

Testimony



STATEMENT

of

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Da Mimmo Italian Restaurant
Baltimore, Maryland

for the

NATIONAL RESTAURANT ASSOCIATION

on the

MANDATES INFORMATION ACT

before the

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

June 3, 1998

Mr. Chairman and members of the Committee, my name is Mary Ann Cricchio and my husband and I own the Da Mimmo Italian Restaurant in Baltimore's Little Italy. Thank you for allowing me, a newly elected member of the Board of Directors at the National Restaurant Association, the privilege of testifying before you today. I appreciate the Committee's consideration of the Mandates Information Act because S. 389 will allow Congress to give the same careful analysis and deliberation to proposed mandates on private sector businesses like mine as it currently gives to mandates affecting state and local governments.

Like three-quarters of the 799,000 restaurants in America, ours is a small business. It's also a story of the American dream. My husband immigrated from Italy in 1957, worked his way up and finally saved enough to open his own restaurant in 1970. I helped pay for college by working in the industry—I started out busing tables twenty years ago. Today, we own a family-run, 110-seat restaurant serving lunch and dinner every day of the year except Thanksgiving and Christmas. We employ 31 people—some are part-time, some are gaining their first job experience, and four have been with us for over 10 years.

My husband turns 65 later this month and we had always planned for him to cut back his schedule so he could ease into retirement. But we can't afford it due to the ever-increasing number of employer-financed government mandates. He must continue working full-time to counteract the

well-intentioned, but often unworkable laws that burden small businesses. In the last ten years federal private sector mandates have included the Immigration Reform and Control Act, the Electronic Federal Tax Payment System, increases in the minimum wage, the Family and Medical Leave Act, the Americans with Disabilities Act and health care reform legislation.

Congress has to realize that small businesses shoulder a disproportionate share of costs for mandates like these. I support positive, beneficial social policy that ensures a healthy, compassionate America, and I want to do my part. It's in my heart as the mother of a six-year old son and as a resident along the Chesapeake Bay, and in my best interest as a restaurant owner whose livelihood depends on accommodating employees and customers. But when Congress fails to take into account who ultimately pays for unfunded mandates and how these costs can be balanced, these laws end up hurting the people they were meant to help. These mandates are really hidden taxes and the cost of implementation is passed on to consumers and employees in the form of higher prices, reduced wages and stagnant growth. S. 389 is essential if Congress ever hopes to manage the cost and impact of government mandates more efficiently. If Congress had thorough, detailed information up front as provided for in S.389, these laws could be more flexible, more reasonable and more effective.

When you open your own business, each penny is calculated. My husband and I both work 10-12 hour days in our restaurant and live on-site. We don't have the means of big business. I oversee all the hiring, marketing and administration, but the paperwork has become so complex that I had to add another full-time manager and a CPA just to keep up. After calculating payroll taxes — Social Security, Medicare, federal and state unemployment and taxes owed on reported tips — we pay \$3,000 a year to a payroll service to double check our numbers and make sure our waiters are reporting all their tips so that more doesn't need to be allocated for withholding taxes. It would be impossible to have a manual payroll today no matter how small your business. Inspecting the documentation for and filling out the maze of I-9 paperwork is another headache. The multiple forms of ID and the fake documentation that looks genuine means I'm taking a risk.

This red tape is aggravating for me, but federally mandated taxes and benefits also end up costing my employees in the form of reduced cash compensation and fewer entry-level jobs. When wages are artificially increased, we have to cut hours because it's impossible to raise menu prices to absorb the cost of increasing everyone's wages — not just starting workers. We are one of 23 Italian restaurants in the 12 square block area known as Little Italy. Potential customers walk from menu box to menu box checking to see who has veal parmigiana for fifty cents less than the next place. If we raised our prices, we'd price ourselves right out of the market. The only alternative is to reduce hours and end entry-level positions among the low-skilled who most need work, like bus staff and prep cooks. Other restaurateurs on my block have been forced to cut portion sizes or reduce benefits by lowering employee meal discounts. Almost all small businesses end up reducing their profit — draining resources they would normally reinvest in their employees, their establishments and the economy.

Like many small businesses, we stay below 50 workers because government-mandated leave benefits fail to consider real-world applications, and consequently inhibit growth. I couldn't survive in a competitive economy if I didn't treat my employees well, but a mandate that dictates scheduling policy is infeasible in my business. Although there's an inherent flexibility in the restaurant industry, my business depends upon a trained, full staff every night. Open jobs or overlapping vacations mean customers don't get served, and lost business cannot be recouped.

The revolving door syndrome of restaurant employees requires that valuable benefits be offered. But government mandates that impose such policies take away the ability of the employer and employee to craft the benefits package that's best for them. In 1989, my husband and I decided to offer a profit-sharing pension plan where employees become owners with us and have a vested interest in the bottom line. It's been extremely popular, but a congressionally mandated health package could force me to terminate this benefit. Other employers would have to drop health insurance altogether, or would be forced to pass the higher costs back to employees in lower wages.

We own a parking lot on which we considered building additional dining facilities, but we can't because any expansions or structural changes would require us to comply with exorbitant, excessive regulations created by unfunded mandates. A new restaurant that opened just down the street from me is a good example. In historic Little Italy, every inch available is used and this owner had converted two row houses. Even with the extra house, half of the cocktail area is taken up by a ramp—six stools barely fit at the bar. The "code" sprinkler system cost \$11,000.

The size of the bathroom required that two, four-person tables be eliminated from the dining room. The lost revenue alone from these two tables, turned on an average of twice a night, would pay the yearly salary of an entry-level position.

The Mandates Information Act would not stop necessary, beneficial legislation. Rather, S. 389 would ensure the best legislation possible because Congress would know who ultimately pays for implementing mandates—and how that can best be managed. It would give Congress all relevant information and includes "the teeth" to ensure that data is used to assess long-term economic costs and the burdens to society.

It directs the Congressional Budget Office to prepare a "Consumer, Worker, and Small Business Impact Statement" and allows a member to raise a point of order against new legislation containing unfunded mandates that exceed \$100 million in annual costs to the private sector. Although the point of order can be waived by a simple majority of members, this mechanism is essential because it forces Congress to focus on the impact to businesses, employees and consumers. The CBO statement would include the effect on worker wages, benefits, and employment opportunities, and on the hiring practices, expansion, and profitability of small businesses. Without this information, Congress cannot fully evaluate who truly pays for mandates and how that burden is best distributed.

Though the Unfunded Mandates Reform Act of 1995 (UMRA) established a point of order against any bill that imposed mandates greater than \$50 million a year on state and local governments and required the CBO to provide estimates of costs to the private sector, it did not contain a point of order for major private sector mandates. The Mandates Information Act simply corrects this unfairness by extending unfunded mandates protection to the private sector. Without equal attention, private sector entities are forced to pick up even more of the costs of the flourishing number of federal laws and regulations. Extending these reforms is critical to restoring equality in the legislative process.

For the most effective legislation, Congress needs the information provided in CBO's analyses and the enforcement mechanism to ensure that these details are carefully considered. In previous congressional testimony on the Mandates Information Act, CBO staff commented that their experience would suggest that the point of order would result in greater accountability because

without it, committees "don't seem to care" about the costs to the private sector. In fact, one of the most positive benefits under UMRA is that the mere threat of a point of order being raised has led members to draft better legislation. It has prompted more reasonable, creative solutions at the committee level to provide less burdensome alternatives or phase-ins of mandates to lessen the blow.

Without the Mandates Information Act, the private sector— the small businesses, job creators and taxpayers that fuel our economy—are not treated with the same consideration as state and local governments with respect to proposed unfunded mandates. Sometimes Congress will find these mandates necessary or politically popular, but to not give members all the facts before passage is bad government. If I go out of business as a result, twenty families who depend on me will not be able to put food on their tables. Congress should have every resource before enactment of new mandates to ensure high-quality deliberation and legislation. Small businesses and consumers that have to implement those laws deserve it. I thank those on the Committee who are cosponsors of S. 389 and urge your support to ensure swift passage of this practical, meaningful legislation.

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