

Testimony of

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New York State Senate Commerce & Economic Development Committee
and the Administrative Regulations Review Commission

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Chairman Boyle, Chairman Jacobs, members of the committee and commission, thank you for inviting me to testify today. I am Tom O'Connor, Vice President, Government Relations for the Capital Region Chamber.

The Capital Region Chamber represents over 2,400 businesses and organizations from throughout the region that employ more than 150,000 area residents. Our Chamber's membership is diverse. We represent for-profits and not-for-profits; large corporations and small family-owned businesses.

I am here today to voice the Capital Region Chamber's strong opposition to the Department of Labor's proposed rulemaking to address what is commonly identified as "just-in-time," "call-in" or "on-call" scheduling. Adopting such regulations would have a negative impact on both employers and employees. In this day and age, when businesses are increasingly faced with on-demand consumers, it is unrealistic to impose work scheduling mandates upon our employers.

DOL's proposed predictive scheduling regulation would place a significant burden on all businesses, particularly small businesses. Our Chamber believes that employers, not the state, are best suited for determining the terms and conditions of employment, including work schedules, based on the employer's specific business sector, financial condition, competitive position and practical realities. The employer is also better situated to understand and address the requirements of their employees.

While New York State clearly desires to be "open for business," state funding and incentivized programs alone will not improve our state's lackluster business climate. These initiatives must be coupled with much needed and long overdue reforms. Yet, by proposing these punitive scheduling regulations, the Department of Labor is moving the state in the wrong direction.

The Capital Region Chamber is not alone in our opposition to these proposed regulations. Chambers in our region including the Saratoga County Chamber, the Chamber of Southern Saratoga County, and the Fulton-Montgomery Regional Chamber, along with chambers throughout the state have expressed their opposition to new mandates that place onerous restrictions on flexible scheduling.

In fact, last year when the “Schedules that Work Act” legislation was introduced in both houses of the Legislature, the Brooklyn Chamber of Commerce stated, “Instead of additional restrictive bills, we would advocate for effective communication between employers and employees regarding scheduling, with the goal of reaching a consensus that would be beneficial to both parties.” The Brooklyn Chamber has captured what most chambers believe is at the very heart of the matter: scheduling should not be the subject of a state mandate. It should remain a matter best address by the employer and employee.

As you are aware, New York State employers have recently been burdened by several harmful mandates including an increase in the state’s minimum wage and paid family leave. Add to this the state’s already high taxes, onerous regulations and high labor costs, and none of us should be surprised that New York State continually ranks at or near the bottom in terms of our business climate.

As a matter of fact, the Tax Foundation’s *2018 State Business Tax Climate Index* ranks New York State as one of the worst: 49th business tax climate; 49th individual income tax; 47th property tax; 43rd sales tax; and 30th unemployment insurance tax.

Instead of pursuing policies, such as this one being considered by DOL, we encourage the Legislature to focus on polices that will make New York more competitive and lead to job creation. Our Chamber would be more than happy to partner with you in this effort. In fact, yesterday we released our advocacy agenda, which I am attaching with my testimony, for your consideration (Appendix A).

Growing private sector jobs is key to the state’s and the Capital Region’s economic future. If the state wishes to improve the conditions of both employees and employers, our Chamber strongly encourages you and your colleagues in the State Legislature to support our agenda for prosperity. Beyond regulatory reform and tax relief, we recommend focused attention on workforce development and job training, assisting and growing MWBEs, and ensuring that all of our K-12 students are college and career ready upon graduation. Focusing on these key areas will improve the lives of all New Yorkers far more than any mandate from DOL.

In conclusion, our Chamber strongly opposes DOL's proposed employee scheduling regulations. Moreover, the proposed regulations cannot be amended in a manner that would make them acceptable to our membership. Consequently, the Chamber has requested that the proposal be withdrawn by the Department of Labor. While the Capital Region Chamber believes that this subject matter is clearly and more appropriately within the purview of the Legislature, we would oppose any attempt by the Legislature to impose scheduling mandates on our employers.

Thank you for the opportunity to share with you our Chamber's perspective on these proposed regulations. At this time, I would be happy to answer any questions you may have.