Testimony on H.3809 Before Joint Committee on Labor and Workforce Development

Good afternoon. My name is Jeremy Thompson. I'm a Senior Policy Analyst with the Massachusetts Budget and Policy Center. MassBudget is an independent, non-partisan research nonprofit focusing on policy solutions that improve the lives of low- and middle-income people in Massachusetts. I thank the Committee on Labor and Workforce Development for inviting me to testify today.

House Bill 3809, "An Act relative to the scheduling of employees," would give workers the right to a fair workweek at retail, food service, and hospitality firms that employ 50 or more people. Why these industries, and why 50 or more employees?

Research has shown that workers in retail, food service, and hospitality are among the most susceptible to unstable scheduling practices.[1] In Massachusetts, these industries employ 22 percent of the state's hourly workers.[2] And they are more likely than other industries to employ people of color in these hourly jobs.[3]

These industries are also characterized by a fairly high degree of concentration when it comes to employment. That is, a relatively small share of firms account for a relatively large share of employment, and this is where the 50-employee threshold comes in.

- While only 7 percent of retail companies in Massachusetts have 50+ employees, this 7 percent accounts for 77 percent of all retail employment in the state.[4]

- While only 8 percent of hospitality & food services companies in Massachusetts have 50+ employees, this 8 percent accounts for 57 percent of all hospitality & food services employment in the state.[5]

Put another way, over 90 percent of Massachusetts companies in these industries employ fewer than 50 people and won't be covered by H.3809.

By setting the covered employer size threshold at 50 or more, H.3809 acknowledges an important dynamic underlying scheduling practices: larger employers are more likely to be using workforce management (WFM) software. To date larger employers have been using WFM software in hopes of maximizing hour-by-hour flexibility in setting labor costs relative to customer traffic. The result of this just-in-time employment model, as research has shown, is instability and stress for workers and their families.

The good news for employers who use WFM software is that if required by law to change their scheduling practices, they could do so by using the very same software. That's because WFM software can be programmed to incorporate complex scheduling requirements such as those established by law or collective bargaining agreements.[6] WFM software also help employees manage their own scheduling preferences, swap shifts, and pick up extra hours.

To sum up, H.3809:

- Focuses on the industries in which the most workers experience unstable scheduling;

- Benefits a large share of Massachusetts workers at a small share of firms; and

- Can be easily complied with using workforce management software already in place at these larger firms.

Thank you for hearing my testimony.

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[1] Susan J. Lambert, Peter J. Fugiel, and Julia R. Henly, "Precarious Work Schedules Among Early-Career Employees in the US: A National Snapshot," August 27, 2014, p. 13. [https://cpb-us-w2.wpmucdn.com/voices.uchicago.edu/dist/5/1068/files/2018/05/lambert.fugiel.henly_.precarious_work_schedules.august2014_0-298fz5i.pdf]

[2] MassBudget analysis of 2016-2018 Current Population Survey Merged Outgoing Rotation Group (CPS MORG) data,

[3] MassBudget analysis of 2016-2018 CPS MORG

[4] MassBudget analysis of U.S. Census Bureau, 2016 (2016 ASE)

[5] MassBudget analysis of 2016 ASE

[6] See, for example, Jennifer Shambroom, Deputy, "Predictive Scheduling & Fair Workweek: Is Your Business Compliant?," June 7, 2019 [https://www.deputy.com/blog/predictive-scheduling-fair-workweek-is-your-business-compliant]; Kronos, "Unions and Manufacturing: A Team Effort," 2019 [https://www.kronos.com/resource/download/34136].