



Senator Bob Peterson –17th District
Senator Andrew O. Brenner – 19th District

House Commerce and Labor Committee
Senate Bill 47 – Sponsor Testimony
October 26, 2021

Chairman Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan, and members of the House Commerce and Labor Committee, thank you for hearing sponsor testimony on Senate Bill 47, which will modernize Ohio’s overtime statute. Senate Bill 47 will clarify Ohio’s overtime statute to incorporate a common law doctrine laid out by the U.S. Supreme Court so that employees and employers are not confused on what is subject to overtime. This clarity will prevent employers from 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, which may include checking their schedule, listening to voicemails, or reading emails.

This clarification is necessary due to a U.S. Department of Labor rule which has made more employees eligible for overtime. As a result of these changes in how employees are compensated and perform their job duties, increased litigation for unpaid overtime is likely to occur since the U.S. Department of Labor rule was projected to affect 1.3 million workers in the U.S., and some estimates have reported as many as 71% of the American workforce is working from home at least part-time.

In response to these challenges, S.B. 47 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. 47 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.*, the court held “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 I urge favorable consideration of Senate Bill 47, and thank you for this opportunity to give sponsor testimony. On behalf of my joint sponsor Senator Brenner who unfortunately could not be here today, I would be happy to answer any questions you have at this time.