



General Assembly

**Substitute Bill No. 668**

January Session, 2021



**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 the preparation and  
18 serving of food is the sole business of the employing establishment or  
19 enterprise. A restaurant occupation includes, but is not limited to,

20 employees of restaurants, cafeterias, that portion of hotel businesses  
21 involving the preparation and serving of food, commissaries, fast food  
22 outlets, grills, coffee shops, luncheonettes, sandwich shops, tearooms,  
23 nightclubs, cabarets, automats, caterers, frankfurter stands, operators of  
24 food vending machines, and that portion of a business involving the  
25 serving of food in department stores, drugstores, candy stores, bakeries,  
26 pizzerias, delicatessens, places of amusement and recreation,  
27 commercial and industrial establishments and social, recreational,  
28 fraternal and professional clubs that either regularly or intermittently  
29 serve food. A restaurant occupation does not include the preparation  
30 and serving of food in a nonprofit educational, charitable or religious  
31 organization where the food service is not regularly available to the  
32 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 is subsequently not needed 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 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 the employee  
92 will not be scheduled to work. An estimate made without a basis in good  
93 faith shall be a violation of this subsection. An employer is not in  
94 violation of any provision of this subsection when an employee's  
95 average weekly work hours significantly exceed the number provided  
96 in the written estimate if the employer makes every effort to schedule  
97 the employee for the employee's desired number of weekly work hours.

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

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

115 (e) An employer shall provide to each employee written notice of any  
116 work schedule change as promptly as possible and prior to such change

117 taking effect. Not later than twenty-four hours after making a change to  
118 the work schedule, the employer shall revise the posted work schedule  
119 to reflect the change. An employee may decline to work any hours not  
120 included in the posted work schedule. If the employee voluntarily  
121 consents to work such hours, such consent shall be recorded in writing.

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

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

144 (g) An employee may decline to work any shift that begins less than  
145 eleven hours after the end of the employee's previous day's shift or  
146 during the eleven-hour period following the end of a shift that spanned  
147 more than one day. If an employee consents to work such shift, such  
148 consent shall be in writing and the employee shall be compensated at  
149 one and one-half times the employee's regular rate of pay for any hours

150 worked during the shift for which the employee consented.

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

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

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

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

182 employees' regular hourly rate for hours worked by a newly hired  
183 employee that occurred within the existing employees' written  
184 availability.

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

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

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

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

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

207 (3) (A) For each violation of a provision of subsection (b) of this  
208 section, two hundred dollars and an order directing compliance with  
209 said subsection; (B) for each violation of a provision of subsections (c) to  
210 (e), inclusive, of this section, two hundred dollars and an order directing  
211 compliance with said subsections, as applicable; (C) for each violation  
212 of a provision of subsection (f) of this section, three hundred dollars,

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	New section

**LAB**      *Joint Favorable Subst. -LCO*

**JUD**      *Joint Favorable*