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304 W. Main St., #205
Avon, CT 06001
(860) 248-NFIB
NFIB.com/CT

**TESTIMONY OF
NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)
OPPOSING
SB-1178, AA EXPANDING CONNECTICUT PAID SICK DAYS
BEFORE THE
LABOR & PUBLIC EMPLOYEES COMMITTEE
MARCH 9, 2023**

NFIB is the leading small business association in the nation with thousands of members in Connecticut representing a cross-section of the state's economy. For more than 75 years, NFIB has been advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. NFIB is nonprofit, nonpartisan, and member-driven. Since our founding in 1943, NFIB has been exclusively dedicated to small and independent businesses and remains so today. On behalf of those small- and independent- job-providers here in Connecticut, NFIB offers the following comments:

NFIB strongly opposes SB-1178 because this legislation would unnecessarily and vastly expand Connecticut's mandated employer-paid sick leave law and apply it to all small businesses, regardless of size or industry. Requiring 80 hours (or the equivalent of 10 days) annually of employer paid leave as called for in this bill would represent a dramatic policy and cost shift at a time when small businesses are struggling to maintain their operations, deal with historic staffing shortages and face ongoing inflationary pressures. Passage of this legislation would not only harm existing small and mid-sized business in Connecticut, but also discourage expansion and relocation of new businesses to the state at exactly the wrong time. Our state's small businesses cannot afford another well-meaning but economically harmful mandate.

Expanding employer-paid leave mandates to all small employers ignores the facts that most small business owners already arrange for their employees to take time off as needed, whether for illness or for a family emergency; as well as the implications and availability of the state's recently enacted paid family medical leave program. Most small-business owners already provide a great amount of flexibility and generosity in allowing their employees to take time off for family or medical purposes, as well as offering other paid time off, including vacation or unspecified time. NFIB surveys have continually indicated that a large majority of small business owners provide flexible hours when personal situations arise, regardless of the firm's size. Small business owners know their employees on a more personal level so there is often a lot less formality involved. Time-off issues are currently worked out in thousands of small and mid-sized businesses in the state every day without state government intervention.

Most small businesses do not have a Human Resource department or staff to manage the recordkeeping or paperwork requirements needed to comply with the structure imposed by a bill like SB-1178; just because the state government simply mandates



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employers offer such a benefit does not automatically mean they can manage or afford it. Prescribing specific employee benefits, like 10 days of paid sick leave annually, and the conditions and timing under which it accrues, restricts the flexibility of small employers to provide the wages and benefits that their employees want, and that the employer can afford. Additionally, if small employers are required to pay for sick leave, there may be fewer resources available for other optional benefits such as health insurance, retirement programs, or even general wage increases - benefits that many employees would consider beneficial and perhaps more impactful for all workers. Particularly in small and mid-sized independent businesses, employees appreciate an employer that can tailor their benefits to their particular needs and desires.

In addition to the overarching concerning already outlined, NFIB would also like to draw the Committee's attention to the following specific provisions in the bill:

- Lines 198-202, which are both vague and concerning. What does it mean for "another employer" who "succeeds or takes the place of an existing employer"? Is the legislation contemplating that if business ownership changes or if a new entity purchases a small business and operates as a successor to that business that the new ownership has to honor or retain the benefits previously accrued by existing employees if they remain – even though the employment relationship may have fundamentally changed? What happens if a new owner does not retain existing employees but then subsequently rehires some or all of them? Wouldn't this be under new employment terms and conditions?
- Lines 362-368, essentially creates a private right of action for "any person" or "any entity whose member of which is aggrieved" by a violation to bring civil lawsuits against employers, and without even having to exhaust existing administrative remedies. While NFIB certainly does not condone labor violations, frivolous or unnecessary lawsuits against small business owners are a significant concern, especially when there are administrative remedies available. NFIB is neither aware of information that enforcement of our state labor laws, including the existing paid sick leave law, is in any way inadequate, nor is there any need to create a new private right for civil actions.
- Lines 412-414, regarding "adequate" record retention. This section establishes a presumption of a violation by the employer simply if they are unable to produce or allow access to "adequate" records, rather than having the Labor Commissioner actually having to demonstrate or find a violation.



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Furthermore, this presumption would only be overcome by the very high evidentiary standard of “clear and convincing”, as opposed to the more common “preponderance” standard. Not only is this section troubling on its own, but the potential adverse impact from it is only exacerbated when taken in conjunction with the ability for an individual to bring a private right of action in civil court for what could essentially be a presumed “paperwork” violation of C.G.S. Sec. 31-57w, and the small business owner would have to prove through clear and convincing evidence they did not violate this section.

In conclusion, NFIB cautions that proposals to mandate certain benefits, like paid leave for all small businesses, could complicate life for small employers and backfire on the employees. The changes contained in SB-1178 will certainly require a lot more tracking, recordkeeping and compliance requirements on small businesses, which they are not currently subject to, and it could confuse and force employees to place restrictions or limitations on offered paid time off that do not exist now in many cases. Finally, allowing for private civil actions to address potential statutory recordkeeping requirement violations is overreaching and unnecessary. Therefore, NFIB urges rejection of SB-1178.

Thank you for the opportunity to comment and for your consideration of NFIB’s concerns on behalf of small business. For any questions or additional information, please contact Andy Markowski, NFIB’s State Director in Connecticut, at 860-248-NFIB.