



General Assembly

CORRECTED COPY
Committee Bill No. 668

January Session, 2021

LCO No. 5612



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING A FAIR WORK WEEK SCHEDULE.

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

1 Section 1. (NEW) (*Effective October 1, 2021*) (a) As used in this section:

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

7 (i) Any occupation in the mercantile trade, which, for the purposes of
8 this clause, means the trade of wholesale or retail selling of groceries or
9 commodities and any operation incidental or supplemental thereto,
10 including, but not limited to, buying, delivering or maintaining such
11 groceries or commodities, and any office, stock or clerical work, except
12 repair and service employees having the major portion of their duties
13 unrelated to the mercantile trade;

14 (ii) A restaurant occupation, including any person engaged in the

15 preparation and serving of food for human consumption or in any
16 operation incidental or supplemental thereto, whether the food is
17 served at or away from the point of preparation, or whether the
18 preparation and serving of food is the sole business of the employing
19 establishment or enterprise. A restaurant occupation includes, but is not
20 limited to, employees of restaurants, cafeterias, that portion of hotel
21 businesses involving the preparation and serving of food, commissaries,
22 fast food outlets, grills, coffee shops, luncheonettes, sandwich shops,
23 tearooms, nightclubs, cabarets, automats, caterers, frankfurter stands,
24 operators of food vending machines, and that portion of a business
25 involving the serving of food in department stores, drugstores, candy
26 stores, bakeries, pizzerias, delicatessens, places of amusement and
27 recreation, commercial and industrial establishments and social,
28 recreational, fraternal and professional clubs that either regularly or
29 intermittently serve food. A restaurant occupation does not include the
30 preparation and serving of food in a nonprofit educational, charitable or
31 religious organization where the food service is not regularly available
32 to the general public, or the preparation and serving of food in hospitals,
33 convalescent homes or homes for the elderly where the food service is
34 not regularly available to the general public and is incidental to the care
35 of the patient;

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

46 (iv) Any occupation in long-term health care services, as defined both
47 (I) in the 2012 North American Industry Classification System under
48 code 623110 for nursing homes, and (II) under the Labor Department

49 classification (T) 31-1012 for nursing aides, orderlies and attendants;

50 (2) "Employer" means (A) an employer, as defined in section 31-71a
51 of the general statutes, who employs not less than two hundred fifty
52 employees, (B) a franchisee, as defined in section 42-133e of the general
53 statutes, if the network of franchises employs not less than two hundred
54 fifty employees in aggregate, and (C) a nursing home, as defined in
55 section 19a-490 of the general statutes, if the nursing home (i) employs
56 not less than one hundred employees, or (ii) is controlled or operated by
57 a management company that employs not less than one hundred
58 employees in the aggregate;

59 (3) "Regular rate" has the same meaning as provided in section 31-
60 76b of the general statutes;

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

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

67 (6) "Work schedule" means a written notice of an employee's regular
68 and on-call hours, including specific start and end times for each shift,
69 during a consecutive seven-day period; and

70 (7) "Work schedule change" means any employer-initiated
71 modification to the employee's work schedule, including: (A) The
72 addition or reduction of hours; (B) cancellation of a work shift or portion
73 of a work shift; (C) a change in the date, time or location of a work shift;
74 or (D) scheduling the employee for an on-call work shift for which the
75 employee does not need to report to work.

76 (b) Upon hiring an employee, an employer shall (1) obtain a written
77 statement of the employee's desired number of weekly work hours, and
78 the days and times the employee is available to work, and (2) provide
79 the employee with a written estimate of the employee's work schedule.

80 The employer shall notify the employee that the employee may modify
81 such written statement at any time and the employer shall revise the
82 written estimate of the employee's work schedule if there is a significant
83 change to such schedule due to changes in the employee's availability
84 or to the employer's business needs. Such written estimate shall not be
85 considered a contractual offer binding the employer and shall contain:
86 (A) The average number of work hours the employee can expect to work
87 each week; (B) the minimum and maximum numbers of work hours the
88 employee can expect to work each week; (C) the minimum length of
89 shifts that the employee can expect to work; and (D) the number of days,
90 the amount of time and the number of shifts that the employee can
91 expect to work, and days of the week and times or shifts on which the
92 employee will not be scheduled to work. An estimate made without a
93 basis in good faith shall be a violation of this subsection. An employer
94 is not in violation of any provision of this subsection when an
95 employee's average weekly work hours significantly exceed the number
96 provided in the written estimate if the employer makes every effort to
97 schedule the employee for the employee's desired number of weekly
98 work hours.

99 (c) Not later than the date of an employee's first shift, the employer
100 shall provide to the employee the employee's work schedule for the
101 period commencing on the date of the employee's first shift and ending
102 on the last date of the seven-day period covered by the work schedule
103 posted by the employer pursuant subsection (d) of this section.
104 Thereafter, the employer shall notify the employee of the employee's
105 work schedule in accordance with the provisions of subsection (d) of
106 this section.

107 (d) Not later than fourteen days prior to the first date of the seven-
108 day period of any work schedule, an employer shall post the work
109 schedule in a conspicuous place that is readily accessible and visible to
110 all employees at the workplace and shall transmit such schedule to each
111 employee. Such transmission may be electronic if electronic means are
112 regularly used to communicate scheduling information to employees.
113 The work schedule shall identify all employees currently employed at

114 the worksite, whether or not such employees are scheduled to work any
115 hours in the work schedule.

116 (e) An employer shall provide to each employee written notice of any
117 work schedule change as promptly as possible and prior to such change
118 taking effect. Not later than twenty-four hours after making a change to
119 the work schedule, the employer shall revise the posted work schedule
120 to reflect the change. An employee may decline to work any hours not
121 included in the posted work schedule. If the employee voluntarily
122 consents to work such hours, such consent shall be recorded in writing.

123 (f) (1) Except as provided in subdivision (2) of this subsection, an
124 employer shall pay an employee (A) one hour of pay at the employee's
125 regular rate for each instance that the employer, less than fourteen days
126 prior to the commencement of scheduled work hours, adds one or more
127 hours of work or changes the date, time or location of a work shift
128 without a reduction of hours, and (B) one-half of the employee's regular
129 rate for any scheduled work hours the employee does not work due to
130 the employer cancelling or reducing the employee's scheduled work
131 hours: (i) After the employee reports to work such scheduled work
132 hours, or (ii) less than fourteen days prior to the commencement of such
133 scheduled work hours.

134 (2) The provisions of subdivision (1) of this subsection shall not apply
135 if the employee's scheduled work hours are changed due to: (A) The
136 employee's written request, including, but not limited to, a request to
137 use sick leave, vacation leave or other leave pursuant to employer
138 policy; (B) a mutually agreed-upon shift trade or coverage arrangement
139 between employees, subject to an existing employer policy regarding
140 such shift trade or coverage arrangement; or (C) the inability of the
141 employer's operations to begin or continue due to (i) the failure of a
142 public utility or the shutdown of public transportation, (ii) fire, flood or
143 other natural disaster, or (iii) an emergency declaration issued by the
144 President of the United States or the Governor of this state.

145 (g) An employee may decline to work any shift that begins less than
146 eleven hours after the end of the employee's previous day's shift or

147 during the eleven-hour period following the end of a shift that spanned
148 more than one day. If an employee consents to work such shift, such
149 consent shall be in writing and the employee shall be compensated at
150 one and one-half times the employee's regular rate of pay for any hours
151 worked during the shift for which the employee consented.

152 (h) An employee may request adjustments to such employee's work
153 schedule, including, but not limited to, requests: (1) Not to be scheduled
154 for work shifts during certain days or times or at certain locations; (2)
155 for certain hours, days or locations of work; (3) for more or fewer work
156 hours; and (4) to be scheduled consistently for a specified or minimum
157 number of weekly work hours. The employer shall engage in an
158 interactive process to discuss such employee requests, but may grant or
159 deny the request for any bona fide business reason that is not unlawful.

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

166 (j) Nothing in this section shall be construed to prohibit an employer
167 from adopting policies related to employee scheduling that are more
168 favorable to an employee than those required by this section.

169 (k) Prior to hiring a new employee from an external applicant pool or
170 through a contractor, including a temporary help service or
171 employment agency, as defined in section 31-129 of the general statutes,
172 an employer shall make every effort to schedule existing employees for
173 the desired number of weekly work hours identified in the written
174 statements provided pursuant to subsection (b) of this section, provided
175 the employer may hire a new employee if existing employees lack, and
176 cannot obtain with reasonable training, the qualifications necessary to
177 perform the duties of the position being filled. This section shall not be
178 construed to require any employer to schedule employees to work
179 hours required to be paid at an overtime rate under state or federal law.

180 If an employer fails to offer existing employees opportunities to work
181 their desired number of weekly work hours before hiring a new
182 employee, the employer shall compensate existing employees at the
183 employees' regular hourly rate for hours worked by a newly hired
184 employee that occurred within the existing employees' written
185 availability.

186 (l) The Labor Commissioner may adopt regulations, in accordance
187 with the provisions of chapter 54 of the general statutes, to implement
188 and enforce the provisions of this section.

189 (m) Any person aggrieved by a violation of any provision of this
190 section, the Labor Commissioner, the Attorney General or any entity a
191 member of which is aggrieved by a violation of this section, may bring
192 a civil action to recover damages, civil penalties and such equitable and
193 injunctive relief as the court deems appropriate. Any individual who
194 prevails in such civil action shall be awarded reasonable attorney's fees
195 and costs to be taxed by the court. For each violation of a provision of
196 subsections (b) to (f), inclusive, of this section or subsection (k) of this
197 section, the employer shall pay a civil penalty of two hundred dollars to
198 the Labor Commissioner for each employee affected by the violation
199 during each pay period the violation continued.

200 (n) The Labor Commissioner, or, in the case of a civil action, a court,
201 may grant the following relief to an employee or former employee for a
202 violation of any provision of this section, in addition to, or as an
203 alternative to, any other remedies provided by law:

204 (1) All compensatory damages and other relief required to make the
205 employee or former employee whole;

206 (2) An order directing the employer to comply with the
207 recordkeeping requirements of subsection (i) of this section; and

208 (3) (A) For each violation of a provision of subsections (c) to (e),
209 inclusive, of this section, two hundred dollars and an order directing
210 compliance with said subsections; (B) for each violation of a provision

211 of subsection (f) of this section, payment of compensation withheld in
212 violation of said subsection, three hundred dollars, and an order
213 directing compliance with said subsection; (C) for each violation of a
214 provision of subsection (b) of this section, two hundred dollars and an
215 order directing compliance with said subsection; and (D) for each
216 violation of a provision of subsection (k) of this section, the greater of
217 five hundred dollars or such employee's actual damages, and an order
218 directing compliance with said subsection. The relief authorized
219 pursuant to this subsection shall be imposed on a per employee and per
220 instance basis for each violation.

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

Section 1	October 1, 2021	New section
-----------	-----------------	-------------

Statement of Purpose:

To require certain employers to provide advance notice to certain employees of the employees' work schedule.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. LOONEY, 11th Dist.

S.B. 668