



NEW YORK STATE SENATOR

Chris Jacobs

## Jacobs Calls on Department of Labor to Rescind Proposed Employee Scheduling Rule

SENATOR JACOBS January 5, 2018

| ISSUE: **EMPLOYEE SCHEDULING, CALL-IN PAY, DEPARTMENT OF LABOR, ECONOMIC DEVELOPMENT AND SMALL BUSINESS**



(Buffalo, NY) — State Senator Chris Jacobs (60<sup>th</sup> SD) today called on the New York State Department of Labor (NYSDOL) to rescind its proposed Employee Scheduling rule citing the devastating impact it would have on businesses throughout New York State. Jacobs issued his call after the conclusion of a State Senate hearing he co-chaired to help determine the effects of the proposed rule on businesses and employment, as well as economic

development efforts across the state.

The proposed new Department of Labor regulation would require all employers to pay 4 hours of wages to any “on call” employee even if they are not called into work. For example, a car wash or landscaper who has a “rain-out day” would have to pay each of their workers 4 hours of wages for not working.

“I have heard from many businesses and non-profits in my Senate district that employ hundreds of residents throughout Western New York that these regulations would be a devastating blow to the viability of their businesses in New York State,” said Senator Chris Jacobs (R,C,I). “Unfortunately, the testimony I heard from business groups, individual companies, and social services organizations reinforced those fears. Based on this hearing it is my great hope that the Department of Labor will reconsider the adoption of this proposed regulation.”

Ron Benderson from Buffalo-based Delta Sonic testified at the hearing, stating that if the regulation took effect it would cost his business between “\$3-\$15 million dollars annually.” Benderson said it would likely force his company to radically change its business model of hand-drying cars and invest in automated car washes. “Hence, an unintended consequence of this rule would be the elimination of as many as 1,200 current positions in New York, not including the 2,500 jobs we would have created through expansion,” said Benderson.

“As a former Buffalo School Board Member, I am aware of how many of our kids work part-time at Delta Sonic in high school and college and make good money, so Delta Sonic’s testimony really concerned me,” said Jacobs.

Jim Hornung, President Elbers Landscaping in Buffalo said the regulations would likely cause him to get out of the snowplowing business entirely due to the excessive costs of

paying plow drivers to be “on-call” even when they end up not working because a snow event does not occur.

“We also heard from a local service station owner, a day care provider, a nursing home administrator, all of whom said this regulation would be devastating to their future financial viability,” said Jacobs.

In his capacity as Chairman of the Administrative Regulations Review Commission, Jacobs referenced his caucus’s desire to pass a comprehensive regulatory reform package to help make New York a more business friendly state where companies can invest, create jobs and help grow the state and regional economy. The NYSDOL Call-In Pay proposal flies in the face of that effort.

“Enacting this rule, especially against such strong and valid opposition, would create another harmful regulation that will hurt our economic competitiveness at a time when we are trying to grow our economy and make New York more business friendly,” said Jacobs. “This is the wrong message to be sending to the companies that we want to invest in our state and create jobs for our residents, and I am hopeful that the Department of Labor will hear this message and respond accordingly.”