory Board

Victor Lim- NRA Director
McDonald's/LWD Inc.

Kehau Giles
Kaiser Permanente

Jonathan Youngs
Atlas Insurance

Matt Rose
SaniKleen

Jason Wong
HFM Foodservice

Gerda Tom
Aloha Shoyu

Justin Yoshino
Triple FFF Distributors

Richard Turbin
Turbin & Chu Law Firm

Ray L'Heureux
Pacific Historic Parks

Derek Conselva
PAO & Associates

Gail Ann Chew
Make a Wish Foundation

Jon Muranaka
DTRIC Insurance

Keith Kamisugi
Equal Justice Society

Cuyler Shaw
Ashford & Wriston



Michael Miller, Chairman - Tiki's Grill & Bar
Kelii Gouveia, Vice Chair - Hula Grill
Dirk Koeppenkastrop, Treasurer - IL Gelato

Tyler Roukema, Incoming Chair - Outback Steakhouse
Michael Skedelski, Secretary - Eggs N Things
Eron Read, Past Chair

Gregg Fraser, Executive Director **Sunny Obrey, Executive Assistant** **Holly Kessler, Director of Membership Relations**

To: Rep. Aaron Ling Johanson, Chair
 Rep. Daniel Holt, Vice Chair
 Members of the Committee on Labor & Public Employment

From: Victor Lim, Hawaii Restaurant Association

Subj: SB425 SD2 Requiring Certain Employers to Provide Sick Leave

Date: March 14, 2017

The Hawaii Restaurant Association representing about 3,500 restaurants with about 90,000 food service jobs here opposes SB425 SD2 for singling out our service industry to provide sick leave for those employers of fifty or more employees.

We have been trying to adjust with the current 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. All of these results in menu price increases meeting with consumer resistance resulting in a very tough year for the restaurant industry here in Hawaii. Specifying the Service and Restaurant Industry is very unfair and put undue burden on the restaurants.

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.



Executive Officers:

John Erickson, Young's Market Company –Chair
Beau Oshiro, C&S Wholesale – Vice Chair
Toby Taniguchi, KTA Superstores – Secretary/Treasurer
John Schilf, Rainbow Sales and Marketing - Advisor
Stan Brown, Acosta – Advisor
Paul Kosasa, ABC Stores – Advisor
Barry Taniguchi, KTA Superstores – Advisor
Derek Kurisu, KTA Superstores – Immediate Past Chair
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax: 808-791-0702
Telephone: 808-533-1292

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair

Rep. Daniel Holt, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: Thursday, March 16, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

RE: SB 425, SD2- 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.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 8:57 AM
To: LABtestimony
Cc: bryan@lhawaii.com
Subject: Submitted testimony for SB425 on Mar 16, 2017 09:00AM

SB425

Submitted on: 3/14/2017

Testimony for LAB on Mar 16, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
EDDIE FLORES, JR.	L & L Franchise, Inc.	Oppose	No

Comments: The restaurant industry should not be singled out. We offer paid sick/vacation to all of our employees. Those who want to take off will do so. Others will report to work even while they are sick because they need to earn money. We try to enforce the policy that they stay home when they are sick, but we cannot always know if someone is sick or how sick they are. This law will not help the situation.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 5:26 PM
To: LABtestimony
Cc: dirk@ILGelato-Hawaii.com
Subject: Submitted testimony for SB425 on Mar 16, 2017 09:00AM

SB425

Submitted on: 3/13/2017

Testimony for LAB on Mar 16, 2017 09:00AM in Conference Room 309

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

Comments: Testimony to Bill SB425 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 loose 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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

From: Jason Doney, General Manager
Leilani's on the Beach
jason@leilanis.com

Hearing: March 14, 2017

RE: **SB 425 SD2 – In Opposition**
Relating to Mandatory Paid Sick Leave

We are opposed to the proposed additional mandate of paid sick leave aimed at Service Workers, in specific Food Service Workers.

1. The Hawaii Department of Labor has serious concerns about this bill and its overlap with existing legislation, and so do we. The state already requires us to pay sick leave, it is called Temporary Disability Insurance (TDI) and eligible employees can receive payment for up to 26 weeks a year.

In addition, we have Hawaii Family Leave to care for family members and Victims Protection Leave for victims of domestic and sexual violence. If you want to expand the benefits of paid sick leave, modify the existing TDI legislation.

2. The additional administrative burden on us as an employer would be enormous. We are already tracking employee hours weekly for the Prepaid Health Care Act and for Temporary Disability Insurance.

This legislation would require us to also:

- Track each employee hours until they had worked 680 hours for eligibility
- Track each employees to see if they averaged 10 or more hours a week in the prior quarter for eligibility
- Track each employee and provide one hour of paid leave for every forty hours work
- Track each employees annual carryover
- Track each employees maximum accrual
- Average out the average hourly wage for each employee receiving the benefit from the prior pay period to determine rate of pay

3. We believe the targeting of the food industry over other occupations to be confusing. Why give one industry this additional burden?

For these reasons, we are in opposition to SB425.

Thank you for your time. Mahalo!



ORRIN CROSS | General Manager

808.667.6636

hulagrillkaanapali.com

2435 Kaanapali Parkway
Bldg. P1, Lahaina, HI 96761

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

From: Orrin Cross

Hearing: March 14, 2017

RE: **SB 425 SD2 – In Opposition**
Relating to Mandatory Paid Sick Leave

We are opposed to the proposed additional mandate of paid sick leave aimed at Service Workers, in specific Food Service Workers.

1. The Hawaii Department of Labor has serious concerns about this bill and its overlap with existing legislation, and so do we. The state already requires us to pay sick leave, it is called Temporary Disability Insurance (TDI) and eligible employees can receive payment for up to 26 weeks a year.

In addition, we have Hawaii Family Leave to care for family members and Victims Protection Leave for victims of domestic and sexual violence. If you want to expand the benefits of paid sick leave, modify the existing TDI legislation.

2. The additional administrative burden on us as an employer would be enormous. We are already tracking employee hours weekly for the Prepaid Health Care Act and for Temporary Disability Insurance.

This legislation would require us to also:

- Track each employee hours until they had worked 680 hours for eligibility
- Track each employees to see if they averaged 10 or more hours a week in the prior quarter for eligibility
- Track each employee and provide one hour of paid leave for every forty hours work
- Track each employees annual carryover
- Track each employees maximum accrual
- Average out the average hourly wage for each employee receiving the benefit from the prior pay period to determine rate of pay

3. We believe the targeting of the food industry over other occupations to be confusing. Why give one industry this additional burden?

For these reasons, we are in opposition to SB425.

Thank you for your time. Mahalo!



To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

From: Derek Kessler, General Manager
Keoki's Paradise

Hearing: March 14, 2017

RE: **SB 425 SD2 – In Opposition**
Relating to Mandatory Paid Sick Leave

We are opposed to the proposed additional mandate of paid sick leave aimed at Service Workers, in specific Food Service Workers.

1. The Hawaii Department of Labor has serious concerns about this bill and its overlap with existing legislation, and so do we. The state already requires us to pay sick leave, it is called Temporary Disability Insurance (TDI) and eligible employees can receive payment for up to 26 weeks a year.

In addition, we have Hawaii Family Leave to care for family members and Victims Protection Leave for victims of domestic and sexual violence. If you want to expand the benefits of paid sick leave, modify the existing TDI legislation.

2. The additional administrative burden on us as an employer would be enormous. We are already tracking employee hours weekly for the Prepaid Health Care Act and for Temporary Disability Insurance.

This legislation would require us to also:

- Track each employee's hours until they had worked 680 hours for eligibility
- Track each employee to see if they averaged 10 or more hours a week in the prior quarter for eligibility
- Track each employee and provide one hour of paid leave for every forty hours work
- Track each employee's annual carryover
- Track each employee's maximum accrual
- Average out the average hourly wage for each employee receiving the benefit from the prior pay period to determine rate of pay

3. We believe the targeting of the food industry over other occupations to be confusing. Why give one industry this additional burden?

For these reasons, we are in opposition to SB425.

Thank you for your time. Mahalo!



To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

From: Chris Almeroth, General Manager
Kimo's Restaurant, 845 Front St Ste A, Lahaina, HI 96761

Hearing: March 14, 2017

RE: **SB 425 SD2 – In Opposition**
Relating to Mandatory Paid Sick Leave

We are opposed to the proposed additional mandate of paid sick leave aimed at Service Workers, in specific, Food Service Workers.

1. The Hawaii Department of Labor has serious concerns about this bill and its overlap with existing legislation, and so do we. The state already requires us to pay sick leave, it is called Temporary Disability Insurance (TDI) and eligible employees can receive payment for up to 26 weeks a year. In addition, we have Hawaii Family Leave to care for family members and Victims Protection Leave for victims of domestic and sexual violence. If you want to expand the benefits of paid sick leave, modify the existing TDI legislation.
2. The additional administrative burden on us as an employer would be enormous. We are already tracking employee hours weekly for the Prepaid Health Care Act and for Temporary Disability Insurance.
This legislation would require us to also:
 - Track each employee's hours until they had worked 680 hours for eligibility
 - Track each employee to see if they averaged 10 or more hours a week in the prior quarter for eligibility
 - Track each employee and provide one hour of paid leave for every forty hours work
 - Track each employee's annual carryover
 - Track each employee's maximum accrual
 - Average out the average hourly wage for each employee receiving the benefit from the prior pay period to determine rate of pay
3. We believe the targeting of the food industry over other occupations to be confusing. Why give one industry this additional burden?

For these reasons, we are in opposition to SB425.

Mahalo for your time!

845 FRONT STREET, LAHAINA, MAUI, HAWAII 96761 (808) 661-4811
T S RESTAURANTS OF HAWAII AND CALIFORNIA



To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

From: Noah Yamada, General Manager
Duke's Beach House Maui

Hearing: March 14, 2017

RE: **SB 425 SD2 – In Opposition**
Relating to Mandatory Paid Sick Leave

We are opposed to the proposed additional mandate of paid sick leave aimed at Service Workers, in specific Food Service Workers.

1. The Hawaii Department of Labor has serious concerns about this bill and its overlap with existing legislation, and so do we. The state already requires us to pay sick leave, it is called Temporary Disability Insurance (TDI) and eligible employees can receive payment for up to 26 weeks a year.

In addition, we have Hawaii Family Leave to care for family members and Victims Protection Leave for victims of domestic and sexual violence. If you want to expand the benefits of paid sick leave, modify the existing TDI legislation.

2. The additional administrative burden on us as an employer would be enormous. We are already tracking employee hours weekly for the Prepaid Health Care Act and for Temporary Disability Insurance.

This legislation would require us to also:

- Track each employee hours until they had worked 680 hours for eligibility
- Track each employees to see if they averaged 10 or more hours a week in the prior quarter for eligibility
- Track each employee and provide one hour of paid leave for every forty hours work
- Track each employees annual carryover
- Track each employees maximum accrual
- Average out the average hourly wage for each employee receiving the benefit from the prior pay period to determine rate of pay

3. We believe the targeting of the food industry over other occupations to be confusing. Why give one industry this additional burden?



For these reasons, we are in opposition to SB425.

Thank you for your time. Mahalo!

From: Anthony Lenzer <tlenzer@hawaii.rr.com>
Sent: Tuesday, March 14, 2017 3:22 PM
To: LABtestimony
Subject: Comments on SB 425 SD 2

To: House Committee on Labor and Public Employment
From: Anthony Lenzer, PhD
Re: Comments on SB 425 SD 2
Hearing: Thursday, March 16, 9:00 a.m.
Conference Room 309, State Capitol

Chair Johanson and Committee Members:

On behalf of the Policy Advisory Board for Elder Affairs (PABEA) I am writing to offer comments on SB 425 SD 2, 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.



To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

From: Paul K. Gouveia, General Manager
Hula Grill Waikiki

Hearing: March 14, 2017

RE: **SB 425 SD2 – In Opposition**
Relating to Mandatory Paid Sick Leave

We are opposed to the proposed additional mandate of paid sick leave aimed at Service Workers, in specific Food Service Workers.

1. The Hawaii Department of Labor has serious concerns about this bill and its overlap with existing legislation, and so do we. The state already requires us to pay sick leave, it is called Temporary Disability Insurance (TDI) and eligible employees can receive payment for up to 26 weeks a year.

In addition, we have Hawaii Family Leave to care for family members and Victims Protection Leave for victims of domestic and sexual violence. If you want to expand the benefits of paid sick leave, modify the existing TDI legislation.

2. The additional administrative burden on us as an employer would be enormous. We are already tracking employee hours weekly for the Prepaid Health Care Act and for Temporary Disability Insurance.

This legislation would require us to also:

- Track each employee hours until they had worked 680 hours for eligibility
- Track each employees to see if they averaged 10 or more hours a week in the prior quarter for eligibility
- Track each employee and provide one hour of paid leave for every forty hours work
- Track each employees annual carryover
- Track each employees maximum accrual
- Average out the average hourly wage for each employee receiving the benefit from the prior pay period to determine rate of pay

3. We believe the targeting of the food industry over other occupations to be confusing. Why give one industry this additional burden?

For these reasons, we are in opposition to SB425.

Thank you for your time. Mahalo!

March 14, 2017

RE: SB425, Paid Sick Leave

Tanaka of Tokyo Restaurants currently operated 3 full service restaurants in Honolulu with over 200 employees. We have been serving the tourists and local community since 1978. The proposal for mandatory paid sick leave will seriously upset the dynamics of the restaurant industry and deal a financial burden for many establishments, and especially restaurants. We would strongly like to protest the current proposal.

Restaurants already operate with narrow profit margins, or even losses. The cost of commodities goes up every year, and the mandated increase in minimum wage has significantly increased operating costs. The restaurant industry is the economy's largest employer of teenagers and young adults up to the age of 24. This demographic includes many who are new, or relatively new to the workforce, and/or choose to work at a restaurant as a part time job while they focus on school. It is not uncommon for some employees to call out because they do not feel like coming into work because they were out partying late, or to focus on school which takes priority over their "part time" job.

Instituting a mandatory Paid Sick Leave will invite misuse of the benefit, and absenteeism will increase. Businesses will have to pay additional wages as a result, and co-workers will face the burden of covering the employee, and customers will suffer due to delays in service. As a result, businesses will suffer financially.

Just as employees have a choice as to whether or not they will accept employment with a company, employers should also have the choice of the benefits package offered to its employees. When intolerable conditions are placed on businesses, businesses have no other alternative but to reduce employment opportunities or go out of business. SB425 will deal a tremendous financial burden for many establishments, especially for restaurants, and this will result in a loss of jobs for our islands.

Sincerely Yours,

Hiroshi Lamansky
Vice President



GREG AMES / General Manager

808.922.2268

dukeswaikiki.com

2335 KALAKAUA AVE., SUITE 116
HONOLULU, HI 96815

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

From: Greg Ames

Hearing: March 14, 2017

RE: **SB 425 SD2 – In Opposition**
Relating to Mandatory Paid Sick Leave

We are opposed to the proposed additional mandate of paid sick leave aimed at Service Workers, in specific Food Service Workers.

1. The Hawaii Department of Labor has serious concerns about this bill and its overlap with existing legislation, and so do we. The state already requires us to pay sick leave, it is called Temporary Disability Insurance (TDI) and eligible employees can receive payment for up to 26 weeks a year.

In addition, we have Hawaii Family Leave to care for family members and Victims Protection Leave for victims of domestic and sexual violence. If you want to expand the benefits of paid sick leave, modify the existing TDI legislation.

2. The additional administrative burden on us as an employer would be enormous. We are already tracking employee hours weekly for the Prepaid Health Care Act and for Temporary Disability Insurance.

This legislation would require us to also:

- Track each employee hours until they had worked 680 hours for eligibility
- Track each employees to see if they averaged 10 or more hours a week in the prior quarter for eligibility
- Track each employee and provide one hour of paid leave for every forty hours work
- Track each employees annual carryover
- Track each employees maximum accrual
- Average out the average hourly wage for each employee receiving the benefit from the prior pay period to determine rate of pay

3. We believe the targeting of the food industry over other occupations to be confusing. Why give one industry this additional burden?

For these reasons, we are in opposition to SB425.

Thank you for your time. Mahalo!



March 16th, 2017

Re: Senate Bill 425 RELATING TO LABOR

Rep. Aaron Ling Johanson, Chair, Rep. Daniel Holt, Vice Chair, Members of the Committee on Labor & Public Employment

POSITION: STRONGLY OPPOSE

My name is Monica K. Toguchi Ryan, and I own a 70-year old family business, Highway Inn. We employ 110 people in Oahu, and we would like to continue to grow our business. Proposals such as these send waves of uncertainty and doubt through the business community about how long it will be viable to operate a business in Hawaii.

We thank you for providing us the opportunity to comment on a bill which will first and foremost impact *businesses* in Hawaii. We believe that as a *business* facing the burden of implementing this bill, that our testimony is probably the most relevant. We deal with the issues I describe below, every single day.

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 a Paid Time Off benefit to our full-time workers. Moreover, most 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. A few other part-time workers have full-time employment benefits elsewhere (and thus may double-dip if benefits are thus extended).

In other words, the population of workers who will benefit from the implementation of this bill is very small in proportion to total amount of part time workers in Hawaii.

We also believe that it is likely that the cost of compliance to Hawaii's businesses will far exceed the benefits intended. For Federal bills, such an analysis is always performed. Most recently with the CBO illustrating that the AHCA will worsen the situation for millions of Americans. We would urge that an analysis be performed of the full economic impact of this bill before it is progressed further.

Turning to our qualitative analysis of the bill, here are some of the deficiencies of the bill:

- It is the exception that employees from this small targeted group of employees retain their employment for more than a year – that is simply the way it is, regardless of employer or industry. Such workers may work for us for a few months, before headed on to something else, or simply stop showing up to work one day.
- It will do nothing to address a serious situation where employees of all classifications went to work during the Hepatitis A outbreak last year, where symptoms did not show for weeks, but contagion nonetheless was present
- 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.
- For restaurants such as ours the system is not broken. Part-time employees are continually asking for days off and swap shifts around to accommodate their personal schedules, and we have invested in technology which is available on their smart phones. This is the flexibility trade off a part time worker wants. There will be unintended consequences of now introducing paid time off.

We firmly believe that this issue is best resolved through the State implementing a sick-leave insurance program for the targeted population. Most reputable businesses already have a program which manages the situation well, and thus this program will simply further burden small businesses, resulting in increased consumer prices. As small businesses thrive, so too does the state's tax income.

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



**Testimony to the House Committee on Labor & Public Employment
Wednesday, March 16, 2017 at 9:00 A.M.
Conference Room 309, State Capitol**

RE: SENATE BILL 425 SD2 RELATING TO LABOR

Chair Johanson, Vice Chair Holt, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 425 SD2, 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; allows parties to a valid collective bargaining contract executed on or after 1/1/2018 to waive the paid sick leave requirement if certain notification requirements are met.

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 this bill, 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.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 1:02 PM
To: LABtestimony
Cc: maulady3@gmail.com
Subject: Submitted testimony for SB425 on Mar 16, 2017 09:00AM

SB425

Submitted on: 3/14/2017

Testimony for LAB on Mar 16, 2017 09:00AM in Conference Room 309

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

Comments: I strongly support passage of this bill as all workers should be entitled to sick leave benefits.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 10:39 PM
To: LABtestimony
Cc: 333cory@gmail.com
Subject: Submitted testimony for SB425 on Mar 16, 2017 09:00AM

SB425

Submitted on: 3/13/2017

Testimony for LAB on Mar 16, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Support	No

Comments: Aloha legislators, Please support this bill. We don't want sick people in food handling and other jobs spreading illness to the public. mahalo, Cory Harden

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

To: House Committee on Labor & Public Employment
Chair Aaron Ling Johanson
Vice Chair Daniel Holt

Re: SB 425 Relating to Labor; Family Leave; Sick Leave; Service Workers; Victim
Leave

Hearing: March 16, 2017 9:00 am
Conference Room 309

I am submitting testimony as both a private citizen and as an advocate for others. As a social work intern at HUGS (Helping, Understanding and Group Support) - a non-profit agency located in Honolulu that services seriously ill children and their families - I understand the importance of having family leave and insurance. For some of the parents in our families, this not a reality. They are sometimes forced with the decision to resign from their day jobs in order to care for their child(s) or find someone to care for their child(s), at sometimes a high financial cost.

Caring for an ill family member also takes an emotional, mental and physical toll on the intended caregiver. Our parents at HUGS constantly have to worry about whether or not their child's needs are being met, if they are receiving the proper treatment and medication and at the appropriate time. This is not something to be thinking about when on the clock at work.

Hiring a medical professional to do this all day, everyday, is more than what the majority of Hawaii's residents can currently afford. HUGS families sometimes experience difficulty managing their finances following their child's diagnosis, and need assistance with things like rent, food security, etc., so paying for someone to care for their loved one is usually out of the question. Our parents need the time off to take care of the children without fearing the possibility of losing their job.

I fully support SB 425 because I believe that it will help Hawaii's families dealing with unforeseeable circumstances. If we can learn to help take care of Hawaii's families, they will become contributing members to our society and eventually return the favor.

Thank you,

Genine T.

LABtestimony

From: Raymond Catania <may11nineteen71@gmail.com>
Sent: Wednesday, March 15, 2017 11:20 AM
To: LABtestimony
Subject: Fwd: Support for SB 425-SD 2

Dear Chair Rep. Aaron Johansen and
committee members,

This is in relation to my supporting testimony sent earlier on SB 425-SD 2. In my last sentence, second line, I meant to say "...averaging more than \$150 million a year in profits for the last few years." Please accept my correction.

mahalo,

Ray Catania

4215 Kole Place, Puhi 96766

----- Forwarded message -----

From: **Raymond Catania** <may11nineteen71@gmail.com>

Date: Wed, Mar 15, 2017 at 11:07 AM

Subject: Support for SB 425-SD 2

To: LABtestimony@capitol.hawaii.gov

Aloha Chair Rep. Aaron Johansen and
committee members,

I Support SB 425-SD 2. Our service employees, many who are women with young children need this support. For example, when sick, workers should be able to stay home to recover and not spread their illness to customers- without losing pay. If a child is sick and needs care, a parent can stay home to help them recover and even go to the doctor, without losing pay to support their families. This Bill is only calling for a minimum of 40 hours per year and for establishments of 50 or more service employees. On Kauai, large restaurants like the Eating House (connected to Roy's) are doing well and the Tourist Industry as a whole is very profitable averaging more than \$150 a year in profits for the last few years. It's time they share the wealth and protect the workers that make them prosper.

mahalo,

Ray Catania

4215 Kole Place, Puhi 96766

SB 425, SD2
Late Testimony

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

LATE



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

LATE

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dilir.director@hawaii.gov

LATE

March 16, 2017

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice Chair, and
Members of the House Committee on Labor and Public Employment

Date: Thursday, March 16, 2017
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

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

Re: S.B. No. 425 SD2 Relating to Labor

I. OVERVIEW OF PROPOSED LEGISLATION

SB425 SD2 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 services.

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.

DLIR appreciates the intent of the measure, but has serious concerns regarding the measure as drafted and offers amendments for the Committee's consideration.

II. CURRENT LAW

In Hawaii, the law does not require paid vacation and sick leave. Under §388-7(3) 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.

The Hawaii Temporary Disability Insurance (TDI) Law, chapter 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

DLIR notes that, as drafted, the measure has several problematic aspects, the first of which is in the definitions.

Definitions

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 for enforcement purposes 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.

To address the above concerns, DLIR suggests defining the employer by industrial sector. The North American Industry Classification System (NAICS) could be used to meet the intent of the measure to help reduce contagion. DLIR suggests including the sectors of Accommodations and Food Services, Retail Trade, Educational Services and Health Care and Social Assistance to achieve this intent. This would also eliminate the problematic definitional problem with “service worker.”

The measure also defines 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.” DLIR recommends using the language from the Dislocated Workers law, chapter 394B, HRS, which reads in part, “...business entity that employs at any

time in the preceding twelve-month period, fifty or more persons.” This is a much simpler, cleaner way of calculating the number of employees.

Temporary Disability Insurance Law Nexus.

The measure, as drafted, would allow some employees to use both TDI and the proposed paid sick leave. To avoid “double dipping” DLIR offers the following amendment:

“Sick leave required by this chapter is not payable for the period the employee is entitled to temporary total disability or temporary partial disability benefits under chapter 386 or temporary disability insurance benefits under chapter 392.”

To further clarify the relationship of the proposed paid sick leave and other benefits provided under various laws, DLIR suggests a provision that references the Employee Retirement Income Security Act of 1974 and other labor laws like TDI, Workers’ Compensation and Family Leave laws.

There has existed some confusion about TDI as this and similar measures have progressed through the legislative process in recent years. The Department offers the following description of the 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 of 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. However, the language regarding relationship to other leaves and the language to prevent "double dipping" takes care of this issue.

The Department also has concerns about the posting requirement in this measure and suggests using the proposed language currently in HB4 HD1 to effect the intent of helping to ensure employees are aware of the entitlement to paid sick leave (Page 12, lines 9-18 but strike "and posting" in the section title.

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-Force (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 are essential to practical and timely enforcement of the law and any new responsibilities assigned to the Division.

In light of the above, DLIR recommends inserting a provision for employee remedies through a private right of action. The Department also suggests adding clauses for severability, savings and administrative rule making under chapter 91.

LATE

LATE

LATE

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
JUDY KERN
MARILYN LEE
AMY MONK
LISA ELLEN SMITH

Executive Director
CATHY BETTS

Email:
Catherine.a.betts@hawaii.gov
Visit us at:
humanservices.hawaii.gov
/hscsw/

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

March 15, 2017

Comments regarding SB 425, SD2, Relating to Labor

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Members of the House Committee on Labor

From: Cathy Betts, Executive Director,
Hawaii State Commission on the Status of Women

Re: Comments Regarding SB 425, SD2, Relating to Labor

The Hawaii State Commission on the Status of Women supports the intent of SB 425, SD2 and would like to provide additional comments on how this bill could be strengthened. If passed, this bill would set a standard practice for allowing sick and safe leave for workers at establishments of 50 or more employees. Additionally, it would enable victims of domestic violence, sexual assault or stalking to participate in legal proceedings, receive medical treatment or counseling, or obtain other critical services, without fear that they may lose their job. A minimum of paid sick and/or safe leave would also allow victims to maintain some sense of safety and independence, without fear of retribution for asking for time off.

A lack of paid sick and safe leave has a detrimental affect on low-income women. Minority women continue to be paid less on average, and close to 2/3 of low wage workers do not have access to paid sick days. Having a paid leave policy increases worker loyalty, decreases turnover and ensures a healthy workforce. Ensuring a minimum amount of paid sick and safe leave for all employees is a sound public policy—all evidence points to a boost for the economy when employees are able to take paid leave.

The Commission does not support an employee carve out, which only applies to employers with *50 or more employees*, which is the highest carve out in the nation in terms of sick leave. This excludes a large number of employees in Hawaii and prevents them from earning paid sick leave. This bill also excludes “day or temporary” workers who work less than 20 hours per week at a job. This could potentially exclude a large number of non-food establishment service workers who still interact regularly with the public and still have a need for a minimum amount of paid sick leave. Compounding this problem: many low income women work multiple minimum wage part time jobs just to stay financially afloat. This exclusion would prevent certain female service workers from earning paid sick leave, even though they may be working more than 40 hours a week at various different service positions.

The Commission commends the language allowing eligible employees to take paid sick leave for a child and/or for activities relating to their status as a victim of family violence. This language enables victims of violence to participate in legal proceedings, receive medical treatment, counseling, or obtain other critical services. However, the bill only allows an employee to take leave for a child or spouse, which is not consistent with the leave permitted under our Hawaii Family Leave Law.¹ Adding parent and grandparent would enable employees at establishments of over 100 employees to take their paid sick leave during their HFLL and/or FMLA protected time (i.e. they would be able to take family leave and get paid).

Finally, the Commission suggests adding an anti-retaliation provision to this bill's language. This would protect employees who are threatened or retaliated against for requesting to use their paid sick leave under the law. Alternatively, if this bill cannot be strengthened, the Commission supports the deferral of this bill. Thank you for this opportunity to provide comments.

¹ Hawaii Revised Statutes Sec. 398-2 (which additionally allows an employee to take *unpaid* leave for a parent or grandparent).

The Twenty-Ninth Legislature
Regular Session of 2017

LATE

LATE

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
State Capitol, Conference Room 309
Thursday, March 16, 2017; 9:00 a.m.

LATE

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 425, SD2
RELATING TO LABOR**

The ILWU Local 142 **supports** S.B. 425, SD2, 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, SD 2 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, SD 2 unless they are able to demonstrate financial hardship.

Currently, there are two legislative vehicles for paid sick leave. Besides S.B. 425 SD 2, H.B. 4 HD 1 is also alive. Between the two, the ILWU prefers the language of H.B. 4 HD 1. Therefore we would respectfully ask the Committee to consider replacing the contents of S.B. 425 SD 2 with the contents of H.B. 4 HD 1.

The ILWU urges passage of S.B. 425, SD 2 with amendments as suggested by our testimony. Thank you for the opportunity to share our views on this matter.

LATE

IBEW1260

‘A‘OHE HANA NUI KE ALU ‘IA

LATE

LATE

March 16, 2017

The Twenty-Ninth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

SB425 - RELATING TO LABOR

Chair Johanson, Vice Chair Holt and Members of the Committee,

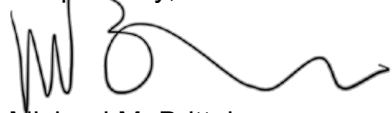
The International Brotherhood of Electrical Workers Local Union 1260, AFL-CIO (IBEW1260), represents more than 3500 members, has advocated for all workers in the State of Hawaii for over 75 years and respectfully offers the following testimony in **STRONG SUPPORT** of Senate Bill 425 (SB425).

While our members are fortunate enough to be covered by a collective bargaining agreement providing in many cases generous amounts of paid sick leave, many of Hawaii's workers, over forty percent, are not afforded the same benefit. As a result, these workers are required to choose between providing for their families or working while sick and enduring a loss of income to recuperate.

Support of SB425 will allow these workers, many of whom are low-income earners, the ability to stay at home and recover without loss of income. Additionally, children of working families who are ill will be able to remain home being cared for by their parents. IBEW1260 encourages this committee to support SB425 as paid sick days will improve the quality of life for many families ultimately leading to a healthier Hawaii.

Mahalo for the opportunity to testify on this issue,

Respectfully,



Michael M. Brittain
Asst. Business Manager
IBEW1260 / AFL-CIO



March 14, 2017

LATE

LATE

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor

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

LATE

Re: **SB 425 SD 2– Relating to Labor**
Hawaii State Capitol, Room 309, March 16, 2017, 9:00 AM

On behalf of Hawaii Children's Action Network (HCAN), we are writing to offer comments on SB 425 SD 2 – Relating to Labor.

HCAN is in strong support of sick leave policies to support families, however this bill as currently drafted is far too narrow. Seven states and Washington D.C. now have comprehensive sick leave laws. We should ensure that ALL workers have access to sick leave regardless of the industry they work in or the size of the company.

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.

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>.

LATE



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

LATE

**HEARING BEFORE THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 309
THURSDAY, MARCH 16, 2017 AT 9:00 A.M.**

To The Honorable Aaron Ling Johanson, Chair;
The Honorable Daniel Holt, Vice Chair; and
Members of the Committee Labor & Public Employment

TESTIMONY IN OPPOSITION TO SB 425 REQUIRING CERTAIN EMPLOYERS WITH 50 OR MORE EMPLOYEES TO PROVIDE SICK LEAVE TO SERVICE WORKERS

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce representing approximately 600 businesses and 16,000 employees on Maui. I am writing share our opposition to SB 425.

As a representative of businesses on Maui, we believe imposing a law requiring business with over 50 employees to provide paid sick leave to service workers would be an extreme burden upon our local businesses. . The bill would allow for employees to accrue up to 80 hours of sick leave and to be able to rollover the unused sick leave each year. Many businesses cannot afford to have an employee away from work for 10 full days without significant notice. Also many local businesses do not have the resources to keep up with the amount of paid sick leave an employee has accrued or used . Unlike the state, businesses are not allowed to carry unfunded benefits programs and continue to operate as though they are solvent. Heaping mandates such as this on businesses when they cannot afford it could bankrupt them. For businesses to provide that much paid sick leave to essentially all of their employees is extremely costly, unpredictable, and requires additional services or work for the upkeep. We cannot place this burden on our local businesses.

We appreciate the opportunity to testify on this matter and therefore ask that this bill be deferred.

Mahalo for your consideration of our testimony.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

LATE



LATE

Testimony to the House Committee on
Labor and Public Employment
March 16, 2017 at 9:00 a.m.
State Capitol - Conference Room 309

RE: SB 425, SD2, Relating to Labor

LATE

Aloha members of the committee:

We are Cara Heilmann and John Knorek, the Legislative Committee co-chairs for the Society for Human Resource Management – Hawaii Chapter (“SHRM Hawaii”). SHRM Hawaii represents more than 800 human resource professionals in the State of Hawaii.

We are writing to respectfully **oppose** SB 425, SD2, which requires certain employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions. We feel this measure is unduly burdensome for employers and has the potential to cause potential conflicts with paid and unpaid leave requirements.

Human resource professionals are keenly attuned to the needs of employers and employees. We are the frontline professionals responsible for businesses’ most valuable asset: human capital. We truly have our employers’ and employees’ interests at heart. We respectfully oppose this measure because of the implementation challenges and administrative burden it would impose, and for the potential of unintended conflict with other leave laws.

We will continue to review this bill and, if it advances, request to be a part of the dialogue concerning it.

Thank you for the opportunity to testify.



LATE

NFIB

The Voice of Small Business.®

Before the House Committee on Labor & Public Employment

LATE

LATE

DATE: March 16, 2017

TIME: 9:00 a.m.

PLACE: Conference Room 309

Re: SB 425, SD2, Relating to Sick Leave

Testimony of Melissa Pavlicek for NFIB Hawaii

Aloha Members of the Committee:

We are testifying on behalf of the National Federation of Independent Business (NFIB) in opposition to SB 425, SD2, which requires certain employers to provide employer paid sick leave.

When it comes to employers providing paid sick time to their employees, we believe that government should not intrude in the employer/employee relationship. Many employers are already flexible in accommodating employee needs and time off requests without conflict and we believe that adding additional leave requirements has the potential to conflict with already-existing state and federal leave requirements.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

LATE

LATE

LATE



03/16/17

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair

Rep. Daniel Holt, Vice Chair

RE: Opposed to SB425 SD2 Mandatory Sick Leave Pay for Food Service Workers

While Gyotaku 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,

Thomas H Jones

President & CO-Owner



REI Food Service, LLC

d.b.a. Gyotaku Japanese Restaurants

LATE



LATE

LATE

To: Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair
Members of the Committee on Labor & Public Employments

From: Michael Miller, Tiki's Grill & Bar
Subj: SB425 SD2 Requiring Certain Employers to Provide Sick Leave
Date: March 15, 2017

Thank you for the opportunity to provide testimony. We, at Tiki's Grill & Bar, hereby oppose Senate SB425 SD2.

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



HAWAI'I LODGING & TOURISM
ASSOCIATION

LATE

LATE

LATE

Testimony of

Mufi Hannemann
President & CEO

Hawai'i Lodging & Tourism Association

House Committee on Labor and Public Employment
Senate Bill 425 SD2 – Relating to Labor

Chair Johanson, Vice Chair Holt and committee members:

On behalf of the more than 700 members of the Hawai'i Lodging & Tourism Association permit me to offer this testimony in regards to Senate Bill 425 SD2 which would require certain employers with fifty or more employees to provide sick leave to service workers for specified purposes under certain conditions.

The Hawai'i Lodging & Tourism Association respectfully opposes SB425, which will require employers to provide paid sick leave to the defined "service worker". The majority of companies in Hawaii currently address the issue of sick leave as an agreement between the employer and employee; we feel that this benefit should not be imposed as a requirement through legislation.

Furthermore, this measure would create another mandated benefit that will not only increase costs to employers but put further burden on companies to track the accumulation and usage of proposed sick leave; a burden that would have an even larger effect on smaller companies who may not have the administrative capacity to manage this new benefit.

Lastly, this bill would allow workers to utilize sick leave that are beyond the employee's health, as well as opening up for potential misuse and abuse of this benefit. For these reasons we are in opposition of SB425.

Thank you for the opportunity to testify.