



The National Coalition to Protect Family Leave

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Dear Majority Leader Reid, Minority Leader McConnell, Speaker Pelosi and Minority Leader Boehner:

We write to express our strong concerns about the Healthy Families Act, (H.R. 1542/S.910) legislation introduced in the 110th Congress that will likely be reintroduced in the 111th Congress. We urge you to oppose this legislation because of the adverse impact it will have on employees, employers, customers and public safety. 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 Department of Labor (DOL) data, 82 percent of private employers currently offer some form of paid leave to their workforce.¹ 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 require employers with 15 or more employees to offer a one-size-fits-all paid sick leave package mandating seven days of paid sick leave to all "full-time" employees. A paid sick leave mandate would limit an employer's flexibility in designing a 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 leave.

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 Family and Medical Leave Act (FMLA) for employers with fewer than 50 employees.

Effect on Existing Leave Benefits: The HFA would "lock-in" existing employer leave programs and would limit or eliminate an employer's flexibility in making even minor adjustments in leave provisions to absorb the mandate. This would force employers to add this leave onto the existing leave they already provide their employees.

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. Moreover, employers who offer generous paid time off plans would not be recognized under the HFA.

Intermittent Leave: The HFA allows employees to take leave by the hour or in the smallest increment of time available under the employer's payroll system, which for many employers is six minutes or less, without notifying their 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. 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.

¹ U.S. Department of Labor, Bureau of Labor Statistics, March 2006, National Compensation Survey, unpublished data.

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. The impact on transportation, emergency service providers, hospitals, schools, and daycare centers could be particularly devastating.

Definitions: The Fair Labor Standards Act recognizes a full-time employee as one who works 40 hours per week, yet the HFA defines full-time employees as those working 30 or more hours per week. In addition, part-time employees working 20 hours a week would be eligible for paid leave on a pro-rata basis. These definitions would be inconsistent with most employer leave programs and practices and current federal law.

Coordination: Under the HFA, it is unclear how this leave would be coordinated with other state and federal leave laws. 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.

Unfortunately, the HFA incorporates some of the FMLA concepts that have caused the most significant problems for employers, namely the ability to use this paid sick leave on an unscheduled basis, with little or no notice of an absence. The undersigned organizations represent a broad and diverse cross section of large and small employers in many sectors of the economy who urge you to oppose the Healthy Families Act. Thank you for your consideration.

Sincerely,

American Foundry Society
American Hotel & Lodging Association
Associated Builders and Contractors
Associated General Contractors
College and University Professional Association for Human Resources
HR Policy Association
Independent Electrical Contractors
Independent Women's Voice
International Foodservice Distributors Association
International Franchise Association
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 Public Employer Labor Relations Association
National Newspaper 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
Society for Human Resource Management
Textile Rental Services Association of America
U.S. Chamber of Commerce

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