AN ACT LIMITING "ON-CALL" SHIFT SCHEDULING.

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

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

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

(ii) A restaurant occupation, including any person engaged in the preparation and serving of food for human consumption or in any operation incidental or supplemental thereto, whether the food is served at or away from the point of preparation, or whether the preparation and serving of food is the sole business of the employing establishment or enterprise, but does not include the preparation and serving of food in a nonprofit educational, charitable or religious organization where the food service is not regularly available to the general public, or the preparation and serving of food in hospitals, convalescent homes or homes for the elderly where the food service is not regularly available to the general public and is incidental to the
care of the patient. Restaurant occupation includes, but is not limited
to, employees of restaurants, cafeterias, that portion of hotel business
involving the preparation and serving of food, commissaries, fast food
outlets, grills, coffee shops, luncheonettes, sandwich shops, tea rooms,
nightclubs, cabarets, automat, caterers, frankfurter stands, operators
of food vending machines, and that portion of a business involving the
serving of food in department stores, drugstores, candy stores,
bakeries, pizzerias, delicatessens, places of amusement and recreation,
commercial and industrial establishments and social, recreational,
fraternal and professional clubs which either regularly or
intermittently serve food;

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

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

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

(3) "Regular rate" has the same meaning as provided in section 31-
76b of the general statutes;
(4) "Scheduled work hours" means the hours an employee is scheduled to work pursuant to a work schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:

| Section 1 | October 1, 2019 | New section |