



The National Coalition to Protect Family Leave

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Dear Chairmen Kennedy and Miller and Ranking Members Enzi and Kline:

We write to express our strong concerns about the Healthy Families Act, (H.R. 2460/S. 1152) and urge you to oppose this legislation because of the adverse impact it will have on employees, employers, consumers and the general public. At a time when employers are struggling to avoid layoffs and business closures, imposing paid leave mandates on employers is unwise policy that threatens jobs and the viability of many of the nation's small businesses. Moreover, this legislation is harmful to employees, jeopardizing wages, health care coverage and other important employee benefits that could be reduced or eliminated in order to comply with this law.

Employers of all sizes understand that employees need time off to address personal or family health issues, which is why the vast majority of employers voluntarily offer generous paid leave benefits. According to the U.S. Bureau of Labor Statistics, 83 percent of private sector employees have access to paid illness leave. At the same time, employers face economic realities and must balance leave benefits with other compensation offered to employees, such as wages and health benefits.

The Healthy Families Act (HFA) would mandate that employers with 15 or more employees provide a one-size-fits-all paid sick time mandate of up to 56 hours of paid sick time annually. A paid sick mandate would limit an employer's flexibility in designing a compensation and benefits package that meets the needs of their unique workforce, resulting in significant costs for employers as well as a potential loss to employees who prefer other benefits rather than paid sick time. Moreover, the HFA seems to incorporate some of the Family and Medical Leave Act (FMLA) concepts that have caused the most significant problems for employers with respect to scheduling, including the ability to use this paid sick leave on an unscheduled basis, with little or no notice of an absence.

Increased costs and reduced flexibility are serious concerns for employers, but legislation such as the HFA also raises other implementation concerns as outlined below.

Impact on Small Employers: This legislation represents an unprecedented expansion of employment mandates on small employers, applying to those with as few as 15 employees. In the past, Congress has recognized the disproportionate impact that leave mandates have on small employers, providing an exemption to the FMLA for employers with fewer than 50 employees.

Eligibility: Under the HFA, all employees would immediately begin earning paid sick time, including those working less than 20 hours per week and could begin taking the leave after 60 days. In contrast, the FMLA requires that an employee work for an employer for 12 months and 1,250 hours (an average of over 24 hours per week) to be eligible for leave.

Employer Mandate: The HFA's one-size-fits-all approach would force employers to reduce wages or other benefits to pay for the leave mandate and associated compliance costs, thereby limiting benefit and compensation options. The HFA threatens an employer's ability to provide the benefits that best fit the needs of their workforce and their budget.

Intermittent Leave: It appears the HFA may allow employees to use paid sick time on an intermittent basis in fractions of an hour, without notifying the employer. Experience with this provision under the FMLA has shown that allowing employees to take leave on an intermittent basis, without prior notice or documentation (e.g., doctor's note), invites unscheduled absences, tardiness and misuse of leave. FMLA leave was intentionally kept unpaid to discourage employees from using it inappropriately. Providing a paid leave benefit under the same structure as the FMLA will encourage employees to use this leave in ways not intended, further frustrating employers in their need to have a reliable and predictable workforce. When employees take intermittent leave with little or no notice, employers must cover the absent employee's workload by reallocating the work to other employees or the work goes undone.

Impact on the Public: Under the HFA, an employer's workforce could fail to show up for work without advance notice, resulting in significant workplace disruptions and a negative impact on productivity and customer service. Comments from the transportation, emergency service providers, hospitals, schools, and daycare centers during the recent FMLA rulemaking make clear that these employers have had recurring problems with employees taking unscheduled leave under the unpaid FMLA. The HFA's leave provisions could be particularly devastating.

Coordination: The HFA adds to the growing patchwork of varying federal, state and local leave requirements. Employers consistently report challenges in navigating the various conflicting requirements of overlapping state and federal leave and disability laws, including the FMLA, the Americans with Disabilities Act, and workers' compensation laws. The HFA would only add to the already complex web of inconsistent but overlapping leave obligations under federal and state laws.

Our coalition represents hundreds of thousands of employers of all sizes with decades of experience in managing diverse workplaces while providing competitive employee benefits. Moving forward, we encourage members of Congress to utilize our collective experience in crafting employment benefit legislation that does not unfairly burden employers and their employees.

Sincerely,

American Bakers Association
American Foundry Society
American Hotel & Lodging Association
Associated Builders and Contractors
Associated General Contractors
College and University Professional Association for Human Resources
Food Marketing Institute
HR Policy Association
Independent Electrical Contractors
International Foodservice Distributors Association
International Franchise Association
International Public Management Association for Human Resources
National Association of Convenience Stores (NACS)
National Association of Home Builders
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Business Group on Health
National Newspaper Association
National Public Employer Labor Relations Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National Small Business Association
North American Die Casting Association
Printing Industries of America
Retail Industry Leaders Association
Snack Food Association
Society for Human Resource Management
Textile Rental Services Association of America
U.S. Chamber of Commerce

cc: Members of the U.S. Senate
Members of the U.S. House of Representatives