

HB 23-1118: FAIR WORKWEEK EMPLOYMENT STANDARDS BILL

Talking Points: Restaurants to Legislators (updated 2.14.23)

Sponsors: Reps. Emily Sirota, Serena Gonzalez-Gutierrez; Sen. Julie Gonzales, Faith Winter
Business Committee Reps: Regina English, Naquetta Ricks, Judy Amabile, William Lindstedt

Positioning Statement

This bill shows a dire misunderstanding of the way the restaurant industry operates and disregards a fundamental pillar of restaurant employment: flexibility. It harms Colorado workers, consumers, and businesses of all sizes.

Workers need and love the flexibility of our incredibly diverse industry.

- The foodservice industry employs about 8% of Colorado’s workforce – 260,000+ workers – and many of those workers chose the industry *because* of its flexibility.
 - Nationally, 54% of restaurant employees work part-time; 37% are under the age of 25.
 - *Share a story about one of your employees and why they value the flexible scheduling your business provides.*
 - *Example:* I’ve had a military spouse working at our restaurant for the past 6 years because of the flexibility of her schedule. When her husband is deployed, she works 1 – 2 shifts each week so she can care for their kids; when he is home, she works 5 – 6 shifts a week to earn more while her spouse covers childcare. She has two advanced degrees but chooses to work with us because of the flexible scheduling.
- My employees are the heart of my business and what makes it thrive; I care about our team and work hard to treat them well. In this extremely competitive labor landscape, if we don’t accommodate the scheduling flexibility that our staff asks for, they will leave for another restaurant that will.
 - *Share a recent story about a worker who needed flexibility and left your business to find it elsewhere, or about your hiring and retention struggles.*
- If all workers’ schedules need to be posted 14 days ahead and workers need to make schedule change requests 14 days ahead, managers need to start the scheduling process at least 21 days ahead and employees actually need to submit schedule requests at least 28 days ahead. That’s unfair to them and utterly inflexible.
 - *How early do you currently post work schedules? How do your employees feel about it?*
 - *What would change at your business if this was required? How much would it cost you? Would you have to hire more staff or an accounting firm to manage the paperwork?*
 - *Would you be able to continue allowing shift switching?*

- As much as I care about my workers, our customers, and our community, the industry is made up predominantly of small businesses – 69% of Colorado restaurants, in fact -- with high rates of women and minority owners (30% of local restaurants are owned by minorities, and 34% are owned by women). We cannot absorb higher compliance costs and higher wage levels without reducing jobs, benefits, and other expenses for our employees. How does this help workers?
 - *Share what higher compliance costs and reduced flexibility for your team will do to your business' bottom line.*
- The pandemic wreaked havoc on minority-owned businesses who are still struggling to recover and manage labor shortages. Costs are skyrocketing for our businesses and all Colorado families. The legislature should be supporting an inclusive economic recovery and a more inclusive economy overall for Colorado instead of discriminating against a business model that has been vital to economic independence for minority entrepreneurs, their families, and our communities.
 - Regulating independent and minority-owned businesses will irreparably harm operators and their families, as well as the very workers we all seek to support. Rather than over-regulating and removing autonomy from small business owners who are still trying to make ends meet, we should focus our efforts on providing emergency grants and rent relief for our small business community.
 - *Share what the legislature could do to help your business right now.*

The financial and administrative burdens on ALL business owners are severe and unreasonable.

- This bill would expose me to financial and administrative penalties if I allow my staff to change their schedule after it's posted and my managers or I make any accounting or paperwork mistakes across hundreds of employees. That's unrealistic when we're so short-staffed.
 - *Can you estimate what the administrative and accounting costs would be for your restaurant if there are thousands more documents to track and predictability pay owed to employees if you change their schedules?*
- Serving the needs of our community makes restaurants unpredictable, whether we're serving more people when the Avs are in the Stanley Cup or closing the kitchen early because of a slow night. This bill penalizes me for staffing up or down due to things outside my control.
 - *Share a story about needing to staff up quickly or close quickly due to an act beyond your control (ie, sporting or local event, social unrest, too many employees call in sick at one time, etc.)*
- **FOR ALL RESTAURANT EMPLOYERS, REGARDLESS OF SIZE**
 - As written, ALL restaurant employers in Colorado, regardless of number of locations or employees, are subject to the payroll and scheduling record

requirements in this bill (ie, keeping and maintaining payroll and scheduling records for three (3) years).

- *How will this record keeping impact your operations?*
- ALL employers are prohibited from retaliating against an employee who requests a modified or flexible work schedule. If an employer faces an accusation of retaliation, it is assumed they are guilty unless they are able to prove otherwise.
 - *Why are employers presumed guilty of willing in compliance when we're already so understaffed? This feels particularly harsh after the past three years of hardship our industry has faced.*
- ALL employers that fail to rehire a former seasonal employee at the next opportunity to hire in the same position are assumed to have retaliated if the employee complains about their lack of scheduling.
 - *Again, why am I being penalized and presumed guilty if I hire a new employee before a former seasonal employee? This bill ties my hands when hiring is already enough of a challenge!*

Small business growth will be crushed.

- There's a strong disincentive to expand if two locations or 250 employees equals a chain!
- There's no guarantee that the legislature won't come back in a few years to apply the rules to restaurants of all sizes, like just happened with wine in grocery stores last year.
 - *How would this bill affect your growth plans? Would you hire more workers or add locations?*
 - *Example:* My restaurant has been owned by my family for XX generations // is woman/minority/veteran/immigrant-owned and we have XX locations and XX employees. If we grow at all, we'd be considered a chain under this bill and would find it nearly impossible to run a profitable business anymore, much less continue to grow in Colorado.

This bill will harm our customers.

- We're already having a difficult enough time hiring and managing staffing levels to ensure adequate service for our guests. If our managers are buried in scheduling paperwork, they aren't leading the team, service will suffer, and hospitality decreases for our guests.
 - *Do you have the staff to manage all the paperwork associated with this bill? Share what would happen at your restaurant if your managers had even less time to work the floor or assist the team.*