

Chairperson Williams  
House Committee on Labor

February 22, 2021

Dear Representative Williams and the other members of the Committee:

§25-3 is a statute unique to Rhode Island. No other state requires “Premium Pay” on Sundays and holidays. On the surface, laws like this have the effect of discouraging commerce on Sundays. I suspect in its initial passage, that was the intent of the law . . . create more time for families to be together, etc. The law, though, recognized that there were some businesses that, by virtue of what they do, must be open on Sundays and holidays. While it is not an overt statement, if one reads the list of industries that currently hold exemptions (as made available under §25-3-7), it’s clear that the overwhelming types of businesses are those that cannot close (e.g. hotels, nursing homes, etc.). In other words: If the intention of the bill was to limit commerce so that employees could spend a day of rest with their families and discourage business owners from staying open for greed alone, the original bill recognized that some businesses are open because they have to be. The legislature granted them an exemption from the premium pay requirement.

H5403 has the effect of chilling even that degree of immunity . . . at least as it relates to smaller businesses.

Please consider the small business owner’s dilemma:

1. They are at an immediate disadvantage because the border states do not have the same limitations on wages, thus operating costs on Sunday / Holidays is substantially higher and they cannot pass those costs on to the customer without the customer seeking alternative / cheaper services right across the border.
2. Presuming they have successfully made the case to the Director of Labor and Training as provided for in §25-3-7, the business owner can now compete on a level playing field – at least in terms of operating costs.
3. Passage of 5403 requires wages of 200% of minimum wage, retirement and medical benefits – all of which may be far outside the norm of wages in that particular industry – forcing the employer to either a) be disadvantaged once again as noted in #1 or b) be disadvantaged by paying out substantially higher wages / benefits than industry standards.
4. Either way, the business ultimately suffers. To recoup these costs, the business owner could pass the additional costs onto the customers, but given that we’re such a small state, consumers have the very easy option of getting services / products right across the border at a more appropriate cost.

It could well be that larger companies can afford to absorb these costs. In my personal case, that’s not an option. I operate in a low margin / competitive industry with plenty of competition immediately on the state’s borders. I am already disadvantaged by Rhode Island tax policy (services are taxed in RI, but not in MA or CT). Whatever relief I might get under §25-3-7 will effectively be wiped away -- further disadvantaging my business.

I implore this body to please consider the dilemma noted here. While I suspect the legislation is problematic for all employers who operate on Sundays and holidays, I am certain that the smallest (and most fragile) of businesses will continue to struggle. Failing an outright rejection of this legislation, I request that you at least consider inserting a minimum employee number (e.g. “For companies with 100 employees or more, said regulations shall provide . . .”) in an effort to protect smaller businesses.

Respectfully Submitted,

Robert Wheeler