

To: Portland City Council's H&HS Committee

From: Eliza Townsend, Maine Women's Lobby, DrewChristopher Joy, Southern Maine Workers' Center, and Kate Sykes, Southern Maine Democratic Socialists of America

October 18, 2018

Councilors Ray, Ali, and Batson,

As you conclude your first pass of reviewing the proposed ordinance to allow all Portland workers to earn paid sick and safe time, I want to thank you for your time and attention and reiterate a few points.

Urgency

We have been discussing the policy for more than a year and are now heading in to another flu and cold season. Let's remember that in the 2017-18 season, there were 85 deaths from the flu in Maine, and the Maine CDC tells us this is likely an underrepresentation. While other counties experienced higher rates, Cumberland County had the highest number of resulting hospitalizations. This information comes from the CDC's weekly Influenza Surveillance Reports, available at:

<https://www.maine.gov/dhhs/mecdc/infectious-disease/epi/influenza/influenza-surveillance-weekly-updates.shtml>



The flu is not the only form of illness we are concerned about, but it serves as an example of the importance of the ability to earn paid sick time because it is a highly contagious, *preventable* disease. The CDC tells us to wash our hands and to stay home when we are sick, yet many workers cannot afford to stay home. Paid sick time is an important strategy to improve public health.

Need

The argument that "employers can always have a stronger policy" misses the point. Laws governing public health, public safety, and employment exist to address those who will not act in the interest of others unless required to do so. That is why we have health and safety codes, a minimum wage, speed limits, or noise regulations.

An earned paid sick time ordinance will benefit workers in low-wage jobs, primarily women and immigrants. These are the people least able to advocate for themselves with their employers.

The impact on public health and the benefit to low wage workers are two reasons we support a universal policy.

Decisions not yet resolved

There are issues that remain undecided that are very important to our coalition and the workers we represent. These are our positions on several of these issues.

1. Cap on accrual We remain committed to allowing up to 6 full work days in one year. According the CDC, adults with the flu can infect others within 6 feet for up to 7 days after becoming sick. Children may remain contagious longer. <https://www.cdc.gov/flu/about/disease/spread.htm>
As Mayor Strimling documented on October 9, many municipalities require 48 hours as a minimum. The proposal to cut by half the total number of sick hours an employee of a small business can earn penalizes their workers and isn't aligned with good public health policy. We are not in favor of a tiered policy,

however, if this is the policy Council that council pursues, it should add hours over 48 for large businesses, rather than lowering the total accrual for workers in small businesses.

2. Exempting businesses based on size or on their start-up status We are committed to a universal policy that covers businesses of all sizes, in order to achieve the best public health benefit and to improve the well-being of the highest number of employees. This is consistent with most states and municipalities that have adopted earned paid sick time policies and is consistent with the recent trend toward stronger protections. We are unclear as to whether the committee is weighing a phase-in approach for new businesses. If so, it would be important to differentiate between established businesses moving to Portland and start-ups.
3. Accrual of time We remain committed to allowing all workers to accrue time beginning with the commencement of employment. All work has value and should be appropriately compensated. Delaying the accrual by as much as 90 days would have the effect of excluding seasonal workers, which we strongly oppose. The chart distributed by Councilor Ray at the September 25 meeting makes clear that accrual is slow even for full time employees, who would need to work 6 weeks to earn one full day off; part-time workers would accrue at a pro-rated rate.
4. Penalties and back-wages We listened with interest when Ms. Torregossa stated that section 8 (b) 3 conflicts with state law. We direct your attention to a related state law, Title 26, Chapter 7, Subsection 6-B which can be found at: <http://legislature.maine.gov/legis/statutes/26/title26sec850.html> That law provides for liquidated damages paid to the affected individual in an amount equal to 3 times the amount of total assessed fines. Thus, there is precedent in state law for damages being payable to the individual rather than the government.

Decisions made to date

We congratulate and thank you for adhering to a broad definition of family. We are delighted that you have chosen not to exclude part-time, seasonal workers, and most per diem workers.

Other decisions need not hold up the passage of this ordinance. We are comfortable with the requirement of 7 days' notice if the situation is foreseeable; access to information monthly or on request instead of on a pay stub; retaining records for 3 years rather than 6. We are confident that the city can find a solution and translate a poster into multiple languages, which is an important strategy to reach immigrant workers.

Several decisions are ones we can live with, depending on the final details. We look forward to:

- A specific definition of a health care worker (as it pertains to per diem workers)
- A proposed Return to Work affidavit as an alternative to documentation from a doctor
- The city's proposal for how it will hold accountable employers with inadequate documentation.

To summarize, we appreciate your time and attention to this important matter of public health and basic rights for all workers. We recognize the heavy workload of your committee but ask you to move this policy forward before Portland finds itself in the throes of another flu season.

As you move forward, we urge you to adopt a strong policy to protect the widest number of workers (and their coworkers, customers and charges), allow them to accrue time immediately and truly get well before returning to work, and that includes strong enforcement mechanisms.

We look forward to continuing to work with you to advance this important policy.