

GREATER NORTH DAKOTA CHAMBER
HB 1608
House Industry Business & Labor Committee
Chair Jonathan Warrey
Feb. 5, 2025

Mr. Chairman and members of the Committee, my name is Arik Spencer, the President and CEO of the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **opposition** to House Bill 1608.

GNDC believes the Legislature should defend against regulations and policies that are detrimental to the advancement of North Dakota's economy by opposing regulatory and legislative changes and mandates that would increase business burdens and costs. HB 1608 will increase employer burdens and costs by mandating an employee leave for rest or worship on Sunday or the day of their choosing for a 24-hour period, almost without exception.

Current Employee Protections

- ND Human Rights Act (14-02.4): Employers are required to provide reasonable accommodation for an employee's religious beliefs as long as the accommodation does not:
 - A. Unduly disrupt or interfere with the employer's normal operations;
 - B. Threaten the health or safety of the individual with a disability or others;
 - C. Contradict a business necessity of the employer; or
 - D. Impose undue hardship on the employer, based on the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.

- Fair Labor Standards Act: Limits an employees weekly hours to 40, with hours over that threshold subject to overtime pay, unless the employee has exempt status.

- NDCC 34-06-05.1: States that an employer may not require a retail employee to work seven consecutive days or deny a retail employee at least one period of twenty-four consecutive hours of time off for rest or worship in each seven-day period.

Employers do have an exemption under this section if the employer can demonstrate that providing an employee a day off for worship would constitute an undue hardship on the conduct of the employer's business. However, if the employee requests time off to attend one regular worship service a week, an employer may not require the employee to work during that period unless:

- A. Honoring the employee's request would cause the employer substantial economic burdens or would require the imposition of significant burdens on other employees needed to work in place of the Sabbath observer or
- B. The employer has made a reasonable effort to accommodate the employee's request.



- Groff v DeJoy: In 2023 the US Supreme Court issued a decision that made an employer's ability to deny religious accommodations much harder. Per that decision, employers can only deny religious accommodation requests if they can show substantial additional costs or expenditures. That creates a very hard threshold already for employers to deny a religious accommodation request of an employee.

Issues with HB 1608

HB 1608 greatly expands existing employee protections by requiring one day of rest for all workers regardless of industry or business need, unless in an emergency.

- There is no limit on the number of days a person takes for rest or worship each week, and there is no prohibition on taking multiple days.
- There is no mention of how this required time off would affect collective bargaining agreements already in place.
- It does not include a requirement for notice time or reference the FMLA notice provision of ordinary and customary notice.
- The bill does not define what constitutes an “emergency” or what “reasonably avoided” means.
- HB 1608 ignores the need for 24/7 operations in critical industries such as healthcare, oil and gas, and mining, which must always meet minimum staffing numbers. Many 24/7 operations already employ fatigue and rest management systems for safe operations or use seven-day on – seven-day off schedules, which would be prohibited.
- Further HB 1608 does not consider the needs of small employers, who may not have enough employees available to operate on a regular schedule to comply with the requirements of HB 1608.

GNDNC urges a Do Not Pass recommendation on HB 1608