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My name is Robert Commero and I am here to present testimony relating to the impact the Federal DOL's Final Rule for FLSA will have on my business. I am speaking on behalf of the PRLA and the Hospitality Industry in whole. I have spent the past 25 years working in restaurants. I have a degree from Cornell's SHA, I have been an hourly employee, managed and drafted business plans for independent ownership, managed for national chains and owned my own establishment.

We are an industry that provides opportunity to over 557,000 workers in 24,930 restaurants in Pennsylvania. Nationally, we are the second largest private sector employer. We contribute nearly 2 trillion dollars to the national economy, employing 10% of the national workforce. More important and particular to this regulation, 90% of all salaried restaurant employees started in an hourly position. This simple statistic proves that we are an industry of opportunity, providing career growth and long-term job stability for an incredibly diverse and wildly passionate workforce.

The US DOL's Final Rule to update exemptions for EAP Employees is a regulation that, according to the DOL's "Overview & Summary" on their website, will "put more money into the pockets of middle class workers", improve work-life balance" and "increase employment by spreading work". This fundamentally flawed logic used to update these regulations will have the exact opposite results in our industry. One must consider that our workforce does not work 9-5. We are working when everyone else is out for a meal, celebrating a special occasion or on vacation. As operators, we manage outlets that are open 12, 15 or possibly 24 hours a day.

Personally, I have a FT, benefited Banquet Manager salaried at $36,000/year. Her compensation plan provides for a sales commission providing an additional $8,000/year and an incentive plan adding yet an additional $4,000/year resulting in an annual salary of $48,000 and above the new exempt threshold of $47,476 annually. However, I am only allowed to account 10% of her base salary, $3,600, toward her annual salary. This creates a short fall of roughly $8,000 needed to declare her exempt from OT. Now I have to determine what steps I must take to be compliant.

Whether I am an owner or managing for a chain or independent, I have one overriding guideline that dictates my process to become compliant, my budget. There is not some pot of money that I can just go to for increased wages, it is the same pot that I had prior to these regulatory changes. I need to determine what measures I must take to ensure that the work load for this position still get done with no adverse effect on our guest experience. My restaurant has less than 50 FT employees and provides benefits as an incentive to our FT employees. Since this position is benefited at an average cost of $8,400 per benefitted employee, I must consider removal of benefits and the commission contingent to this employee's compensation plan.

This is just one example of the three positions I must address at my business. Apply that math to the 24,930 restaurants in our fair Commonwealth and I find it impossible to provide any logic that makes

this legislation either pro-business or pro-worker. The fundamentally flawed logic used to create these "updates" will simply cause restaurant owners and senior leadership to work more, cut middle management hours and compensation plans and create an industry work environment that is the exact opposite the DOL summarizes as rational improvements to create a positive impact.

I would like to thank the Senate Appropriations as well as the Senate L&I Committees for their time today and this opportunity to share the reality we are left to wade through in the wake of these DOL updates.