



---

# Statement of the U.S. Chamber of Commerce

---

**ON:** *Impact of the Employer Mandate's Definition of Full-time Employee on Jobs and Opportunities*

**TO:** *The House Committee on Ways and Means*

**BY:** *U.S. Chamber of Commerce*

**DATE:** *January 28<sup>th</sup>, 2014*

---

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on issues are developed by Chamber members serving on committees, subcommittees, councils, and task forces. Nearly 1,900 businesspeople participate in this process.

**Statement  
to the  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON WAYS AND MEANS  
on behalf of the  
U.S. CHAMBER OF COMMERCE  
Tuesday, January 28, 2014**

The U.S. Chamber of Commerce (“Chamber”) appreciates your efforts to highlight the economic impact that the employer mandate’s “30-hour rule” is having as implementation of the Patient Protection and Affordable Care Act (“PPACA”) continues. The Committee’s hearing regarding the “Impact of the Employer Mandate’s Definition of Full-time Employee on Jobs and Opportunities” on January 28, 2014, importantly showcases the consequences this new definition of full-time employment has on the job market and the economy at large. For the first time in history, the PPACA defines a full-time employee as someone who works 30 hours per week, averaged over the course of a month, rather than the long-standing de facto definition of 40 hours per week. The Chamber strongly supports returning to the traditional definition of a 40-hour work week to protect both employers and employees alike.

The U.S. Chamber of Commerce is the world’s largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region. The Chamber is dedicated to promoting, protecting, and defending America’s free enterprise system. More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation’s largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large. Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented.

Prior to the passage of the PPACA, the Chamber warned the House and Senate in testimony<sup>1</sup> that the law would significantly harm businesses with its mandated benefits, taxes and penalties, and other burdensome requirements. As we argued then and expect to continue to see in the future, businesses are reacting to the law as necessary and predicted in these tough economic times, even with the delayed enforcement of the employer mandate. In order to attempt to mitigate the anticipated high costs of providing affordable minimum value coverage to all employees working 30 or more hours per week averaged over the course of a month, businesses are restructuring their workforces. As a result, the law’s implementation is leading to a reduction in employees’ total take home wages rather than improving access to affordable and quality coverage.

---

<sup>1</sup> See “Health Reform in the 21st Century: Proposals to Reform the Health System,” The House Committee on Ways and Means, June 24, 2009; “Roundtable Discussion – Health Care Reform Legislative Options,” The Senate Health, Education, Labor and Pensions Committee, June 11, 2009.

As we reiterated in our most recent testimony,<sup>2</sup> the effect the law is having on businesses and employees must be carefully monitored and opportunities to provide relief to the employer community must be pursued as businesses continue to work to comply with the employer mandate in advance of the January 1, 2015, effective date. Throughout the recent ongoing implementation struggles, it is clear the health care system continues to need further reform. The Chamber's vision of reform continues to be one focused on improving the ability of all Americans to access affordable health care coverage, to receive innovative and high-quality care, and to realize better health.

### **The Employer Mandate Discourages Business Growth**

Beginning in 2015, under the PPACA, certain employers with 50 or more "full-time equivalent" employees (FTEs) who do not provide "affordable" health care coverage to all "full-time employees" may be assessed a penalty, if at least one "full-time employee" qualifies for a subsidy and uses it to purchase coverage in the health insurance exchange. Additionally, the law requires "applicable large employers" to provide prescribed health coverage while, at the same time, penalizing some employers who fail to offer what is defined by the law as "affordable" "minimum value" coverage.

With this, the "employer mandate" provides two significant deterrents for business growth.

1. First, the employer mandate encourages small businesses to remain small. With each additional hour worked by an employee, businesses inch closer to the 50 or more FTEs threshold, at which they are then required to provide the prescribed coverage. By staying small, businesses can mitigate this cost by not becoming subject to the mandate.
2. Second, the employer mandate penalty methodology inadvertently and perversely encourages those businesses with more than 50 FTEs to hire fewer full-time employees and more part-time employees. After the penalty is triggered, the dollar amount of the penalty is calculated based on the number of full-time employees over the first 30 full-time employees. By only employing 30 or fewer full-time employees each working 30 hours per week, business owners are able to mitigate this penalty.

In sum, with the definition as it now stands, many businesses are restructuring their workforce and reducing their employees' hours. The unfortunate and unintended result is that not only are employees not receiving health care coverage, they are now in many cases losing as much as 10 hours per week of hourly wages.

---

<sup>2</sup> "The Challenges Facing America's Businesses under the Patient Protection and Affordable Care Act," The House Energy and Commerce Committee Subcommittee on Oversight and Investigation, June 26, 2013, *available at*: <https://www.uschamber.com/sites/default/files/documents/files/Katie%20Mahoney%20Testimony%206%202026%2013%20Challenges%20Facing%20America%207s%20Businesses%20under%20the%20PPACA.pdf>.

## **The Employer Mandate is Already Negatively Impacting Jobs**

Despite the one-year delay of the employer mandate, analyses continue to indicate that the PPACA is already causing businesses to change their workforces, particularly in response to the new 30-hour work week definition of full-time employment. These changes include not hiring new employees, canceling expansion plans, reducing employees' hours, and dropping health care coverage for their employees. A Gallup poll from May 2013<sup>3</sup> showed that:

- 41% of small-business owners say they have held off on hiring new employees;
- 38% have pulled back on plans to grow their business;
- 19% have reduced their number of employees;
- 18% have cut employee hours in response to the health care law; and
- 24% have thought about eliminating health care coverage for their employees.

A recent report<sup>4</sup> released in November 2013 by the Chamber and the International Franchise Association confirmed that businesses are already seeing costs increased, employee hours reduced, full-time jobs limited, and health coverage dropped. Despite the one-year delay of the employer mandate, the survey indicated that:

- Many businesses are already seeing their health care costs increasing because of the law: 31% of franchise and 12% of non-franchise businesses have already reduced worker hours, a full year before the employer mandate goes into effect.
- Additionally, 27% of franchise and 12% of non-franchise businesses have already replaced full-time workers with part-time employees. Other cost control methods cited by survey participants included hiring only temporary help and cutting benefits and bonuses.
- Among businesses with 40 to 70 employees, 59% of franchise and 52% of non-franchise businesses plan to make personnel changes to stay below the 50 full-time equivalent employee threshold.
- Large chunks of decision-makers say the employer mandate will mean they will drop health coverage, opting instead to pay a penalty for each employee. In effect, among this segment of businesses, the employer mandate will more than double the percentage of franchise-owned businesses and more than triple the percentage of non-franchise businesses that will not offer health coverage.

---

<sup>3</sup> Gallup, Half of Small Business Think Health Law Bad For Them, May 10, 2013, *available at*: <http://www.gallup.com/poll/162386/half-small-business-think-health-law-bad.aspx>.

<sup>4</sup> Public Opinion Strategies, Prepared by Bill McInturff and Micah Roberts, "Presentation of Findings from National Research Conducted Among Business Decision-Makers," September-October 2013, *available at*: <https://www.uschamber.com/press-release/us-chamber-ifa-survey-shows-employers-already-facing-higher-costs-cuts-full-time-jobs>.

Particularly in this economy, employees want to work traditional full-time hours and earn traditional full-time wages; we need to focus on encouraging growth, investment, and job creation, and restoring the 40-hour work week definition is a critical place to start.

### **Promote Greater Employment by Returning to 40-hour Work Week**

The Chamber continues to strongly advocate in favor of returning to the widely-accepted 40-hour definition of full-time employment to protect employers and their workers. As the Chamber proposed in the Health Care Solutions Council report<sup>5</sup> released in June 2013, legislation that restores the PPACA's definition of a full-time employee from 30 hours to 40 hours per week averaged over the course of a month, as the enactment of H.R. 2575 would do, is critical.

The Chamber supports H.R. 2575, the "Save American Workers Act," sponsored by Representative Todd Young, which redefines "full-time employment" in the PPACA to be consistent with the traditional 40-hour work week.<sup>6</sup> The Chamber has also sent letters of support for bipartisan legislation introduced by Senators Susan Collins and Joe Donnelly titled the Forty Hours is Full-Time Act of 2013, which would change the definition of "full-time" in the PPACA to 40 hours per week and the number of hours counted toward a "full-time equivalent" employee to 174 hours per month.<sup>7</sup>

The U.S. Chamber of Commerce appreciates this opportunity to submit a statement for the record on such a critical issue. We look forward to working with you to restore the definition of full-time employment to the traditional 40 hours per week and pass other vital and meaningful health reforms that truly build on the employer sponsored health care system rather than undermine it.

---

<sup>5</sup> U.S. Chamber of Commerce, "Health Care Solutions from America's Business Community: The Path Forward for U.S. Health Reform," June 2013, available at:

[https://www.uschamber.com/sites/default/files/documents/files/USCCHHealthCareSolutionsCouncilReport\\_0.pdf](https://www.uschamber.com/sites/default/files/documents/files/USCCHHealthCareSolutionsCouncilReport_0.pdf).

<sup>6</sup> Josten, R. Bruce (Letter to Representative Todd Young), "H.R. 2527 – Save American Workers Act," June 28, 2013, available at: [https://www.uschamber.com/sites/default/files/legacy/hill-letters/130628\\_HR2575\\_SaveAmericanWorkersAct\\_Young.pdf](https://www.uschamber.com/sites/default/files/legacy/hill-letters/130628_HR2575_SaveAmericanWorkersAct_Young.pdf).

<sup>7</sup> Josten, R. Bruce (Letter to Senators Susan Collins and Joe Donnelly), "S. 1188 – Forty Hours is Full Time Act of 2013," July 8, 2013, available at: [https://www.uschamber.com/sites/default/files/legacy/hill-letters/130708\\_S1188\\_FortyHoursisFullTimeAct\\_Collins\\_Donnelly.pdf](https://www.uschamber.com/sites/default/files/legacy/hill-letters/130708_S1188_FortyHoursisFullTimeAct_Collins_Donnelly.pdf).