# The Maine Heritage Policy Center
# Testimony Against LD 369
## "An Act To Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees"

Senator Bellows, Representative Sylvester, and distinguished members of the Committee on Labor and Housing, my name is Jacob Posik and I serve as communications director at The Maine Heritage Policy Center. Thank you for the opportunity to speak in opposition to LD 369.

The Maine Heritage Policy Center opposes any government intervention that unnecessarily dictates how private business owners operate their establishments. This bill is essentially a repurposed version of the impending citizen initiative being circulated by the Maine People's Alliance, with a few minor exceptions.[1] The biggest difference between this bill and the ballot initiative is the exclusion of employers with five employees or less from being legally required to offer paid sick leave. This exclusion selects an arbitrary number as a point of compromise yet still neglects the interests of the majority of private employers in Maine. Small businesses that have between five and 100 employees make up roughly 40 percent of all businesses in our state and account for the majority of jobs.[2]

There are several parts of this legislation that would severely harm Maine businesses. This proposal would not only dictate how a business must operate, but also imposes significant costs on employers. Maine is already viewed as one of the worst states for business in the nation,[3] and this bill would further damage our competitiveness. Coupled with recent annual increases in the minimum wage,[4] this bill has the potential to cripple Maine's small business economy.

The Maine Heritage Policy Center is concerned with several components of this bill. The bill's definition of "family member" is far too broad and would allow employees to take paid leave for **anyone** with whom they are related by blood but are not close family, or for anyone whose close association with the employee is the "equivalent" of a family relationship. Given this language, we are concerned that this legislation would be vulnerable to abuse due to the low threshold of what is considered family.

In addition, employers would be subject to several burdensome requirements. They may not require documentation for work absences until after the third consecutive day of paid sick leave used by an employee. That is to say an employee does not have to provide proof whatsoever for the circumstances of their absence until their fourth consecutive day of missed work. Also, an employer cannot delay the employee's use of paid sick leave due to lack of documentation provided by the employee. The way this bill is constructed, employers may be reluctant to take any action against the employee in fear that it may be construed as retaliation. For example, if paid sick leave is not provided in accordance with the bill,

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[1] https://www.maine.gov/sos/cec/elec/citizens/index.html

[2] https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=BP_2016_00A2&prodType=table

[3] CNBC https://www.cnbc.com/2018/07/10/americas-top-states-for-business-2018.html

[4] https://www.newscentermaine.com/video/news/local/minimum-wage-increase-closes-a-business-which-operated-for-36-years/97-c9a8c7e3-6b73-49fc-9e44-05e4d930f705

employers would be committing a civil violation and could be fined up to $1,000, in addition to other penalties that could be levied, including civil action from the employee and the Department of Labor.

There are plenty of avenues in this bill for the employee to be provided relief if wronged, but virtually none for employers if they feel like their employee is abusing the law. It is well-established that the federal Family Medical Leave Act, whatever its merits, has encouraged some workers to misrepresent their family obligations and exaggerate the severity of health issues in order to take unpaid leave.[5] Under a paid sick leave program, it is reasonable to expect that this sort of abuse would be even more widespread, hurting the productivity and profitability of Maine businesses.

Losing an employee, especially one with supervisory responsibilities, can significantly disrupt business operations. The need to re-allocate personnel, hire temporary workers, train existing staff, or make other changes to fill the void are time-consuming and expensive. Thus, this bill essentially incentivizes employers to avoid hiring individuals who seem more likely to use their sick leave benefits than others. Perhaps the most glaring omission in this bill is how we would expect businesses to make up for lost productivity while employees are on leave, pay for up to 40 hours of sick leave for each employee, afford temporary or replacement workers and still balance the checkbooks.

The Maine Heritage Policy Center believes this bill would harm employers by mandating they pay for paid sick leave, discourage them from inquiring about its uses and punish them if action is taken against an employee. No recourse is offered within this bill if an employer suspects an employee is taking advantage of them. Truly in no way does this bill take into account the well-being of an employer. It does not address how an employer would recoup losses in productivity, or how they would afford to pay each of their employees for a full week's worth of time off, on top of losses in revenue as a result of each employee being granted 40 hours of paid time off.

There is no bottomless pit of money for Maine businesses to reach into every time this legislature considers and passes a new unfunded mandate. If offering paid sick leave was advantageous for all small businesses in Maine, every employer would already offer it. For these reasons, we urge this committee to vote "Ought Not to Pass" on LD 369. Thank you.

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[5]https://www.heritage.org/jobs-and-labor/report/use-and-abuse-the-family-and-medical-leave-act-what-workers-and-employers-say