



Senator Andrew O. Brenner – 19th District
Senator Bob Peterson – 17th District
Senate Transportation, Commerce and Workforce Committee
January 22, 2020
Senate Bill 243 – Sponsor Testimony

Chairman McColley, Vice Chair Johnson, Ranking Member Antonio, and members of the Senate Transportation, Commerce and Workforce Committee, thank you for hearing sponsor testimony on Senate Bill 243, which will modernize Ohio's overtime statute.

Senate Bill 243 will amend Ohio's overtime statute so that employers are not subject to liability arising under state law for failure to pay overtime when an employee, without direction from their employer, engages in de minimis amount of time outside of work to perform preliminary and postliminary tasks including checking their schedule, listening to voicemails, or reading emails.

This change is necessary due to a federal change in the U.S. Department of Labor's new overtime rule, effective January 1, 2020, which will make more employees eligible for overtime. As a result of this change, increased litigation for unpaid overtime is likely to occur. This new rule will affect 1.3 million workers in the U.S. and the salary threshold employees must earn before they can be exempted from overtime pay will rise from \$23,000 to \$35,568. In response to this, Senate Bill 243 will increase flexibility for the employee on how they accomplish their work duties and removes employer incentives to prohibit employees from accessing work material at home. Additionally, S.B. 243 will reduce the regulatory burden of having to track an employee's unsupervised time while also reducing the likelihood of liability and lawsuits arising from unpaid overtime.

Finally, this change is supported by the federal courts. The U.S. Supreme Court and the 6th Circuit Court of Appeals have held de minimis amounts of time need not be compensated. For example, in the U.S. Supreme Court Case, *Anderson v. Mt. Clemons Pottery Co.*, "When the matter in issue concerns only seconds or minutes of work beyond the scheduled working hours, such trifles may be disregarded. Split-second absurdities are not justified by the actualities of working conditions...It is only when an employee is required to give up a substantial measure of his time and effort that compensable working time is involved."

Mr. Chairman, for these reasons we urge favorable consideration of Senate Bill 243, and thank you for this opportunity to give sponsor testimony. My joint sponsor and I would be happy to answer any questions you have at this time.