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**Kathy Cooper**

**From:** David Jacobi <dj@adventuresport.com>  
**Sent:** Tuesday, July 10, 2018 11:36 AM  
**To:** IRRC  
**Subject:** Proposed Rulemaking: Title 34 Labor & Industry Regulations for Min Wage 34 Pa. Code, Pt XII, Ch 231

Independent Regulatory  
Review Commission

Dear IRRC Review Commission,

My name is David Jacobi and my family has owned and operated Adventure Sports for 50 years. We are an outdoor recreation company that provides thousands of people every year the opportunity to enjoy what the Pocono Mountains has to offer. We are a seasonal business that provides canoe, kayak, and raft trips in the summer and ski and snowboard rentals in the winter. We also have a small restaurant on our property. I employ between a handful and up to 20+ people depending on the time of year, and by virtually any definition am considered a small business owner in the state of Pennsylvania.

I am writing to express my deep concerns with the proposed rulemaking by the Department of Labor as it pertains to the salary threshold for exempt employees in Pennsylvania. By the Department's own admission, there was no effort to meet with the thousands of business owners in this Commonwealth to obtain feedback and no consideration given to the geographical make-up and different costs of living that vary throughout the Commonwealth.

With businesses like mine, which have very busy periods and very slow periods (including almost complete shut downs), this proposal does not take into consideration the many benefits that we can offer our employees, that benefit not only our employees, but also the state of Pennsylvania. By being able to take some hourly employees that otherwise would go on unemployment benefits two times a year, and move them into salaried positions that offer them overall more money than they would make otherwise, allow them to have a steady known income all year long, not an up and down pay, regardless of the weather and the ample vacation time they are now offered, we are able to offer those employees a much better quality life than otherwise. However, like all businesses we can't pay people more than we can afford and/or more than their position warrants. Raising this limit would put thousands upon thousands of employees back on hourly time across the state, and it would undoubtedly have a bad impact on their quality of life. It would also undoubtedly put many more people back on unemployment who work at seasonally impacted businesses. There is a big difference between someone who makes a thousand or two below the new proposed limit, which in those cases those people might get a small raise, but for the many who are making much more than the current limit, but still well below the new limit, it will do nothing but hurt them.

An increase in the threshold in Pennsylvania to \$921/week over two years would hurt my employees and my business. While the current threshold may need to be increased to take into consideration changes over the years, an increase of over 200 percent, even if over the course of a few years, is well beyond what an increase based on inflation should be.

This change would force me to take employees that are currently in a leadership position and make them hourly, which could mean a loss in pay but more importantly take away the flexibility to make their own hours and the leadership they have earned in their salaried position in the first place. Employees often perceive reclassifications to non-exempt hourly positions as demotions. In my experience, employees look forward to making the jump from hourly to salaried and reclassifying them will undoubtedly be viewed by many as a step backwards in their careers.

Pennsylvania needs to continue to be competitive to ensure that I can grow my business and we can attract more businesses to our state. The U.S. Department of Labor is likely to change the threshold on a national level, and I would urge the state Department to wait and consider the newly proposed regulations that the federal Department will release.

To that end, I do support changing Pennsylvania's duties test to be identical to the federal duties test. Unfortunately, the proposed regulation purports to do that but actually doesn't. Pennsylvania has a significant number of gray areas as it pertains to our current regulation and aligning with the federal guideline would once again provide the consistency and clear guidance the business community needs.

The regulation as proposed will hurt my business as it currently operates and my ability to grow my business. Changes may need to be made as it pertains to the salary threshold, but the Department should take into consideration the multiple variables at play in Pennsylvania instead of relying on one-sided studies and political rhetoric.

Sincerely,

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