



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

Testimony for SB 332

Senator Mary Felzkowski and Representative Amy Loudenbeck
Committee on Labor and Regulatory Reform
June 16, 2021

Good afternoon Chairman Nass and Committee Members,

Thank you for the opportunity to testify on Senate Bill 332, which will extend the hours of employment for minors.

Wisconsin is home to hundreds of small businesses, from restaurants to golf courses and everything in between. These establishments are often the lifeblood of their communities. Businesses throughout the state see a massive increase in traffic during the summer tourist season, so much so that it can be difficult to find employees to work odd hours and seasonal times. To round out their workforce, businesses often hire young people over the summer months and on weekends when things are busiest. These jobs provide opportunities for young workers to not only make money, but to grow a responsible work ethic that will benefit them throughout their lives.

As it stands now, current law hampers employers by limiting work hours for when a minor may work. For example, a mini-golf course that hires young workers may be open until 10pm during the heavy summer tourism season. However, the law currently stipulates that minors cannot work beyond 9pm, requiring the employer to hire additional adult staff on hand just to close out the last business hour. If an establishment cannot find someone to work those hours, they often must choose to close early. This creates an inconvenience for employers and employees alike.

Senate Bill 332 would expand the allowable work hours for 14 and 15 year olds to between 6:00 a.m. and 9:30 p.m. on a day preceding a school day, and between 6:00 a.m. and 11:00 p.m. on a day preceding a non-school day, as long as the employer and employee are not covered by the federal Fair Labor Standards Act (FLSA).

An employer and/or employee is covered by the FLSA if a person works for an enterprise that:

- Has an annual dollar volume of sales or business done of at least \$500,000; or
- Is a hospital, business providing medical or nursing care for residents, school and preschool, or government agency; or
- Is involved in interstate commerce. Examples of this are: involved in the production of goods to be sent out of the state (includes letters), regularly makes phone calls to persons located in other states, handles records of interstate transactions, travels to other states for their jobs, or does janitorial work in buildings where goods are produced for shipment outside the state.

The bill also requires minors under the age of 16 who are employed after 10:00 p.m. to receive at least eight consecutive hours of rest between shifts. There are several states, including Arizona, Missouri, Pennsylvania, South Dakota, and Wyoming, that allow minors to work beyond 9:00 p.m. as long as the employer and employee don't fall under the FLSA.

SB 332 gives Wisconsin's businesses one more tool to remain fully staffed, especially at the height of the tourist season, while also providing greater opportunities for young employees to make money and learn skills that will be with them for the rest of their lives.

Thank you for your time today, and thank you for your consideration of this bill.



2801 Fish Hatchery Road | Madison, WI 53713 | (608) 270-9950 | (800) 589-3211 | FAX (608) 270-9960 | www.wirestaurant.org

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TO: Senate Committee on Labor and Regulatory Reform
Senator Stephen Nass, Chair

FR: Kristine Hillmer, President and CEO

RE: Testimony on SB 332

Thank you Mr. Chairman and committee for the opportunity to speak to today. We tried hard to secure restaurant owners to join us today to tell you their stories regarding their efforts to hire workers. Unfortunately so many restaurant owners are so shorthanded, they must be in their businesses day and night to ensure their customers are taken care of. On their behalf, I will present comments on SB 332 and the worker shortage.

The Wisconsin Restaurant Association (WRA) represents over 7,000 restaurant locations statewide. Our organization represents all segments of the restaurant and hospitality industry; our membership includes food establishments of all types and sizes, such as seasonal drive-ins, supper clubs, diners, locally owned franchisees, fine-dining and hotels/resorts. Over 75 percent of our membership are independent restaurants. Regardless of ownership type, all restaurants are the cornerstones of their neighborhoods and communities. Restaurants not only provide great food, drink and hospitality, they support schools, teams, charities and churches with fundraising and donations. They provide meeting places to celebrate, mourn and organize, or just provide a safe, tasty meal for a busy family.

I am sure you all know the toll the COVID-19 pandemic has taken on the entire hospitality and tourism industry. The vast majority of restaurants saw steep declines in their sales, price increases in supplies and services and in some places, severe restrictions on their ability to be open and safely serve customers. There is a light at the end of the tunnel – now that restrictions have been lifted, customers are returning and restaurateurs are now hopeful for a busy summer season. **No matter how busy our members get this summer, it will not make up for the losses and debt incurred in 2020. The risk of restaurants closing permanently has not subsided.** Because of 2020 losses and debt incurred, many will not be able to service that debt next winter when restaurant traffic is traditionally very slow.

Now, as restaurants are working hard to re-open and hire employees for their anticipated busy summer, they along with other businesses are struggling to find workers. In our April survey of Wisconsin restaurants, 83 percent at staffing levels below where they need to be. Many are offering much higher wages and other incentives to bring employees back or to hire new ones. We are hearing from many restaurants across the state they are offering an average of \$3/hour or more for back of the house positions and it is common to hear that entry-level dishwashers, with no prior work experience, are starting at \$15/hour or higher.

The WRA has lobbied for many years at the federal level to modify both the number of hours and hours of the day 14-15 workers can work. We support what SB 332 wants to do – allow 14-15 work later hours, especially when school is not in session during the summer months and on weekends. However, we do have concerns relating what we believe will be unintended consequences if the bill is enacted as is.

Wisconsin adopted federal teen worker laws about a decade ago. The primary reason we and other business groups supported this measure was to help businesses stay in compliance with federal labor laws and avoid costly US Department of Labor audits. Very few businesses have employees that are not under federal labor law requirements. To be subject to Wisconsin regulations only, your business must have under \$500,000 in sales and the employee must not engage in interstate commerce, among other tests. Because many restaurants and other small businesses have very few employees that do not engage in interstate commerce – like taking credit card payments or unloading and putting away supplies – we found that many employers were inadvertently violating federal teen worker laws and being subject to fines. Many times they felt they had teen workers who qualified as state only, only to find via costly fines that just by having those teens put away supplies they violated the law. Having uniform federal and state teen employment laws, while frustrating when teens must go home at 7:00 p.m. in the middle of dinner hour, has helped our members avoid costly compliance issues and has helped keep the US Department of Labor from targeting these businesses for audits.

As I mentioned earlier, we support the concept of extending hours for 14-15 year old workers. We do believe the bill as written, while offering great flexibility to few small businesses owners by extending hours both in the morning and evening hours, is very complex from a compliance standpoint. We suggest that making simpler modifications, such as extending the evening ending time by two hours across the board, for both summer and during the school year, would provide the extra help businesses need, but make remaining in compliance with state and federal law much more straightforward and better for businesses. Extending school day hours to 9:00 p.m. and non-school days to 11:00 would be a huge help for restaurants who need help through the dinner hour. Our members tell us they would be ecstatic with just one hour later each day, but two would offer great flexibility. Please remember, 14-15 years are still limited to the number of hours they can work each day to three hours on school days and eight on non-school days. This means in order to work until 9:00 p.m., the teen cannot begin work until 6:00 p.m. In practicality, most restaurants will have those students begin at 5:00 and end at 8:00 as the dinner hour ends.

We appreciate the bill's sponsors for their efforts to help businesses hire workers. We only suggest making the bill easier for businesses to implement and remain in compliance with state and federal law. Because teen labor laws are complex, our industry is often targeted by the Department of Labor for teen labor audits. Unfortunately, we have a lot of experience helping restaurants work through these audits. We ask that you consider simplifying the hour extensions and help keep Wisconsin off the Department of Labor's audit target list.

Thank you for your time today to talk to you and I can take any questions you may have.