



AN ACT LIMITING "ON-CALL" SHIFT SCHEDULING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2019*) (a) For the purposes of
2 this section: (1) "Employee" means any person (A) paid on an hourly
3 basis, (B) not exempt from the minimum wage and overtime
4 compensation requirements of the Fair Labor Standards Act of 1938
5 and the regulations promulgated thereunder, as amended from time to
6 time, and (C) suffered or permitted to work by an employer in:

7 (i) Any occupation in the mercantile trade, meaning the trade of
8 wholesale or retail selling of groceries or commodities and any
9 operation supplemental or incidental thereto, including, but not
10 limited to, buying, delivery, maintenance, office, stock and clerical
11 work, except repair and service employees having the major portion of
12 their duties unrelated to the mercantile trade;

13 (ii) A restaurant occupation, including any person engaged in the
14 preparation and serving of food for human consumption or in any
15 operation incidental or supplemental thereto, whether the food is
16 served at or away from the point of preparation, or whether the
17 preparation and serving of food is the sole business of the employing
18 establishment or enterprise, but does not include the preparation and
19 serving of food in a nonprofit educational, charitable or religious

20 organization where the food service is not regularly available to the
21 general public, or the preparation and serving of food in hospitals,
22 convalescent homes or homes for the elderly where the food service is
23 not regularly available to the general public and is incidental to the
24 care of the patient. Restaurant occupation includes, but is not limited
25 to, employees of restaurants, cafeterias, that portion of hotel business
26 involving the preparation and serving of food, commissaries, fast food
27 outlets, grills, coffee shops, luncheonettes, sandwich shops, tearooms,
28 nightclubs, cabarets, automats, caterers, frankfurter stands, operators
29 of food vending machines, and that portion of a business involving the
30 serving of food in department stores, drugstores, candy stores,
31 bakeries, pizzerias, delicatessens, places of amusement and recreation,
32 commercial and industrial establishments and social, recreational,
33 fraternal and professional clubs which either regularly or
34 intermittently serve food;

35 (iii) An occupation within a hotel, motel or resort with one of the
36 following broad or detailed occupation code numbers and titles, as
37 defined by the federal Bureau of Labor Statistics Standard
38 Occupational Classification system or any successor system: 35-3010
39 Bartenders; 35-9020 Dishwashers; 35-9030 Hosts and Hostesses,
40 Restaurant, Lounge and Coffee Shop; 37-2010 Building Cleaning
41 Workers; 37-3010 Grounds Maintenance Workers; 39-3030 Ushers,
42 Lobby Attendants and Ticket Takers; 39-6010 Baggage Porters,
43 Bellhops and Concierges; 43-4080 Hotel, Motel and Resort Desk Clerks;
44 43-4170 Receptionists and Information Clerks; or

45 (iv) An occupation within a nursing or residential care facility
46 defined by the federal Bureau of Labor Statistics Standard
47 Occupational Classification system or any successor system: 31-1130
48 Nursing Assistants, Orderlies, and Psychiatric Aides;

49 (2) "Employer" means an employer, as defined in section 31-71a of
50 the general statutes, including, but not limited to, a franchisee, as
51 defined in section 42-133e of the general statutes, who employs not less
52 than twenty-five employees aggregated across all locations operated

53 by such employer;

54 (3) "Regular rate" has the same meaning as provided in section 31-
55 76b of the general statutes;

56 (4) "Scheduled work hours" means the hours an employee is
57 scheduled to work pursuant to a work schedule;

58 (5) "Shift" means the consecutive hours an employer schedules an
59 employee to work, or to be available to report to work at the request or
60 permission of the employer, except that a break of not more than one
61 hour shall not be considered an interruption of consecutive hours; and

62 (6) "Work schedule" means a written notice of an employee's regular
63 and on-call hours during a consecutive seven-day period.

64 (b) An employer shall pay an employee one-half of the employee's
65 regular rate for any scheduled work hours the employee does not
66 work due to the employer cancelling or reducing the employee's
67 scheduled work hours:

68 (1) After the employee reports to work such scheduled work hours,
69 or

70 (2) Less than seventy-two hours prior to the commencement of such
71 scheduled work hours.

72 (c) An employer shall not owe an employee pay pursuant to
73 subsection (b) of this section if the employee's scheduled work hours
74 are canceled or reduced due to:

75 (1) The employee's written request, including, but not limited to, a
76 request to use sick leave, vacation leave or other leave pursuant to
77 employer policy;

78 (2) A mutually agreed upon shift trade or coverage arrangement
79 between employees, subject to an existing employer policy regarding
80 such shift trade or coverage arrangement; or

81 (3) The inability of the employer's operations to begin or continue
82 due to (A) threats to the employer's employees or to the employer's
83 property, (B) the failure of a public utility or the shutdown of public
84 transportation, (C) fire, flood or other natural disaster, (D) a state of
85 emergency declared by the President of the United States or the
86 Governor of this state, or (E) severe weather conditions that pose a
87 threat to employee safety.

88 (d) (1) An employee may decline to work a shift that begins less
89 than eleven hours after the end of the employee's previous day's shift
90 or during the eleven-hour period following the end of the employee's
91 shift that spanned two days.

92 (2) If an employee consents to work a shift described in subdivision
93 (1) of this subsection, such consent shall be in writing.

94 (3) An employee who works a shift described in subdivision (1) of
95 this subsection shall be compensated at one and one-half times the
96 employee's regular rate of pay for any hours worked during such shift.

97 (e) Nothing in this section shall prohibit an employer from adopting
98 policies related to employee scheduling that are more beneficial to an
99 employee than those required by this section.

100 (f) Nothing in this section shall be construed to diminish the
101 obligation of an employer to comply with any contract, collective
102 bargaining agreement, employment benefit plan or other agreement,
103 provided such compliance by the employer is more beneficial to an
104 employee than complying with the provisions of this section.

105 (g) Nothing in this section shall prohibit an employer from
106 scheduling an employee for a shift with less than seventy-two hours'
107 notice, provided such scheduling is mutually agreed upon, freely and
108 without coercion, in writing and on a case-by-case basis, by the
109 employee and employer. An employer shall not require an employee
110 to sign a prospective agreement prior to or at any time during the
111 employee's employment.

112 (h) Each employer subject to the provisions of this section, unless
113 exempted by regulations adopted by the Labor Commissioner
114 pursuant to subsection (i) of this section, shall keep a true and accurate
115 record for not less than three years of: (1) The shifts worked each day
116 and each week by each employee, (2) each employee's work schedule,
117 and (3) any revisions to such work schedule.

118 (i) The Labor Commissioner may adopt regulations, in accordance
119 with the provisions of chapter 54 of the general statutes, to provide for
120 the implementation and enforcement of the provisions of this section.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2019 | New section |

LAB *Joint Favorable Subst.*