

AFL-CIO

LEGISLATIVE ALERT

April 25, 2017

Dear Representative:

I am writing to urge you to oppose the Working Families Flexibility Act (H.R. 1180), which would weaken overtime protections under the Fair Labor Standards Act (FLSA), reduce take-home pay for millions of workers, and result in longer hours, more unpredictable schedules, and higher day care costs for working parents.

The FLSA of 1938 established the 40-hour workweek to allow employees to spend more time away from work. The FLSA's only incentive to uphold the 40-hour workweek is the requirement that employers pay a time-and-a-half cash premium for overtime work. The FLSA discourages employers from demanding excessive hours by making overtime work more expensive for them.

H.R. 1180, by contrast, would *encourage* employers to demand excessive hours by making overtime work cheaper for them. It would allow employers to pay workers *nothing at all* for overtime work at the time workers perform the work. It would then allow employers to schedule compensatory time off at their own convenience, such as during less busy periods, when they would not incur any additional cost. Making overtime cheaper for employers would undermine the FLSA's incentive to maintain a 40-hour workweek, resulting in longer hours and more unpredictable schedules for working people and higher day care costs for working parents.

H.R. 1180 would also reduce take-home pay for millions of workers who are compensated with time off rather than cash. These workers would no longer receive any supplementary income as a result of their overtime work. First, they would receive no compensation at all at the time they perform the work. Second, although they would be paid for the time they end up taking off as "comp time," they would have been paid for this time anyway, so this would not be supplementary income. Workers compensated with "comp time" would be denied the extra "bump" to their paycheck on which millions of working families currently rely. In addition, workers who cash out their comp time banks at the end of the year would be cheated out of interest on their earnings.

By making overtime cheaper for employers, the Working Families Flexibility Act would create economic pressures that make it highly unlikely comp time would be truly voluntary. H.R. 1180 would create a cost advantage for businesses that no longer pay cash overtime, and would do nothing to prevent employers from discriminating – in hiring or in the award of overtime hours – against workers who insist on being paid cash overtime.

Under H.R. 1180, the discretion to schedule compensatory time off would rest with employers, not workers. Employers could deny requests for time off that “unduly disrupt” their business operations or that are not made “within a reasonable period,” and workers would have little practical recourse against such denials. Workers would have no assurance that they could use comp time to meet family needs or address family emergencies on short notice.

The reality is that the Working Families Flexibility Act would increase flexibility for employers, not employees. The FLSA already allows employers to arrange any kind of flexible work schedules they want. Any time off that workers could receive under H.R. 1180 could already be given—as paid or unpaid leave—under current law. The difference between H.R. 1180 and current law is not whether employers can allow time off, but whether they are required to pay their employees a cash premium for overtime work.

The AFL-CIO believes workers deserve fair wages, safe working conditions, and flexible schedules to help balance the demands of work and family. However, the best way to achieve these objectives is not to weaken the FLSA’s protections against excessive hours or to reduce overtime pay for workers, but rather to support the Healthy Families Act, the Paycheck Fairness Act, the Fair Minimum Wage Act, the Schedules that Work Act, and paid family and medical leave legislation.

We urge you to oppose the Working Families Flexibility Act (H.R. 1180).

Sincerely,



William Samuel, Director
Government Affairs Department

WS/lkr

American Federation of Labor and Congress of Industrial Organizations

815 16th St., N.W. • Washington, D.C. 20006 • 202-637-5000 • www.aflcio.org

RICHARD L. TRUMKA
PRESIDENT

ELIZABETH H. SHULER
SECRETARY-TREASURER

TEFERE GEBRE
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