

Fact Sheet:

New York City Fair Work Week Legislation for Fast Food & Retail Workers

On May 24, 2017, the New York City Council enacted a package of Fair Work Week bills* to address abusive scheduling practices in two industries that commonly use “just-in-time,” “call-in,” and “on-call” scheduling and fail to give workers advance notice of their schedules—fast food and retail. Beginning on **November 26, 2017**, New York City workers in these industries will have a variety of new protections with respect to scheduling.

Fast Food Workers

The below protections apply to hourly workers who perform customer service, cooking, food or drink preparation, delivery, security, stocking, **or** cleaning/routine maintenance in an establishment that (a) primarily serves food or drink; (b) has patrons order and pay before eating; (c) is part of a chain; **and** (d) operates 30 or more establishments.

➤ Advance Notice Requirements & Schedule Change Premiums

○ Initial Notice for New Hires

- With first schedule, workers must receive a good faith estimate in writing of:
 - Expected duration of employment
 - Expected number of hours of work per week
 - Expected location, dates, and times of those hours
- Any changes must be updated as soon as possible.

○ Notice of All Future Work Schedules

- Workers must receive all future work schedules at least 14 days in advance.
- Schedules must be posted *and* given to each worker.

○ Changes to Work Schedules

- Schedules must be revised and redistributed to workers within 24 hours of the employer’s knowledge of a change, or as soon as practicable if the change is effective within 24 hours.
- Workers may decline to work any hours not in the original schedule.
- Employers must obtain written consent from workers who choose to work any hours not in the original schedule.
- **Schedule Change Premiums:** Workers must receive additional pay for schedule changes made after 14 days:
 - If at least 7 days’ notice, \$10 for each added shift or change in start or stop time
 - If at least 7 days’ notice, \$20 for any cancellation or shortening of the shift
 - If less than 7 days’ notice, \$15 for each added shift or change in stop or start time
 - If less than 7 days’ notice but at least 24 hours’ notice, \$45 for each cancellation or shortening of a shift
 - If less than 24 hours’ notice, \$75 for cancellation or shortening of shift

Exceptions: No schedule change premiums are required for schedule changes due to threats to employees or the employer’s property; failure of public utility or transit; fire, flood, or other natural disaster; state of emergency declared by public official; severe weather emergency threatening employee safety; employee request in writing for schedule change; or voluntary exchange of shifts between employees.

➤ “Clopensing”

- Workers cannot be required to work two shifts with fewer than 11 hours between the end of the first shift and the beginning of second shift if the first shift ends on the previous calendar day or spans two calendar days (“clopening”).
- Employers must obtain written consent from workers who choose to work a “clopening.”
- Workers who consent to working a “clopening” must be paid an additional \$100.

➤ **Access to Hours**

- Before hiring new workers, employers must offer new shifts to current workers who work at any of the employer’s locations.
- Employers must post available shifts for three days unless there is a more immediate need for the work to be performed.
- Available shifts must be given first to workers at the location where the extra shifts are available, and next to workers at other locations. If no current workers want those shifts, then the employer can hire new workers to fill them.

Retail Workers

The below protections apply to workers employed by any employer with 20 or more employees in a business whose primary purpose is sale of consumer goods (products for personal, household, or family purposes such as appliances, clothing, electronics, groceries).

➤ **Advance Notice Requirements**

- Workers must receive schedules at least 72 hours before the first shift on the schedule.
- All schedules must be posted at the work location and updated if changed.
- Workers must also receive written copies of their work schedule.

➤ **“On-Call” Scheduling Ban**

- Employers CANNOT:
 - Schedule a worker for an on-call shift, defined as a time period when the worker is required to be available for work regardless of whether the worker is actually required to work;
 - Cancel a shift within 24 hours of the start of that shift;
 - Require a worker to work with less than 72 hours’ notice unless the worker consents in writing; or
 - Require a worker to contact the employer to confirm whether or not s/he should report to work fewer than 72 hours before the start of the shift.

➤ **Exceptions**

- These protections do not apply to retail workers covered by a valid collective bargaining agreement that expressly waives these protections and includes a provision on scheduling.
- Employers can make schedule changes with less than 72 hours’ notice in the event of threats to employees or the employer’s property; failure of public utilities or transit; a state of emergency declared by the president, the governor, or the mayor; or a fire, flood, or other natural disaster.

Workers who believe their rights have been violated can file a complaint with the New York City Office of Labor Policy & Standards. Retaliating against workers who assert their rights is against the law.

* The Fair Work Week package consists of five separate bills (Intro 1384, Intro 1387, Intro 1388, Intro 1395 & Intro 1396) that add two new chapters, Chapters 11 and 12, to Title 20 of the New York City Administrative Code.