

Fair Workweek Ordinance Highlights

Covered Employers: Retail Firms with 56 or more employees globally

Fast Food Firms with 56 or more globally and 20 or more Employees in Emeryville

5-39.03 Advance Notice of Work Schedule

- Before a new employee starts their employment, the employer provides good faith estimate in writing of work schedule
- Employee may request changes to the workschedule before starting employment. The employer may accept or reject the request before employment begins, but must do so in writing.
- Employer must provide at least two weeks advance notice of schedules
 - Posted conspicuously in the work place.
 - Provided electronically, as long as there is access at the work place
 - New employees are given schedules up through the next regular schedule cycle

5-39.04 Notice, Right to Decline, and Compensation for Schedule Changes

- Employer must provide notice of any changes to schedules which are employer initiated through in person conversation, telephone call, email, or text. Not applicable to employee initiated changes.
- Employee has a right to decline any previously unscheduled hours if given less than 14 days notice
- Employers must give Predictability Pay for changes made to the schedule:
 - Notice given less than 14 days but 24 hrs or more = 1 hour pay
 - Notice less than 24 hours = 4 hours pay or number of hours in the scheduled shift, whichever is less
 - Exceptions are made for civil threats, utility failures, acts of nature or other causes out of Employer's control, or mutually agreed shift swaps amongst employees

5-39.05 Offer of Work to Existing Employees

- Employer shall first offer additional hours of work to existing qualified Part time employees until they reach 35 hours of work in a Calendar Week

- Employer has discretion to divide additional work hours among Part time employees if not done in a discriminatory manner, or used to avoid application of the Patient Protection and Affordable Care Act
- Employee may accept or decline the offer of additional hours
 - Part time employee has 72 hours to accept offer if expected duration of work is longer than 2 weeks
 - Part time employee has 24 hours to accept if work is less than 2 weeks in duration
 - Time to respond begins either when employee receives notice or when notice is posted in conspicuous and accessible location
 - Employee must respond in writing
 - Must include total hours of work, schedule of available shifts, length of time anticipated needing coverage
 - Employer is not required to offer premium rate

5-39.06 Right to Rest

- Employee has right to decline work hours if:
 - less than 11 hours after end of previous day's shift
 - during the 11 hours following the end of a shift that spanned 2 days
- For a shift that begins less than 11 hours after a previous shift, employers must pay time and a half regular pay

5-39.07 Right to Request a Flexible Working Arrangement

- Employee has a right to request additional shifts or hours, changes in start or end times, shift swaps, part time employment, etc. See full text for all rights.
- No retaliation from Employer for making these requests

5-39.08 Notice and Posting

- City shall publish and make available to covered employers regulations and notices for posting
- Employer shall give written notification to each employee their rights under the ordinance and post prominently. In addition, they must provide their name, address, and phone number in writing.

5-39.09 Implementation

- Regulations and procedures for enforcement shall be developed by the City; including publishing informational materials for employees, monitoring Covered Employers, and providing administrative hearings to resolve violations.
- Violations reported to the City in writing by employees are confidential; unless the employee allows the City to make their personal information public in order to enforce the law.
- The City may investigate violations through inspections, interviews, and subpoena of records
- The City will prioritize informal resolutions. The employee may bring their own private action against the Covered Employer.

5-39.10 Enforcement

- The City may issue a citation for violations such as
 - \$1,000 for each employee retaliated against
 - \$500 for
 - Failure to provide notice
 - Failure to provide schedules and changes on time
 - Failure to provide Predictability Pay
 - Failure to offer work to existing employees
 - Failure to maintain records as stipulated or allow City access
- Employees have Private Rights of Action
- Remedies for violations include
 - Predictability Pay back pay plus \$50 to each affected employee for each day affected plus other fines as applicable
 - Interest due for all unpaid wages from date affected
 - Administrative costs for the City
 - Additional \$50 for each employee affected for repeated violations for each day of violation
 - This does not exclude other remedies but does exclude criminal penalties
- Covered Employer may not retaliate against employee for making complaints, including discipline, suspension, transfer, or reporting immigration status. Employer can not discharge employee engaged in complaints for 120 after notification of complaint, unless the Employer has convincing evidence of just cause
- Employer must maintain records for each employee for three years and make records available to employee on reasonable request
- Employer shall give access to City for compliance monitoring, without making social security numbers public

