

\*\*\*This testimony is embargoed until January 26, 2011, at 9:00am\*\*\*



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# Testimony of the U.S. Chamber of Commerce

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**ON:** Health Care Law's Impact on Jobs, Employers, and the Economy

**TO:** House Ways and Means Committee

**FROM:** Scott Womack, President, Womack Restaurants

**DATE:** January 26, 2011

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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.

U.S. Chamber of Commerce, 1615 H St NW, Washington, DC 20062-2000

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.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 71 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business – manufacturing, retailing, services, construction, wholesaling, and finance – numbers more than 10,000 members. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 101 American Chambers of Commerce abroad, an increasing number of members are engaged 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 national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. Currently, some 1,800 business people participate in this process.

**Testimony on  
Health Care Law's Impact on Jobs, Employers, and the Economy**

**THE HOUSE WAYS AND MEANS COMMITTEE**

**on behalf of the**

**U.S. CHAMBER OF COMMERCE (the "Chamber")**

**by**

**Scott Womack**

**President**

**Womack Restaurants**

**January 26, 2011**

Chairman Camp, Ranking Member Levin, members of the Ways and Means Committee, thank you for the invitation to testify at this hearing. My name is Scott Womack, Owner and President of Womack Restaurants, a 12 unit IHOP Franchisee in Indiana and Ohio. I am pleased to be here today to testify on behalf of the U.S. Chamber of Commerce, the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region.

I also come before you today as a 25 year restaurant veteran to represent my company, my industry, and, especially, small businesses and entrepreneurs. My first jobs were as a busboy and cook. After college, I joined the grocery industry, but after 5 years, was fired, and found myself starting over. I was lucky to land a job with IHOP as a manager, and soon, with a \$15,000 loan from my parents, I bought my first IHOP Franchise. After 10 years, I began building IHOP restaurants in Indiana, and in 2006 purchased a development agreement to expand our company into Ohio over the next 10 years. This would mean new jobs for Ohio – not just in my restaurants, but also in construction, real estate, and manufacturing. But, because of the new law, these new jobs will never be created. It looks like those new jobs have all been killed because of the health care law.

The restaurant business is built on a small business model, with profit margins commonly of 5% to 7%. We are the most labor intensive of any industry, ranking dead last in revenue per employee at \$58,000 per employee.<sup>1</sup> Compare this figure to the next closest, Hotels, at \$107,000 per employee, Retail at \$170,000, Banks at \$443,000, and other industries even more per employee. For most industries, the new law results in a marginal cost increase. For restaurants,

providing qualifying coverage to all full time employees is a huge new expense. At \$7,000 per full time employee, this new expense is beyond our ability to pay. I estimate the cost to my company to be 50% greater than our company's earnings. Let me state this bluntly: this law will cost my company more money than we make. And our company is very profitable by industry standards.

The law is one-size-fits-all for employers, and restaurants don't fit. Though some restaurant companies offer coverage now, the cost is prohibitive for many employees, and many of their plans will not qualify in 2014. The only viable alternative is to pay the \$2,000 per employee penalty, which is not tax deductible. A quick study of public restaurant companies shows that many did not earn enough in 2010 to pay the penalties and likely will not survive in the future. For my company, these penalties amount to 60% of our earnings, and again, our company is very profitable by industry standards.

Restaurants are already facing many challenges, including rising commodity prices, rising state and local taxes, higher unemployment taxes, rising energy prices and so on. The recent flood of regulations and looming uncertainty about what Washington D.C. will do next is only compounding these challenges. Restaurants are unable to raise prices in this economy. Our only alternative is to cut costs. This industry is not one with a lot of fat to cut, either. I believe it is the most competitive industry there is. For us, cutting costs means cutting staff and reducing hours worked, and putting more employees into part time status. The job-crushing effects of PPACA will flow downstream and hurt the many small businesses that serve our company.

Additionally, we will be forced to cease new restaurant development and may forfeit the development agreement we invested in. That agreement cost \$360,000. This future development would amount to \$22,000,000 in construction and development spending, and 260 full time restaurant jobs. I would like to also point out that the restaurant equipment industry is a uniquely American manufacturing industry. That industry has already been devastated by the recession.

Furthermore, our lenders, as required by regulators, require us to maintain certain levels of profitability via loan covenants. Our mortgages, leases, and franchise agreements are commonly 15 to 20 years long. We have major obligations that we cannot walk away from in 2014.

The restaurant industry serves an important role in our economy, employing 12.7 million people.<sup>ii</sup> It is a source of first opportunities and second chances. First jobs, first careers, and a first shot at small business ownership. And second chances for people starting over: a forced career change, re-entering society after incarceration, or a second job for those digging out of a financial hole. Stories like mine are born every day.

On a related note, I have serious concerns that I will not be able to continue to offer the coverage I currently offer to my management and office staff, based on "non-discrimination" rules in the new health care law.

Also, the 1099 reporting requirement will be another unnecessary burden to our company. In an effort to make the health care law appear “paid for,” a number of provisions were included that do nothing to improve health care, but make it harder to run a business. The 1099 paperwork mandate is a great example, but do not overlook new restrictions on FSAs and HSAs, taxes on things we buy, taxes on investments, new W-2 reporting requirements, a tax on small businesses’ health insurance, and the new “Cadillac” tax that will eventually hit everyone unless health insurance magically stops getting more expensive.

To summarize, the goal of providing health insurance coverage is noble, but the restaurant industry can’t afford the steep fines and mandates loaded upon us by the health care bill. Paying the penalties will be devastating for most.

The health care law does not include the kinds of solutions that would have made it easier and more affordable to offer health insurance. It did not include meaningful medical liability reform. It did not give me the option to shop for health insurance from companies in other states. It did not improve consumerism – in fact, it threatens HSAs, which my company just implemented. Making common sense, cost control a priority should have been first on the agenda.

To that end, Congress should repeal the health care law. If that cannot be achieved, I urge you to address some of the major problems with PPACA. This bill is a ticking time bomb that will devastate my industry unless significant changes are made.

Therefore I am asking you to introduce and pass legislation that would repeal PPACA’s employer mandate. This must be just as urgent as developing the solutions called for in H. Res. 9. Members of the Committee, the U.S. Chamber of Commerce stands ready to help you pass it, and with the support of members like me and small businesses everywhere. In closing, I thank the members of this Committee for the opportunity to testify today, and look forward to working with you in the future not only to fix the problems created by the health care law, but to do the work PPACA failed to do, by implementing real, market-driven reforms that increase competition and make health insurance more affordable.

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<sup>1</sup> CNN/Money’s Fortune 500 Report, 2009

<sup>ii</sup> National Restaurant Association