State of Rhode Island and Providence Plantations
State House
Providence, Rhode Island 02903-1196
401-222-2080

Donald L. Carcieri
Governor

November 11, 2009

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the Rhode Island General Laws, I transmit, with my disapproval, 2009 H 6057, "An Act Relating to Labor and Labor Relations – Overtime Calculation."

This act would require employers who pay their delivery drivers or sales merchandisers an overtime rate of compensation for all hours worked in excess of forty (40) hours in any one week and would prohibit them from using the Fluctuating Workweek ("FWW") method to calculate the overtime.

The FWW method of paying overtime is allowed under federal law, has been used by employers both large and small for decades and, in many instances, was agreed to through collective bargaining. In essence, this method allows a company to pay its delivery workers a base salary plus a commission calculated on a percentage of actual sales along a designated route. This federally approved method allows employers to reward productive employees and provides some income protection for employees by guaranteeing them a base salary, even if he or she works less than forty (40) hours in a given week. It is unclear what precipitated the so-called and sudden need to change this longstanding and fair practice.

My other concern with this legislation is its effective date. The legislation would take effect immediately upon passage. In other words, employers, who for decades structured their affairs around a lawful and equitable system, would endure a myriad of operational and administrative hurdles and incur significant unplanned expenses. At a time of double-digit unemployment, this unfair, unnecessary and arbitrary burden and expense on employers will inevitably be borne in some manner by its employees and ultimately consumers.

For these reasons, I disapprove of this legislation and respectfully urge your support of this veto.

Sincerely,

Donald L. Carcieri
Governor