

Workers across the income spectrum are struggling to care for their families while holding jobs that demand around-the-clock availability. For workers in many industries, particularly hourly workers, **unpredictable hours and overly rigid, inflexible schedules are widespread issues. Ensuring workers have fair, predictable schedules is a matter of gender, racial, and economic justice.** Women and caregivers, and disproportionately women of color, are more likely to feel the negative impacts of unfair and inflexible scheduling practices and the challenges of balancing the competing demands of work and care. Overall, unpredictable fluctuations in work schedules and income make it extremely difficult to hold a second job, pursue higher education, or provide quality child care, among other responsibilities. **Workers, their families, and their communities deserve better than what unfair and inflexible scheduling practices offer.**

Several states and localities have enacted laws that help ensure that workers have access to schedules that work for them, which benefit workers, their health, and their families.

### FAIR WORKWEEK LAWS GUARANTEE WORKERS RECEIVE FAIR SCHEDULES

Fair workweek laws provide protections to workers to address abusive scheduling practices.

Fair workweek laws give workers fair and flexible work by providing:

- predictable schedules;
- more opportunities for existing employees to work;
- healthy schedules that allow for time to sleep, commute, and care for oneself; and
- flexibility to care for one's family without retaliation.<sup>1</sup>

### A GUIDE TO EXISTING FAIR WORKWEEK LAWS

A number of states and localities have fair workweek laws or regulations in place. These laws and regulations vary both in the scope of their protections and in the number and type of employees to whom they apply. This fact sheet details these existing laws and regulations. Existing fair workweek laws passed by cities and states have already benefited over 2.2. million workers.<sup>2</sup>

Fair workweek laws or regulations currently exist in ten states and eight cities.

States	Cities
<ul style="list-style-type: none"><li>● California</li><li>● Connecticut</li><li>● Massachusetts</li><li>● New Hampshire</li><li>● New Jersey</li><li>● New York</li><li>● Oregon</li><li>● Rhode Island</li><li>● Vermont</li><li>● Washington, D.C.</li></ul>	<ul style="list-style-type: none"><li>● Chicago, Illinois</li><li>● Emeryville, California</li><li>● San Francisco, California</li><li>● San Jose, California</li><li>● SeaTac, Washington</li><li>● Seattle, Washington</li><li>● New York, New York</li><li>● Philadelphia, Pennsylvania</li></ul>

### STATES

#### CALIFORNIA

*Cal. Code Regs. tit. 8 § 11040*

**Eligibility:** Nonexempt<sup>3</sup> employees.<sup>4</sup>

This law requires applicable employers to provide employees with:

- **Reporting Pay: Compensation** for employees who are required to report to work and are not given sufficient work to perform.<sup>5</sup>
  - Each workday an employee is required to report for work, but is **not put to work** or is given **less than half** the employee's usual or scheduled day's work, the **employee must be paid for half the usual or scheduled day's work** (a minimum of 2 hours, and maximum of 4 hours), at the employee's regular rate of pay,<sup>6</sup> subject to limited exceptions.
  - If an employee is required to report for work a **second time** in any one workday and is furnished **less than 2 hours of work** on the second reporting, **the employee must be paid for 2 hours** at the employee's regular rate of pay, subject to limited exceptions.
- **Split-Shift Pay: One hour's pay at the minimum wage** must be paid in addition to the minimum wage for that workday when an employee works a split shift (a work schedule which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal period), except when the employee resides at the place of employment.<sup>7</sup>

#### CONNECTICUT

*Conn. Agencies Regs. § 31-62-D2(d)*

**Eligibility:** Nonexempt employees in the mercantile trades.<sup>8</sup>

These regulations require that applicable employers provide eligible employees with:

- **Reporting Pay: Compensation** for employees who are required to report to work and are not given sufficient work to perform.<sup>9</sup> Employers must provide employees with:
  - **At least four hours at their regular rate of pay** for any day on which the employee, at the employer's request or permission, reports to work, whether or not the employee is assigned to actually work.
    - **Except:** if the employee is *regularly scheduled* to work for less than 4 hours, by written mutual agreement, this provision may be waived -- as long as the employee earns **at least twice the applicable minimum wage per day**.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>10</sup>

*Conn. Agencies Regs. § 31-62-E1*

**Eligibility:** Nonexempt restaurant and hotel restaurant employees.<sup>11</sup>

These regulations require that applicable employers provide eligible employees with:

- **Reporting Pay: Compensation** for employees who are required to report to work and are not given sufficient work to perform.<sup>12</sup> Employers must provide employees with:

- **At least twice the applicable minimum wage** for any day on which the employee regularly reports to work, unless given notice to the contrary the previous day, or is called into work, if the employee is willing and able to work for 2 hours, whether or not the employee is actually assigned to work.<sup>13</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>14</sup>

## MASSACHUSETTS

*454 Mass. Code Regs. 27.04*

**Eligibility:** All nonexempt employees, except those employed by a charitable organization.<sup>15</sup>

These regulations require that applicable employers provide eligible employees with:

- **Reporting Pay: Compensation** for employees who are required to report to work and are not given sufficient work to perform. Employers must provide employees with:
  - **At least three times the minimum wage** for any day on which an employee who is scheduled to work 3 or more hours reports to work at the time set by the employer and is not provided with the expected hours of work.<sup>16</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>17</sup>

## NEW HAMPSHIRE

*N.H. Rev. Stat. Ann. § 275:37-b*

**Eligibility:** Most employees in New Hampshire, with some exceptions (exceptions include those engaged in domestic service in their employer's home, agricultural workers, temp workers, and seasonal workers).<sup>18</sup>

This law requires that employers provide eligible employees with:

- **Right to Request Schedule Changes:** An employee has the **right to request** a flexible schedule without retaliation. The employer does not have to grant this request.<sup>19</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>20</sup>

*N.H. Rev. Stat. Ann. § 275:43-a*

**Eligibility:** Most nonexempt employees in New Hampshire, except those engaged in domestic service in their employer's home; farm employees on a farm with less than five employees; employees of a county or municipality; and ski instructors who receive other compensation equal to their regular rate of pay.<sup>21</sup>

This law requires that employers provide eligible employees with:

- **Reporting Pay: Compensation** for employees who are required or permitted to report to work and are not given sufficient work to perform, with some exceptions. Employers must provide employees with:
  - **At least two hours' pay at the employee's regular rate of pay** for any day on which the employee reports to work at the employer's request. If the employer makes a good faith effort to notify the employee that they shouldn't report to work, they do not have to pay.<sup>22</sup>

### NEW JERSEY

*N.J. Admin Code § 12:56-5.5*

**Eligibility:** Nonexempt employees.<sup>23</sup>

These regulations require that applicable employers provide eligible employees with:

- **Reporting Pay: Compensation** for employees who are required to report to work and are not given sufficient work to perform. Employers must provide employees with:
  - **At least one hours' pay at the employee's applicable wage rate** for any day on which the employee reports to work at the employer's request,<sup>24</sup> *unless* the employer has already provided the employee with the minimum number of hours of work agreed upon by the employer and employee before work began on the day in question.<sup>25</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>26</sup>

### NEW YORK

*N.Y. Comp. Codes R. & Regs., tit. 12, §§ 142 & 146*

**Eligibility:** Nonexempt employees (with some exceptions, including farm workers, hospitality workers, building service industry, and nonprofits who are covered under separate wage orders in New York). A separate wage order applies to employees in the hospitality industry and also includes call-in pay and spread-of-hours pay requirements.<sup>27</sup>

These regulations require that applicable employers provide eligible employees with:

- **Reporting Pay**, which includes **call-in pay** and **split-shift or spread-of-hours pay**.
- **Call-in Pay:** If an employee reports to work (at the request or permission of the employer), the general rule is that the employer must pay the employee at least four hours of pay (or pay for the worker's shift, whichever is less) at the minimum wage even if the employer does not then assign the employee work or sends them home.<sup>28</sup>
  - **Hospitality workers** must be paid at least 3 hours for one shift, 6 hours for two shifts totaling 6 hours or less, 8 hours for three shifts totally 8 hours or less, unless their regularly scheduled shift is for fewer hours.<sup>29</sup>
    - A shift is only considered a "regularly scheduled shift" if it is the same time and day each week. Pay is for the normal wage minus tip credit for hours worked and the normal wage or full minimum wage with no tip credit subtracted for hours not worked.
- **Split-Shift and Spread-of-Hours Pay: One additional hour of pay** at minimum wage for any day where there is a **split shift** (a schedule in which the daily hours permitted or required are not consecutive) **or** the **spread of hours** for the day exceeds 10 hours because of a gap in shifts **or** both.<sup>30</sup>
  - In the hospitality industry, employees in **restaurants and all-year hotels** are entitled to **one additional hour of pay** at minimum wage when there is a spread of hours greater than 10, no matter their regular pay rate. The additional hour cannot be offset by any credits for meals or lodging provided to the employee.<sup>31</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>32</sup>

### OREGON

*Or. Rev. Stat. §§ 653.412 et seq.*

**Eligibility:** Hourly employees working in **retail, hospitality, and food service establishments, including chains**, that have **over 500 employees worldwide**.<sup>33</sup>

This law requires that applicable employers provide eligible employees with:

- **Initial Estimate of Hours:** Upon hire, an employer must provide a **good faith estimate** of the median number of hours the employee can expect to work per month.<sup>34</sup>
- **Advance Notice of Schedule:** 14 days **advance notice** of schedules.<sup>35</sup>
- **Right to Rest:** Right to **decline shifts with less than 10 hours between them** and right to **1.5x pay** if the shift is accepted.<sup>36</sup>
- **Right to Request Schedule Changes:** **Right to provide input into work schedules** based on an employee's availability and limitations, **and right to request** changes to work schedules, including not to be scheduled for work shifts during certain times or at certain locations, without retaliation, though the employer is not obligated to grant an employee's schedule request.<sup>37</sup>
- **Predictability Pay: Compensation** for employees who are subject to employer-initiated schedule changes with less than the required notice, with some exceptions.<sup>38</sup> Employers must provide employees with:
  - **One hour of pay at the employee's regular rate of pay**, in addition to wages earned when the employer:
    - **Adds more than 30 minutes** of work to the employee's work shift,
    - **Changes the date or start or end time** of the employee's work shift with no loss of hours, or
    - Schedules an **additional work shift or on-call shift**.
  - **One-half times the employee's regular rate of pay** per hour for each scheduled hour that the employee does not work when the employer:
    - **Subtracts hours** from the employee's work shift before or after the employee reports for duty,
    - **Changes the date or start or end time** of the employee's work shift, resulting in a loss of work shift hours,
    - **Cancels the employee's work shift**, or
    - **Does not ask the employee to perform work** when the employee is scheduled for an **on-call shift**.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>39</sup>

### RHODE ISLAND

*28 R.I. Gen. Laws § 28-12-3.2*

**Eligibility:** Most nonexempt employees in the state, with some exceptions (exceptions include federal government employees, individuals employed in domestic service in a private home, and most students at a college or university who are also employed at that college or university).<sup>40</sup>

This law requires that employers provide eligible employees with:

- **Reporting Pay: Compensation** for employees who are required or permitted to report to work and are not given sufficient work to perform, with some exceptions.<sup>41</sup> Employers must provide employees with:

- **Three times the employee's regular hourly rate** when the employer requires or permits an employee to report to work and does not provide at least 3 hours of work on that shift (or, for a shift of less than 3 hours, the amount the employee would have earned for that shift).

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>42</sup>

## VERMONT

*21 Vt. St. Ann. § 309*

**Eligibility:** The law applies to all employees whose employer, including state and local government agencies, have one or more individuals performing services for it within the state.<sup>43</sup>

This law requires applicable employers to provide employees with:

- **Right to Request Schedule Changes:** During employment, an employee has the **right to request a modified work schedule**—including, but not limited to, changes in the number of days or hours worked, changes in the time the employee arrives at or departs from work, work from home, or job-sharing—**at least twice per calendar year.**<sup>44</sup>
  - The employer is required to discuss the request for a flexible working arrangement with the employee in **good faith**, and to consider whether the request can be granted in a manner that is not inconsistent with its business operations or other obligations.<sup>45</sup> If the request was submitted in writing, the employer must provide any denial of the request in writing.<sup>46</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>47</sup>

## WASHINGTON, D.C.

*D.C. Mun. Reg. tit. 7 §§ 906, 907*

**Eligibility:** Most nonexempt employees.<sup>48</sup>

These regulations require applicable employers to provide eligible employees with:

- **Reporting Pay: Compensation** for employees who are required or permitted to report to work and are not given sufficient work to perform, with some exceptions.<sup>49</sup> Employers must provide employees with:
  - **Four times the minimum wage rate** when an employee reports to work under general or specific instructions and the employer does not provide any work for them to perform.
  - Payment at the employee's regular rate of pay for hours worked, plus **the minimum wage rate** for hours *not* worked, when an employee reports to work and the employer provides less than 4 hours of work for them to perform—unless the employee is regularly scheduled to work less than 4 hours.
- **Split-shift Pay: One hour of pay at the minimum wage rate**, in addition to wages earned, for each day during which the employee works a split shift.
  - A **split shift** is a schedule in which the daily hours worked are nonconsecutive (except that a shift in which the total time out for meals is one hour or less is not a split shift).<sup>50</sup>
  - This provision does not apply to an employee who lives on the premises of the employer.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>51</sup>

### CITIES

#### CHICAGO, ILLINOIS

*Chicago Mun. Code Tit. 1 Ch. 1-25*

**Eligibility:** The law applies to “covered employees” of “covered employers” in a “covered industry.” This means the law only applies to certain types of employees who work for large employers in specific industries.

- **Covered employees:** Any employee who: 1) is an employee (not contractor) or temp worker assigned to the employer for 420 hours within an 18-month period; 2) spends the majority of their time working for the employer physically in Chicago; 3) performs the majority of their work in a covered industry (see below) for the employer; and 4) earns \$50,000 or less per year if a salaried employee or \$26 per hour or less as an hourly employee, with some limited exceptions. These wage thresholds are subject to change every year.<sup>52</sup>
- **Covered employers:** Employs 1) 100 or more employees globally (250 or more for nonprofits); 2) has 50 employees who are covered employees (see above); and 3) is primarily engaged in a covered industry (see below).<sup>53</sup>
- **Covered industries:** Building services; healthcare; hotels; manufacturing; restaurants; retail; warehouse services.<sup>54</sup>

This law requires employers to provide their employees with:

- **Initial Estimate of Schedule:** A **good faith estimate** of weekly hours of work, time on-call, and periods in which the employee can expect to work and not work on or before work begins. The estimate must cover the first 90 days of employment.<sup>55</sup>
- **Advanced Notice of Schedule:** 10 days **advance notice** of schedules; two weeks’ notice of schedules beginning in July 2022.
  - Employees who are not given sufficient notice have a **right to decline** any previously unscheduled hours that their employer adds to their schedule, subject to certain exceptions.<sup>56</sup>
  - This does not apply to employees who self-schedule or work at a venue that regularly holds ticketed events.
  - **Survivors of domestic or sexual violence**, or who have a family member or household member who is a survivor, **may request that their schedule not be posted or transmitted to other employees** and the employer must implement that request immediately upon oral or written notice (the employer may require a written statement as documentation, but an oral request is sufficient until a written statement is received).<sup>57</sup>
- **Right to Rest:** Right to **decline shifts with less than 10 hours between them** and right to **1.25x pay** if the shift is accepted.<sup>58</sup>
- **Right to Request Schedule Changes:** During employment, an employee has the **right to request a modified work schedule**—including, but not limited to, part-time employment, changes in days or shifts worked, and additional shifts or hours.<sup>59</sup> Prior to the start of employment, an employee may request modifications to the projected days and hours of work an employer has provided and the employer shall respond in writing within three days.<sup>60</sup>
- **Access to Hours:** When an employer has additional shifts to fill, the **employer must first offer them to qualified existing covered employees** (up to the overtime limit). Only if existing employees decline the shifts shall they be offered to temporary or seasonal employees. Whenever practicable, the employer will offer the shifts to part-time covered employees first.<sup>61</sup>
- **Predictability Pay: Compensation** for employees who are subject to employer-initiated schedule changes with less than the requisite notice, unless the employee requests the change, or in certain other circumstances.<sup>62</sup> Employers must provide employees with:

- **One hour of pay at the employee's regular rate of pay**, in addition to wages earned, for each shift in which the employer:
  - **Adds hours** of work to the employee's work shift,
  - **Changes the date or time** of the employee's work shift with no loss of hours, or
  - **Cancels or subtracts hours** from a regular or on-call shift with more than 24 hours' notice.
- **No less than 50 percent of the employee's regular rate of pay** for any scheduled hours in which the employer:
  - **Subtracts hours** from a regular or on-call shift, with less than 24 hours' notice, or
  - **Cancels a regular or on-call shift**, including while the employee is working on a shift.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>63</sup>

## EMERYVILLE, CALIFORNIA

*Emeryville Mun. Code Tit. 5 Ch. 39*

**Eligibility:** Nonexempt employees who work for two or more hours per week within the geographic boundaries of Emeryville for either 1) a **fast food firm** with 56 or more employees globally and 20 or more employees in Emeryville, or 2) a **retail firm** with 56 or more employees globally.<sup>64</sup>

The law requires applicable employers to provide eligible employees with:

- **Initial Estimate of Schedule:** A **good faith estimate** of the employee's work schedule.<sup>65</sup>
- **Advanced Notice of Schedule:** 14 days **advance notice** of schedules. For new employees, the employer shall provide an initial work schedule that runs through the date that the next biweekly schedule for existing employees is scheduled to be posted or distributed.<sup>66</sup>
  - Employees who are not given sufficient notice have a **right to decline** any previously unscheduled hours that their employer adds to their schedule, subject to certain exceptions.<sup>67</sup>
- **Right to Rest:** Right to **decline shifts with less than 11 hours between them**, and right to **1.5x pay** if accepted.<sup>68</sup>
- **Right to Request Schedule Changes:** During employment, an employee has the right to request a modified work schedule—including, but not limited to, part-time employment, changes in days or shifts worked, and additional shifts or hours.<sup>69</sup> Prior to the start of employment, an employee may request modifications to the projected days and hours of work an employer has provided, and the employer must respond in writing before the employee begins work.<sup>70</sup>
- **Access to Hours:** When an employer has additional hours of work available, the **employer must offer them to existing qualified part-time employees before hiring new employees** or contractors (including new temp or seasonal employees).
  - Employers are only required to offer part-time employees the number of hours that would give them 35 hours of work in a given calendar week.
  - The part-time employee is not required to accept an offer of additional work, but, if the employee does accept, must do so within 72 hours (for an offer of additional work spanning more than two weeks) or 24 hours (for an offer of additional work spanning two weeks or less).<sup>71</sup>
- **Predictability Pay: Compensation** for employees who are subject to employer-initiated schedule changes with less than the required notice, unless the employee requests the change, or in certain other circumstances.<sup>72</sup> Employers must provide employees with:
  - **One hour of pay at the employee's regular rate of pay**, in addition to wages earned, for each shift in which the employer:
    - **Adds or subtracts hours** to a scheduled shift, with less than 14 but more than 24 hours' notice;



- **Moves a scheduled shift** to another date or time, with less than 14 but more than 24 hours' notice;
- **Cancels a scheduled shift**, with less than 14 but more than 24 hours' notice;
- **Adds a previously unscheduled shift**, with less than 14 but more than 24 hours' notice; or
- **Makes changes other than those described below** with less than 24 hours' notice.
- **Four hours of pay, or pay for the number of hours in the employee's scheduled shift**, whichever is less, for each shift in which the employer:
  - **Cancels or subtracts hours**, with less than 24 hours' notice.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>73</sup>

## SAN FRANCISCO, CALIFORNIA

*San Francisco Police Code § 3300F.3 & Art. 33G*

**Eligibility:** Nonexempt employees who are scheduled to work an on-call shift of at least **two hours in a given calendar week** within the geographic boundaries of San Francisco for a **retail employer who has 20 or more employees in the city and 40 or more retail sales locations worldwide**.<sup>74</sup>

This law requires applicable employers to provide eligible employees with:

- **Initial Estimate of Schedule:** Prior to the start of employment, the employer must provide a **good faith estimate** of the expected minimum number of scheduled shifts per month, and the days and hours of those shifts, including on-call shifts.<sup>75</sup>
- **Advanced Notice of Schedule:** 14 days **advance notice** of schedules. For new employees, the employer must provide an initial work schedule that runs through the date that the next biweekly schedule for existing employees is scheduled to be posted or distributed.<sup>76</sup>
- **Right to Request Schedule Changes:** Employees have the **right to request** a modification to the initial estimate of their schedule provided by the employer prior to the start of employment. The employer must respond prior to the start of employment.<sup>77</sup>
- **Access to Hours:** When an employer has additional hours of work available, the employer must **offer them to existing qualified part-time employees before hiring new employees** or contractors (including new temp or seasonal employees), as long as the additional work is the same or a similar type of work the part-time employee does for the employer.
  - Employers are only required to offer part-time employees the number of hours that would give them 35 hours of work in a given calendar week.
  - The part-time employee is not required to accept an offer of additional work, but, if the employee does accept, must do so in writing within 72 hours.<sup>78</sup>
- **Predictability Pay: Compensation** for employees who are subject to employer-initiated schedule changes with less than the required notice, unless the employee requests the change, or in certain other circumstances.<sup>79</sup> Employers must provide employees with:
  - **One hour of pay at the employee's regular rate of pay**, in addition to wages earned, for each shift in which the employer:
    1. **Moves a scheduled shift** to a new date or time with less than 7 days' notice but 24 hours or more notice, or
    2. **Cancels a scheduled shift** with less than 7 days' notice but 24 hours or more notice, or
    3. **Adds a previously unscheduled shift** with less than 7 days' notice but 24 hours or more notice.
  - **Two hours of pay at the employee's regular rate of pay**, in addition to wages earned, for each shift in which the employer:

1. **Moves a scheduled shift** to a new date or time with less than 24 hours' notice for a shift of 4 hours or less,
  2. **Cancels a scheduled shift** with less than 24 hours' notice for a shift of 4 hours or less, or
  3. **Adds a previously unscheduled shift** with less than 24 hours' notice for a shift of 4 hours or less.
- **Four hours of pay at the employee's regular rate of pay**, in addition to wages earned, for each shift in which the employer:
    1. **Moves a scheduled shift** to a new date or time with less than 24 hours' notice for a shift of more than 4 hours,
    2. **Cancels a scheduled shift** with less than 24 hours' notice for a shift of more than 4 hours, or
    3. **Adds a previously unscheduled shift** with less than 24 hours' notice for a shift of more than 4 hours.
  - **On-Call Pay: Compensation** for employees who are scheduled for on-call shifts during which they are required to be available but not called to work, with certain exceptions.<sup>80</sup> Employers must provide employees with:
    - **Two hours of pay at the employee's regular rate of pay** for each on-call shift of 4 hours or less;
    - **Four hours of pay at the employee's regular rate of pay** for each on-call shift of more than 4 hours.
    - If an employee scheduled for an on-call shift is in fact called to work, the predictability pay rules apply as described above and this section do not apply.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>81</sup>

## SAN JOSE, CALIFORNIA

*San Jose Mun. Code § 4.101*

**Eligibility:** Nonexempt employees who perform at least **two hours of work** for an **employer with more than 35 employees**. Note that for chain businesses, the number of employees is determined by the number of employees at all chain locations, whether or not located in San Jose.<sup>82</sup>

This law requires applicable employers to provide eligible employees with:

- **Access to Hours:** When an employer has additional hours of work available, the **employer must offer them to existing qualified employees before hiring new employees** or subcontractors (including new temp workers). An employer is not required to offer additional hours to existing employees if the employer would be required to pay the employee at a premium rate.<sup>83</sup> There is a possible exemption when complying with this requirement would create a hardship for the employer.<sup>84</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>85</sup>

### SEATAC, WASHINGTON

*SeaTac Mun. Code § 7.45.030*

**Eligibility: Non-managerial, non-supervisory employees** of 1) any **hotel** with 100 or more guest rooms and 30 or more workers; 2) an institutional **food service or retail** operation with 10 or more non-managerial, non-supervisory employees; 3) a **transportation employer** (including curbside passenger check-in services, baggage check services, baggage handling, and more; full list available [here](#)); or 4) a **rental car service** (with more than 100 cars), **shuttle service** (with more than 10 vans or busses), or **parking lot management** (with more than 100 parking spaces), with 25 or more non-managerial, non-supervisory employees.<sup>86</sup>

This law requires applicable employers to provide eligible employees with:

- **Access to Hours:** When an employer has additional hours of work available in job positions held by existing workers, the **employer must offer them to existing qualified part-time employees before hiring additional part-time or temporary employees.**<sup>87</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>88</sup>

### SEATTLE, WASHINGTON

*Seattle Mun. Code Tit. 14 Ch. 22*

**Eligibility:** Nonexempt employees who work at least 50% of the time at a physical location within the geographic bounds of Seattle for an employer who is either:

- A **retail establishment** that employs **500 or more employees** worldwide; or
- A **food service establishment** that employs **500 or more employees** worldwide—and, if a full-service restaurant, must also have at least 40 full-service restaurants worldwide.<sup>89</sup>

This law requires applicable employers to provide eligible employees with:

- **Initial Estimate of Schedule:**
  - For **new employees**, the employer must provide a **good faith estimate** of the employee's work schedule at the time of hire, including the median number of hours the employee can expect to work each week and whether the employee can expect to work on-call shifts.
  - For **existing employees**, the employer must revise the **good faith estimate** once per year and when there are significant changes to the employee's schedule based on changes in the employee's availability or the business's needs.
  - The employer must initiate an **interactive process** (basically, a conversation focused on coming to a mutually-beneficial agreement, potentially including discussion of alternatives) to discuss any significant changes from the good faith estimate and, if applicable, must state the bona fide business reason for the change.<sup>90</sup>
- **Advanced Notice of Schedule:** 14 days **advance notice** of schedules. For new employees and employees returning after a leave of absence, the employer must provide an initial work schedule that runs through the last date of the currently-posted schedule.<sup>91</sup>
  - Employees who are not given sufficient notice have a **right to decline** any previously unscheduled hours that their employer adds to their schedule.<sup>92</sup>
- **Right to Rest:** Right to decline **shifts with less than 10 hours between them** and right to **1.5x pay** if accepted, unless the work hours are considered a "split shift" subject to defined rules.<sup>93</sup>
- **Right to Request Schedule Changes:** At the time of hire and during employment, an employee may identify limitations or changes to their availability. The employee has the **right to request** not to be

scheduled to work at certain times or locations, and has the right to express preferred hours and work locations.<sup>94</sup>

- **If the request is due to a major life event:**
  1. The employer must engage in an **interactive process** with the employee and **must grant the request** unless the employer has a **bona fide business reason** for denying it.
  2. The employer may require verification of the major life event.
  3. A **major life event** is an event that impacts the employee's access to the workplace due to changes in transportation or housing; the employee's own serious health condition; the employee's responsibilities as a caregiver; the employee's enrollment in a career-related educational or training program; or another job.<sup>95</sup>
- **If the request is not due to a major life event:**
  1. The employer must engage in an **interactive process** with the employee and **may grant or deny the request** for any lawful reason.
- **Right Not to Find Coverage:** When an employee requests a schedule change for a reason covered by local, state, or federal law, or due to a major life event, and the employee complies with the employer's notice requirements, **the employer may not require the employee to find a replacement** employee for scheduled hours the employee is unable to work. The employer may require the employee to find a replacement employee if a change is requested for another reason.<sup>96</sup>
- **Access to Hours:** When an employer has additional hours of work available, **the employer must offer them to existing qualified employees** when the hours become available at the employees' place of work (up to the overtime limit) before hiring new employees or contractors (including new temp workers).
  - When such work is available, the employer must post a written notice offering additional hours for at least 3 consecutive calendar days;
  - If a qualified existing employee responds, the employer must offer them the additional hours; and
  - The employee has 2 calendar days from the offer to accept.
  - Some exceptions may apply.<sup>97</sup>
- **Predictability Pay: Compensation** for employees who are subject to employer-initiated schedule changes with less than the required notice, unless the employee requests the change, or in certain other circumstances.<sup>98</sup> Employers must provide employees with:
  - **One hour of pay at the employee's regular rate of pay**, in addition to wages earned, for each shift in which the employer:
    1. **Adds hours of work;** or
    2. **Changes the date or start or end time** of a scheduled shift with no loss of hours.
  - **No less than 50 percent of the employee's regular rate of pay** for any scheduled hours in which the employee does not work because the employer:
    1. **Subtracts hours** from a regularly scheduled work shift;
    2. **Changes the date or start or end time** of a scheduled shift, resulting in a loss of hours;
    3.  **Cancels a work shift;** or
    4. **Schedules the employee for an on-call shift for which the employee does not need to report for work.**

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>99</sup>

### NEW YORK, NEW YORK

*New York City Admin. Code Tit. 20 Ch. 12*

New York City's flexible workweek laws have three components, applicable to different groups of employees. Each component is discussed separately below.

#### **Fast Food Employees**

**Eligibility:** Hourly employees of fast food chains with 30 or more establishments nationally working in New York City.<sup>100</sup>

This law requires applicable employers to provide eligible employees with:

- **Initial Estimate of Schedule:** Upon or before receipt of their first work schedule, an employer must provide a fast food employee with a copy of their regular schedule, including the **number of hours they can expect to work per week** and the **expected days, times, and locations** of those hours.<sup>101</sup>
- **Advanced Notice of Schedule:** 14 days **advance notice** of schedules.<sup>102</sup>
  - Employees who are not given sufficient notice have a **right to decline** any previously unscheduled hours or shifts that their employer adds to their schedule.
- **Right to Rest:** Right to **decline shifts with less than 11 hours between them**. For any such shift that a fast food employee works, the fast food employer shall pay them \$100.<sup>103</sup>
- **Access to Hours:**
  - A **fast food employer** cannot reduce a fast food employee's hours by more than 15% of the highest total hours in the employee's regular schedule during the last 12 months without the employee's consent, unless there is just cause or a bona fide economic reason, with certain exceptions.<sup>104</sup>
  - When a **fast food employer** has additional shifts available, the employer shall, in order:
    1. Make reasonable efforts to **reinstate or restore hours** to any fast food employees discharged for a bona fide business reason in the last 12 months;
    2. Offer them to fast food employees **at all of the employer's locations**, distributing them first to any employees who accept the offer who are employed at the location of the additional shifts; and
    3. If no employees at the location of the additional shifts accept the offer within three days (or less time, if three days is impractical in the circumstances), the employer must distribute the shifts to any employees from other locations who have accepted the offer, and then may proceed to hire new employees.
- An employer is not required to offer additional hours to existing employees if the employer would be required to pay the employee at a premium rate.<sup>105</sup>
- **Predictability Pay: Compensation for fast food employees** who are subject to employer-initiated schedule changes with less than the required notice, unless the employee requests the change, or in certain other circumstances.<sup>106</sup> Employers must provide employees with:
  - **\$10**, in addition to wages earned, for each change to the work schedule in which:
    1. **Additional hours or shifts are added** with less than 14 days' notice but more than 7 days' notice; or
    2. The **date or start or end time** of a regular or on-call shift is **changed with no loss of hours**, with less than 14 days' notice but more than 7 days' notice.
  - **\$15**, in addition to wages earned, for each change to the work schedule in which:
    1. **Additional hours or shifts are added** with less than 7 days' notice; or
    2. The **date or start or end time** of a regular or on-call shift is **changed with no loss of hours**, with less than 7 days' notice.
  - **\$20**, in addition to wages earned, for each change to the work schedule in which:

1. **Hours are subtracted** from a regular or on-call shift with less than 14 days' notice but more than 7 days' notice; or
2. A **regular or on-call shift is cancelled** with less than 14 days' notice but more than 7 days' notice.
  - **\$45**, in addition to wages earned, for each change to the work schedule in which:
    1. **Hours are subtracted** from a regular or on-call shift with less than 7 days' notice but more than 24 hours' notice; or
    2. A **regular or on-call shift is cancelled** with less than 7 days' notice but more than 24 hours' notice.
  - **\$75**, in addition to wages earned, for each change to the work schedule in which:
    1. **Hours are subtracted** from a regular or on-call shift with less than 24 hours' notice; or
    2. A **regular or on-call shift is cancelled** with less than 24 hours' notice.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>107</sup>

### **Retail Employees**

**Eligibility:** Retail employees at retail businesses with 20 or more employees working in New York City.<sup>108</sup>

This law requires applicable employers to provide eligible employees with:

- **Advanced Notice of Schedule:** 72 hours' **advance notice** of work schedules.<sup>109</sup>
  - With limited exceptions, a retail employer cannot cancel a retail employee's scheduled shift with less than 72 hours' notice, require a retail employee to work with less than 72 hours' notice, schedule a retail employee for an on-call shift, or require a retail employee to contact the employer to confirm whether or not they should report for a regularly-scheduled shift, less than 72 hours before the start of such shift.<sup>110</sup>

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>111</sup>

### **Most Employees**

**Eligibility:** Employees who work in New York City, except employees of the federal government; employees of the state of New York; employees of the City or any local government; employees who have been employed for fewer than 120 days; employees in the entertainment industry (with limited exceptions); and employees who work fewer than 80 hours in the City per year.<sup>112</sup>

This law requires applicable employers to provide eligible employees with:

- **Right to Request Schedule Changes:** Employees have the **right to request** a change to their schedule, including permanent schedule changes. An employer may grant or deny the request but cannot retaliate against an employee for making the request.<sup>113</sup>
- **Temporary Schedule Changes:** Employees have **the right to a temporary schedule change**—including, but not limited to, swapping or shifting work hours, using paid time off, working remotely, or using short-term unpaid leave—due to a “personal event” two times a year, for up to one business day per request. Employers may only deny a temporary schedule change request if the employee has already used their two yearly temporary schedule changes.<sup>114</sup>
  - A **personal event** includes the need to care for a child under 18, care for a family member or someone who lives with you who has a disability and relies on you for care, the need to attend a legal proceeding or hearing for benefits, or the need for safe or sick time.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>115</sup>

### PHILADELPHIA, PENNSYLVANIA

*Philadelphia Code Title 9 Ch. 9-4600*

**Eligibility: Hourly employees of retail establishments, hospitality establishments, or food services establishments** that have at least **250 employees and 30 locations** worldwide.<sup>116</sup>

This law requires applicable employers to provide eligible employees with:

- **Initial Estimate of Schedule:** Upon hire, an employer must provide a **good-faith estimate** of the employee's work schedule, including: the average number of hours the employee can expect to work each week; whether the employee is expected to work any on-call shifts; and the days and times or shifts that the employee can typically expect to work or not work.<sup>117</sup>
  - The employer must **revise this good-faith estimate** when there are significant changes to the employee's schedule based on changes in the employee's availability or the business's needs.
- **Advanced Notice of Schedule:** 14 days **advance notice** of schedules. For new employees and employees returning after a leave of absence, the employer must provide an initial work schedule that runs through the last date of the currently-posted schedule.<sup>118</sup>
  - Employees who are not given sufficient notice have a **right to decline** any previously unscheduled hours or shifts that their employer adds to their schedule.
- **Right to Rest:** Right to **decline shifts with less than 9 hours between them.**<sup>119</sup> For any such shifts that an employee works, the employer shall compensate the employee \$40.
- **Right to Request Schedule Changes:** At the time of hire and during employment, the employee has the **right to request** changes to their work schedule, including but not limited to requests not to be scheduled to work at certain times or locations, requests to work at certain times or locations, and requests for more or fewer hours.<sup>120</sup>
- **Access to Hours:** When an employer has additional work shifts available, **the employer must offer them to existing qualified employees** when the work is available at their work location (up to the overtime limit) before hiring new employees or contractors (including new temp or seasonal employees).
  - The employer must provide written notice of the additional shifts for 72 hours, unless shorter notice is necessary.
  - Employees must accept the offer of additional shifts within 24 hours of the end of the 72-hour posting period.<sup>121</sup>
- **Predictability Pay: Compensation** for employees who are subject to employer-initiated schedule changes with less than the required notice, unless the employee requests the change, or in certain other circumstances.<sup>122</sup> Employers must provide employees with:
  - **One hour of pay at the employee's regular rate of pay**, in addition to wages earned, for each shift in which the employer:
    1. **Adds time to the work shift;** or
    2. **Changes the date, time, or location** of a scheduled shift with no loss of hours.
  - **No less than 50 percent of the employee's regular rate of pay per hour** for any scheduled hours in which the employer:
    1. **Subtracts hours** from a regularly scheduled work shift or an on-call shift; or
    2. **Cancels** a regular work shift or on-call shift.

**Anti-retaliation Protections:** Employers cannot retaliate against employees who exercise their rights under this law.<sup>123</sup>

***Please note that this fact sheet does not constitute legal advice and is not intended to provide an exhaustive overview of any one law described. It is possible that additional provisions not described in this fact sheet may apply to your specific circumstances or category of employment. Please call our free, confidential legal helpline at 1-833-NEED-ABB (1-833-633-3222) if you have questions about your particular needs.***

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<sup>1</sup> See *Winning A Fair Workweek*, Ctr. for Popular Democracy Fair Workweek Initiative, <http://www.fairworkweek.org/policy-innovations#>.

<sup>2</sup> See STATE INNOVATION EXCHANGE & CTR. FOR POPULAR DEMOCRACY, RESTORING A FAIR WORKWEEK 7 (2021), [https://www.populardemocracy.org/sites/default/files/Fair\\_Workweek\\_Policy\\_Brief\\_2020.pdf](https://www.populardemocracy.org/sites/default/files/Fair_Workweek_Policy_Brief_2020.pdf)

<sup>3</sup> “Nonexempt employees” are employees who are not exempt from overtime laws. Generally, the exemptions to overtime laws include, among other categories of workers, bona fide executive, administrative, and professional employees. Note that state laws may differ in the scope of their coverage. As a general matter, if an employee is legally entitled to overtime pay, they are likely a nonexempt employee.

<sup>4</sup> Cal. Code Regs. tit. 8 § 11040(1) (2021).

<sup>5</sup> *Id.* at § 11040(5).

<sup>6</sup> *Id.* at 11040(5).

<sup>7</sup> *Id.* at § 11040(4)(C).

<sup>8</sup> Conn. Agencies Regs. § 31-62-D1(d) (2021).

<sup>9</sup> *Id.*

<sup>10</sup> Conn. Gen. Stat. § 31-69b (2021).

<sup>11</sup> Conn. Agencies Regs. at § 31-62-E1.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Conn. Gen. Stat. § 31-69b (2021).

<sup>15</sup> 454 Mass. Code Regs. 27.04 (2021).

<sup>16</sup> *Id.*

<sup>17</sup> Mass. Gen. Laws ch. 151 § 19 (2021).

<sup>18</sup> N.H. Rev. Stat. Ann. § 275:36 (2021).

<sup>19</sup> *Id.* at § 275:37-b.

<sup>20</sup> *Id.* at § 275:38-a.

<sup>21</sup> *Id.* at §§ 275:42, 275:43-a.

<sup>22</sup> *Id.* at § 275:43-a.

<sup>23</sup> N.J. Admin Code § 12:56-2.1.

<sup>24</sup> *Id.* at § 12:56-5.5(a)

<sup>25</sup> *Id.* at § 12:56-5.5(b).

<sup>26</sup> *Id.* at § 12:56-1.7.

<sup>27</sup> N.Y. Comp. Codes R. & Regs. tit. 12, § 142-1 (2021); *see also* § 142-2.14.

<sup>28</sup> *Id.* at § 142-2.3; *see also* § 142-3.1.

<sup>29</sup> *Id.* at § 146-1.5.

<sup>30</sup> *Id.* at § 142-2.18.

<sup>31</sup> *Id.* at § 146-1.6.

<sup>32</sup> N.Y. Lab. L. § 215.

<sup>33</sup> Or. Rev. Stat. § 653.422.

<sup>34</sup> *Id.* at § 653.428.



- <sup>35</sup> *Id.* at § 653.436.
- <sup>36</sup> *Id.* at § 653.442.
- <sup>37</sup> *Id.* at § 653.450 & 653.470.
- <sup>38</sup> *Id.* at § 653.455.
- <sup>39</sup> *Id.* at § 653.480 (3).
- <sup>40</sup> 28 R.I. Gen. Laws §§ 28-12-2, 28-12-3.2(b), 28-12-4.4 (2021).
- <sup>41</sup> *Id.* at § 28-12-3.2.
- <sup>42</sup> *Id.* at § 28-12-16.
- <sup>43</sup> 21 V.S.A. § 302 (a)
- <sup>44</sup> *Id.* at § 309(a)(1)-(2).
- <sup>45</sup> *Id.* at § 302 (b)(1)-(2).
- <sup>46</sup> *Id.* at § 302 (c).
- <sup>47</sup> *Id.* at § 309(f).
- <sup>48</sup> D.C. Code §§ 32-1002, 32-1004 (2021).
- <sup>49</sup> D.C. Mun. Reg. tit. 7 §§ 906, 907 (2021).
- <sup>50</sup> *Id.* at Tit. 7 § 999.
- <sup>51</sup> D.C. Code § 32-1010 (2021).
- <sup>52</sup> Chicago Mun. Code Tit. 1 Ch. 1-25-020 (2021).
- <sup>53</sup> *Id.*
- <sup>54</sup> *Id.*
- <sup>55</sup> *Id.* at Tit. 1 Ch. 1-25-040(a).
- <sup>56</sup> *Id.* at Tit. 1 Ch. 1-25-050(a).
- <sup>57</sup> *Id.* at Tit. 1 Ch. 1-25-040(b).
- <sup>58</sup> *Id.* at Tit. 1 Ch. 1-25-070.
- <sup>59</sup> *Id.* at Tit. 1 Ch. 1-25-080.
- <sup>60</sup> *Id.* at Tit. 1 Ch. 1-25-040(a).
- <sup>61</sup> *Id.* at Tit. 1 Ch. 1-25-060..
- <sup>62</sup> *Id.* at Tit. 1 Ch. 1-25-050.
- <sup>63</sup> *Id.* at Tit. 1 Ch. 1-25-100.
- <sup>64</sup> Emeryville Mun. Code Tit. 5 Ch. 39.01-39.02.
- <sup>65</sup> *Id.* at Tit. 5 Ch. 39.03.
- <sup>66</sup> *Id.*
- <sup>67</sup> *Id.* at Tit. 5 Ch. 39.04.
- <sup>68</sup> *Id.* at Tit. 5 Ch. 39.06.
- <sup>69</sup> *Id.* at Tit. 5 Ch. 39.07.
- <sup>70</sup> *Id.* at Tit. 5 Ch. 39.03(a).
- <sup>71</sup> *Id.* at Tit. 5 Ch. 39.05.
- <sup>72</sup> *Id.* at Tit. 5 Ch. 39.04.
- <sup>73</sup> *Id.* at Tit. 5 Ch. 39.10(d).
- <sup>74</sup> San Francisco Police Code § 3300F.2 (2021).
- <sup>75</sup> *Id.* at § 33G.4(a).
- <sup>76</sup> *Id.* at § 33G.4(b).
- <sup>77</sup> *Id.* at § 33G.4(a).
- <sup>78</sup> *Id.* at § 3300F.3.
- <sup>79</sup> *Id.* at §§ 3300G.4(c)(2) & (e).
- <sup>80</sup> *Id.* at §§ 3300G.4(d) & (e).
- <sup>81</sup> *Id.* at § 3300G.9.

<sup>82</sup> San Jose Mun. Code §§ 4.101.030 & 4.101.090 (2021).

<sup>83</sup> *Id.* at § 4.101.040.

<sup>84</sup> *Id.* at § 4.101.080.

<sup>85</sup> *Id.* at § 4.101.060.

<sup>86</sup> SeaTac Mun. Code § 7.45.010 (2021).

<sup>87</sup> *Id.* at § 7.45.030.

<sup>88</sup> *Id.* at § 7.45.090.

<sup>89</sup> Seattle Mun. Code §§ 14.22.015 & 14.22.020 (2021).

<sup>90</sup> *Id.* at § 14.22.025.

<sup>91</sup> *Id.* at § 14.22.040.

<sup>92</sup> *Id.* at § 14.22.045(A).

<sup>93</sup> *Id.* at § 14.22.035.

<sup>94</sup> *Id.* at § 14.22.030.

<sup>95</sup> *Id.* at § 14.22.010.

<sup>96</sup> *Id.* at § 14.22.045(B).

<sup>97</sup> *Id.* at § 14.22.055.

<sup>98</sup> *Id.* at § 14.22.050.

<sup>99</sup> *Id.* at § 14.22.070.

<sup>100</sup> NYC Admin. Code § 20-1201 (2021).

<sup>101</sup> *Id.* at § 20-1221(a).

<sup>102</sup> *Id.* at § 20-1221(b)-(c).

<sup>103</sup> *Id.* at § 20-1231.

<sup>104</sup> *Id.* at §§ 20-1221(a) & 20-1272.

<sup>105</sup> *Id.* at § 20-1241.

<sup>106</sup> *Id.* at § 20-1222.

<sup>107</sup> *Id.* at § 20-1204.

<sup>108</sup> *Id.* at § 20-1201.

<sup>109</sup> *Id.* at § 20-1252.

<sup>110</sup> *Id.* at § 20-1251.

<sup>111</sup> *Id.* at § 20-1204.

<sup>112</sup> *Id.* at §§ 20-1201, 20-1263.

<sup>113</sup> *Id.* at § 20-1262(b).

<sup>114</sup> *Id.* at § 20-1262(a).

<sup>115</sup> *Id.* at § 20-1204.

<sup>116</sup> Phila. Code § 9-4601 (2021).

<sup>117</sup> *Id.* at § 9-4602(1).

<sup>118</sup> *Id.* at § 9-4602.

<sup>119</sup> *Id.* at § 9-4604.

<sup>120</sup> *Id.* at § 9-4602(2).

<sup>121</sup> *Id.* at § 9-4605.

<sup>122</sup> *Id.* at § 9-4603.

<sup>123</sup> *Id.* at § 9-4606.