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To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2025

Ms. WARREN (for herself, Mr. BLUMENTHAL, Mr. VAN HOLLEN, Ms. BALDWIN, Mr. DURBIN, Mr. REED, Mr. BOOKER, Mr. MARKEY, Mr. SANDERS, Mr. WHITEHOUSE, Mr. MURPHY, Ms. KLOBUCHAR, Ms. DUCKWORTH, Mr. WELCH, Mr. SCHUMER, Ms. HIRONO, Mr. MERKLEY, Mr. WYDEN, Mrs. MURRAY, Mr. PADILLA, and Mr. FETTERMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Schedules That Work Act”.

4 (b) FINDINGS.—Congress finds the following:

5 (1) The vast majority of the United States
6 workforce today is juggling responsibilities at home
7 and at work. In families with children, 45 percent of
8 mothers are primary breadwinners and 25 percent
9 are co-breadwinners.

10 (2) Despite the dual responsibilities of today's
11 workforce, many workers have little notice of their
12 work schedules and lack the ability to make changes
13 to the work hours in such schedules, which under-
14 mines their ability to accommodate family respon-
15 sibilities.

16 (3)(A) Mothers working in low-paid jobs are
17 more likely to be the primary or sole breadwinner for
18 their families than mothers working in higher-paid
19 jobs. For example, almost 90 percent mothers in the
20 $\frac{1}{5}$ of households in the United States with the low-
21 est incomes bring home all or most of their families'
22 income, which is almost 3 times higher when com-
23 pared to counterparts in the highest-income quintile.

24 (B) At the same time, low-paid workers often
25 have the least control over their work hours and face
26 the most unpredictable schedules. In some indus-

1 tries, “just-in-time” scheduling practices, which base
2 workers’ schedules on perceived consumer demand to
3 minimize labor costs, are particularly common. Em-
4 ployers using these practices often post work sched-
5 ules with little notice, vary work hours widely from
6 week to week, cancel shifts at the last minute, and
7 schedule employees for “on call” shifts (requiring an
8 employee to call in to work to find out whether the
9 employee will have to work later that day) or
10 “clopening” shifts (requiring an employee to work a
11 closing shift at night followed by an opening shift a
12 few hours later). For example, national survey data
13 show that—

- 14 (i) about $\frac{2}{3}$ of hourly retail and food serv-
15 ice workers receive their work schedules with
16 less than 2 weeks’ advance notice and about $\frac{1}{3}$
17 receive their schedule with less than 1 week’s
18 notice;
- 19 (ii) more than 1 in 5 hourly retail and food
20 service workers have been scheduled for on-call
21 shifts, and more than 1 in 3 have worked
22 “clopening” shifts; and
- 23 (iii) 65 percent of hourly retail and food
24 service workers would like a more stable and
25 predictable schedule.

6 (B) access and receive needed care for the
7 workers' own serious health conditions;

8 (C) pursue workforce training;

9 (D) get or keep a second job, which many
10 workers need to make ends meet;

11 (E) plan for and access transportation to
12 reach worksites; and

13 (F) qualify for and maintain eligibility for
14 needed public benefits and work supports, such
15 as child care subsidies, Medicaid, and benefits
16 under the supplemental nutrition assistance
17 program, due to fluctuations in income and
18 work hours.

19 (5) A growing body of research demonstrates
20 that unstable and unpredictable work schedules have
21 significant detrimental impacts on sleep quality,
22 mental health, and happiness, and are associated
23 with unstable child care arrangements and negative
24 health and behavioral outcomes for children. And
25 impacts are likely to be the most severe for workers

1 of color and their families, as workers of color are
2 more likely than their White counterparts—even
3 compared to White coworkers at the same com-
4 pany—to experience unstable work schedules. Unsta-
5 ble and unpredictable work schedules are also associ-
6 ated with higher rates of turnover, which creates
7 further instability for employers and workers. Some
8 examples of the detrimental impacts of unstable and
9 unpredictable work schedules are as follows:

10 (A) Unstable work schedules lead to more
11 household economic strain and time conflicts
12 and undermine the well-being of parents, all of
13 which can negatively impact children's health
14 and behavior.

15 (B) Workers with the most severe insta-
16 bility in their work schedules also face the high-
17 est risk of negative behavior and health out-
18 comes for their children.

19 (C) The exposure of a parent to on-call
20 shifts and last-minute shift changes are associ-
21 ated with more unstable child care arrange-
22 ments and with the use of siblings to provide
23 care.

24 (D) Work schedule instability causes more
25 work-family conflict, which increases the chance

1 that a worker will be forced to leave his or her
2 job, and is associated with downward mobility
3 of the earnings of the worker.

4 (E)(i) Relative to White workers, workers
5 of color are more likely to—

6 (I) have cancelled shifts;

7 (II) have on-call shifts;

8 (III) be involuntary part-time work-
9

10 (IV) have trouble getting time on;
11 and

(V) work “clopening” shifts, as described in paragraph (3)(B).

14 (ii) The statistics described in clause (i) re-
15 main true after controlling for demographics,
16 human capital, worker power, firm segregation,
17 and discordance with the race or ethnicity of
18 the worker and the manager. Race gaps in job
19 quality are greater for women of color.

20 (F) Workers who receive shorter advance
21 notice, who work on-call shifts, who experience
22 last-minute shift cancellation and timing
23 changes, or who have more volatile work hours
24 are more likely to experience hunger, housing

1 insecurity, and greater overall economic hard-
2 ship.

3 (6) Unpredictable and unstable work schedules
4 are common in a wide range of occupations, with
5 evidence of particular concentration in food service,
6 retail, cleaning, hospitality, and warehouse occupa-
7 tions. These occupations are critically important to
8 the United States economy.

9 (7) Since 2015, ten municipalities in the United
10 States and the State of Oregon have enacted laws
11 requiring employers to implement fair scheduling
12 practices. Research from 3 municipalities affirms
13 that workers in jobs covered by these laws report
14 significantly better outcomes than their peers in un-
15 covered positions, including more predictable sched-
16 ules and compensation for employer-driven schedule
17 changes. Survey research also indicates that covered
18 workers experience improvements in well-being and
19 financial security.

20 (8) Scheduling practices that benefit employees
21 can benefit employers, too. Relative to their peers
22 with lower-quality schedules, workers with more
23 input, stability, and predictability in their work
24 hours report greater job satisfaction and less work
25 family-conflict, which can also improve productivity

1 and reduce turnover. For example, a randomized ex-
2 periment demonstrated that improving schedule sta-
3 bility and predictability for hourly employees at Gap
4 Inc. stores increased store productivity and sales.

5 (9) This Act is a first step in responding to the
6 needs of workers for a voice in the timing of their
7 work hours and for more predictable schedules.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

10 (1) BONA FIDE BUSINESS REASON.—The term
11 “bona fide business reason” means—

12 (A) the identifiable burden of additional
13 costs to an employer, including the cost of pro-
14 ductivity loss, retraining or hiring employees, or
15 transferring employees from one facility to an-
16 other facility;

17 (B) a significant detrimental effect on the
18 employer’s ability to meet organizational needs
19 or customer demand;

20 (C) a significant inability of the employer,
21 despite best efforts, to reorganize work among
22 existing (as of the date of the reorganization)
23 staff;

24 (D) a significant detrimental effect on
25 business performance;

1 (E) insufficiency of work during the peri-
2 ods an employee proposes to work;

3 (F) the need to balance competing sched-
4 uling requests when it is not possible to grant
5 all such requests without a significant detri-
6 mental effect on the employer's ability to meet
7 organizational needs; or

8 (G) such other reason as may be specified
9 by the Secretary of Labor (or, as applicable, the
10 corresponding administrative officer specified in
11 section 7(e)).

(2) CAREER-RELATED EDUCATIONAL OR TRAINING PROGRAM.—The term “career-related educational or training program” means an educational or training program or program of study offered by a public, private, or nonprofit career and technical education school, institution of higher education, or other entity that provides academic education, career and technical education, or training (including remedial education or English as a second language, as appropriate), that is a program that leads to a recognized postsecondary credential (as identified under section 122(d) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3152(d))), and provides career awareness information. The term includes a

1 program allowable under the Workforce Innovation
2 and Opportunity Act (29 U.S.C. 3101 et seq.), the
3 Carl D. Perkins Career and Technical Education
4 Act of 2006 (20 U.S.C. 2301 et seq.), or the Higher
5 Education Act of 1965 (20 U.S.C. 1001 et seq.),
6 without regard to whether or not the program is
7 funded under the corresponding Act.

8 (3) CAREGIVER.—The term “caregiver” means
9 an individual with the status of being a significant
10 provider of—

11 (A) ongoing care or education, including
12 responsibility for securing the ongoing care or
13 education, of a child; or

14 (B) ongoing care, including responsibility
15 for securing the ongoing care, of—

16 (i) a person with a serious health con-
17 dition who is in a family relationship with
18 the individual; or

19 (ii) a parent of the individual, who is
20 age 65 or older.

21 (4) CHILD.—The term “child” means, regard-
22 less of age, a biological, adopted, or foster child, a
23 stepchild, a child of a domestic partner, a legal
24 ward, or a child of a person standing in loco
25 parentis to that child.

6 (6) COVERED EMPLOYER.—

9 (i) means any person engaged in com-
10 mmerce or in any industry or activity affect-
11 ing commerce who employs 15 or more em-
12 ployees (described in paragraph (10)(A));

13 (ii) includes any person who acts, di-
14 rectly or indirectly, in the interest of such
15 an employer to any of the employees (de-
16 scribed in paragraph (10)(A)) of such em-
17 ployer;

18 (iii) includes any successor in interest
19 of such an employer; and

20 (iv) includes an agency described in
21 subparagraph (A)(iii) of section 101(4) of
22 the Family and Medical Leave Act of 1993
23 (29 U.S.C. 2611(4)), to which subpara-
24 graph (B) of such section shall apply.

(B) RULE.—For purposes of determining the number of employees who work for a person described in subparagraph (A)(i), all employees (described in paragraph (10)(A)) performing work for compensation on a full-time, part-time, or temporary basis shall be counted, except that if the number of such employees who perform work for such a person for compensation fluctuates, the number may be determined for a calendar year based upon the average number of such employees who performed work for the person for compensation during the preceding calendar year.

14 (C) PERSON.—In this paragraph, the term
15 “person” has the meaning given the term in
16 section 3 of the Fair Labor Standards Act of
17 1938 (29 U.S.C. 203).

1 fication System (as in effect on the day before
2 the date of enactment of this Act)—

3 (i) retail sales occupations consisting
4 of occupations described in 41-1010 and
5 41-2000, and all subdivisions thereof, of
6 such System, which includes first-line su-
7 pervisors of sales workers, cashiers, gam-
8 bling change persons and booth cashiers,
9 counter and rental clerks, parts sales-
10 persons, and retail salespersons;

11 (ii) food preparation and serving re-
12 lated occupations as described in 35-0000,
13 and all subdivisions thereof, of such Sys-
14 tem, which includes supervisors of food
15 preparation and serving workers, cooks
16 and food preparation workers, food and
17 beverage serving workers, and other food
18 preparation and serving related workers; or

19 (iii) cleaning occupations as described
20 in 37-2011, 37-2012, and 37-2019 of
21 such System, which includes janitors and
22 cleaners, maids and housekeeping cleaners,
23 and building cleaning workers; or

24 (B) a nonexempt employee who is em-
25 ployed in any occupation that is designated by

1 the Secretary under section 9(a)(2)(A) as ap-
2 propriate for coverage under section 4.

12 (10) EMPLOYEE.—The term “employee” means
13 an individual who is—

14 (A) an employee, as defined in section 3(e)
15 of the Fair Labor Standards Act of 1938 (29
16 U.S.C. 203(e)), who is not described in any of
17 subparagraphs (B) through (G);

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16c(a));

21 (C) a covered employee, as defined in sec-
22 tion 101 of the Congressional Accountability
23 Act of 1995 (2 U.S.C. 1301), other than an ap-
24 plicant for employment;

(D) a covered employee, as defined in section 411(c) of title 3, United States Code;

8 (F) an employee of the Library of Con-
9 gress; or

10 (G) an employee of the Government Ac-
11 countability Office.

12 (11) EMPLOYER.—The term “employer” means
13 a person—

14 (A) who is—

15 (i) a covered employer, as defined in
16 paragraph (6), who is not described in any
17 of clauses (ii) through (vii);

18 (ii) an entity employing a State em-
19 ployee described in section 304(a) of the
20 Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

1 (iv) an employing office, as defined in
2 section 411(c) of title 3, United States
3 Code;

4 (v) an employing agency covered
5 under subchapter V of chapter 63 of title
6 5, United States Code;

7 (vi) the Librarian of Congress; or

8 (vii) the Comptroller General of the
9 United States; and

10 (B) who is engaged in commerce (including
11 government), in the production of goods for
12 commerce, or in an enterprise engaged in com-
13 mercial (including government) or in the produc-
14 tion of goods for commerce.

(12) FAMILY RELATIONSHIP.—The term “family relationship” means a relationship with—

17 (A) a child, spouse, domestic partner, par-
18 ent, grandchild, grandparent, sibling, or parent
19 of a spouse or domestic partner; or

20 (B) any individual related to the employee
21 involved by blood or affinity, whose close asso-
22 ciation with the employee is the equivalent of a
23 family relationship described in subparagraph
24 (A).

(13) GRANDCHILD.—The term “grandchild” means the child of a child.

(14) GRANDPARENT.—The term “grandparent” means the parent of a parent.

20 (18) ON-CALL SHIFT.—The term “on-call shift”
21 means any time during which an employer requires
22 an employee to—

23 (A) be available to work; and

24 (B) contact the employer or the designee
25 of the employer, or wait to be contacted by the

1 employer or designee, to determine whether the
2 employee is required to report to work at that
3 time.

4 (19) PARENT.—The term “parent” means a bi-
5 logical or adoptive parent, a stepparent, or a person
6 who stood in a parental relationship to an employee
7 when the employee was a child.

8 (20) PARENTAL RELATIONSHIP.—The term
9 “parental relationship” means a relationship in
10 which a person assumed the obligations incident to
11 parenthood for a child and discharged those obliga-
12 tions before the child reached adulthood.

13 (21) SECRETARY.—The term “Secretary”
14 means the Secretary of Labor.

15 (22) SERIOUS HEALTH CONDITION.—The term
16 “serious health condition” has the meaning given
17 the term in section 101 of the Family and Medical
18 Leave Act of 1993 (29 U.S.C. 2611).

19 (23) SIBLING.—The term “sibling” means a
20 brother or sister, whether related by half blood,
21 whole blood, or adoption or as a stepsibling.

22 (24) SPLIT SHIFT.—The term “split shift”
23 means a schedule of daily hours in which the hours
24 worked are not consecutive, except that—

4 (B) a schedule in which the break in the
5 employee's work shift is requested by the em-
6 ployee shall not be treated as a split shift.

12 (B) in the case of a marriage entered into
13 outside of any State, a marriage that is recog-
14 nized in the place where entered into and could
15 have been entered into in at least 1 State.

16 (26) STATE.—The term “State” has the mean-
17 ing given the term in section 3 of the Fair Labor
18 Standards Act of 1938 (29 U.S.C. 203).

(30) WORK SHIFT.—The term "work shift" means the specific hours of the workday during which an employee works.

15 SEC. 3. RIGHT TO REQUEST AND RECEIVE A FLEXIBLE,
16 PREDICTABLE, OR STABLE WORK SCHEDULE.

17 (a) RIGHT TO REQUEST.—An employee may request
18 from their employer a change in the terms and conditions
19 of employment as they relate to factors including—

20 (1) the number of hours the employee is re-
21 quired to work or be on call for work;

22 (2) the times when the employee is required to
23 work or be on call for work;

24 (3) the location where the employee is required
25 to work;

3 (5) minimizing fluctuations in the number of
4 hours the employee is scheduled to work on a daily,
5 weekly, or monthly basis.

6 (b) EMPLOYER OBLIGATION TO ENGAGE IN AN

7 INTERACTIVE PROCESS.—

15 (2) RESULT.—Such process shall result in—

16 (A) subject to subsections (c) and (d), ei-
17 ther granting or denying the request; and

18 (B) in the event of a denial—

19 (i) considering alternatives to the pro-
20 posed change that might meet the employ-
21 ee's needs and granting or denying a re-
22 quest for an alternative change in the
23 terms and conditions of employment as set
24 forth in subsection (a); and

1 (ii) stating the reason for denial, in-
2 cluding whether any such reason is a bona
3 fide business reason.

9 (c) REQUESTS RELATED TO SERIOUS HEALTH CON-
10 DITION, CAREGIVING, ENROLLMENT IN EDUCATION OR
11 TRAINING, OR ANOTHER JOB.—If an employee makes a
12 request for a change in the terms and conditions of em-
13 ployment as set forth in subsection (a), specifying that the
14 request is because of the employee’s serious health condi-
15 tion, the employee’s responsibilities as a caregiver, the em-
16 ployee’s enrollment in a career-related educational or
17 training program, or a reason related to another job of
18 the employee, the employer shall grant the request, unless
19 the employer has a bona fide business reason for denying
20 the request.

21 (d) OTHER REQUESTS.—If an employee makes a re-
22 quest for a change in the terms and conditions of employ-
23 ment as set forth in subsection (a), for a reason other than
24 those reasons set forth in subsection (c), the employer may
25 deny the request for any reason that is not unlawful.

1 **SEC. 4. REQUIREMENTS FOR ADVANCE NOTICE OF WORK**2 **SCHEDULES, PREDICTABILITY PAY, AND**
3 **SPLIT SHIFT PAY FOR COVERED SECTOR EM-**
4 **PLOYEES.**5 (a) **ADVANCE NOTICE REQUIREMENT.—**6 (1) **PROVIDING NOTICE OF WORK SCHED-**
7 **ULES.—**8 (A) **IN GENERAL.—**An employer shall pro-
9 vide a covered sector employee with the work
10 schedule of the employee—11 (i) not less than 14 days before the
12 first day of such work schedule; or13 (ii) in the case of a new covered sector
14 employee on or before the first day of work
15 of such employee.16 (B) **COMPENSATION FOR FAILURE TO PRO-**
17 **VIDE NOTICE OF WORK SCHEDULE.—**An em-
18 ployer that violates subparagraph (A) shall
19 compensate each affected employee in the
20 amount of \$75 per day that a work schedule is
21 not provided in violation of such subparagraph.22 (C) **WORK SCHEDULE CHANGE.—**An em-
23 ployer may make a work schedule change for
24 the work schedule of a covered sector employee
25 provided in accordance with subparagraph (A)
26 if—

(i) such work schedule change is made

not less than 14 days prior to the first day

on which the change is to take effect; or

(ii) the employer provides predict-

ability pay for such change in accordance

6 with subsection (b).

(i) IN GENERAL—An employer shall

inform a covered sector employee of an es-

estimate of the minimum number of expected

work hours the employee will be assigned

to work per month for the following 12-

month period—

(I) in the case of a new covered

sector employee, on or before the first

day of work of such employee; or

(II) in the case of a covered sec-

tor employee who is employed by the

employer on the date of enactment of

this Act, not later than 90 days after

such date.

(ii) UPDATING MINIMUM EXPECTED

WORK HOURS.—An employer shall, not less

than once each year, provide each covered

sector employee an updated estimate of the

7 (I) 1 year after the date on which
8 the estimate was provided under
9 clause (i) or the most recent update of
10 an estimate was provided under this
11 clause; or

12 (II) the day before the effective
13 date of a significant change to the
14 minimum expected work hours of the
15 employee due to changes in the avail-
16 ability of the employee or to the busi-
17 ness needs of the employer.

22 (3) SCHEDULE POSTING REQUIREMENT.—

23 (A) IN GENERAL.—An employer shall post
24 a copy of the work schedule of each covered sec-
25 tor employee in a conspicuous place that is

1 readily accessible and visible to all covered sec-
2 tor employees at the workplace. Posting by elec-
3 tronic means accessible to all covered sector em-
4 ployees shall be considered compliance with this
5 subparagraph. At the request of an employee,
6 the employer shall carry out the posting so that
7 the identity of the employee is not readily iden-
8 tifiable from the schedules posted.

9 (B) RIGHT TO DECLINE.—A covered sector
10 employee may decline, without penalty, to work
11 any hours not included in the work schedule
12 posted under subparagraph (A) as work hours
13 for the covered sector employee.

14 (C) CONSENT.—Except as described in
15 subsection (b)(2), if a covered sector employee
16 voluntarily consents to work any hours not
17 posted under subparagraph (A), such consent
18 must be recorded in writing.

19 (4) RULE OF CONSTRUCTION.—Nothing in this
20 subsection shall be construed to prohibit an em-
21 ployer from—

22 (A) providing greater advance notice of the
23 work schedule of a covered sector employee
24 than is required under this subsection; or

(B) using any means, in addition to the written means required under paragraph (2), of notifying a covered sector employee of the work schedule of the employee.

5 (b) PREDICTABILITY PAY FOR WORK SCHEDULE
6 CHANGES MADE WITH LESS THAN 14 DAYS' NOTICE.—

15 (A) The covered sector employee's regular
16 rate of pay per hour that the employee works
17 plus one additional hour at such regular rate
18 per work schedule change if the employer—

19 (i) adds any hours to the hours the
20 employee is scheduled to work under sub-
21 section (a); or

22 (ii) changes the date, time, or location
23 of the work shift the employee is scheduled
24 to work under subsection (a) with no loss
25 of hours.

12 (A) A covered sector employee requests a
13 shift change in writing, including through the
14 use of sick leave, vacation leave, or any other
15 leave policy offered by the employer.

16 (B) A schedule change is the result of a
17 mutually agreed upon shift trade or coverage
18 arrangement between covered sector employees,
19 subject to any policy of the employer regarding
20 required conditions for employees to exchange
21 shifts.

22 (C) The employer's operations cannot
23 begin or continue due to—
24 (i) a threat to the property of an em-
25 ployee or the employer;

12 (c) SPLIT SHIFT PAY REQUIREMENT.—An employer
13 shall pay a covered sector employee for 1 additional hour
14 at the employee's regular rate of pay for each day during
15 which the employee works a split shift.

16 (d) PAY STUB TRANSPARENCY.—Any pay provided
17 to an employee pursuant to subsection (a), (b), or (c) (re-
18 ferred to in this subsection as “additional pay”) shall be
19 included in the employee’s regular paycheck. The employer
20 shall identify, in the corresponding written wage statement
21 or pay stub, the total number of hours of additional pay
22 provided for the pay period involved and whether the addi-
23 tional pay was due to the requirements of subsection (a),
24 the requirements of subsection (b), or the requirements
25 of subsection (c).

1 **SEC. 5. RIGHT TO REST BETWEEN WORK SHIFTS.**

2 (a) IN GENERAL.—An employee of a covered em-
3 ployer may decline, without penalty, to work any work
4 shift or on-call shift that is scheduled or otherwise oc-
5 curs—

6 (1) less than 11 hours after the end of the work
7 shift or on-call shift for the previous day; or
8 (2) during the 11 hours following the end of a
9 work shift or on-call shift that spanned 2 days.

10 (b) CONSENT.—

11 (1) IN GENERAL.—An employee may consent to
12 work a shift as described in subsection (a), if the
13 covered employer obtains the employee's consent in
14 writing. Such consent may be for each such shift or
15 for multiple shifts.

16 (2) REVOCATION.—An employee may revoke the
17 consent provided under paragraph (1), in writing, at
18 any time during the employment.

19 (c) COMPENSATION.—For each instance that an em-
20 ployee of a covered employer works a shift described in
21 subsection (a), the covered employer shall compensate the
22 employee at 1.5 times the employee's scheduled rate of pay
23 for the hours worked that are less than 11 hours apart
24 from the hours worked during the previous shift.

1 **SEC. 6. PROHIBITED ACTS.**

2 (a) INTERFERENCE WITH RIGHTS.—It shall be un-
3 lawful for any employer to interfere with, restrain, or deny
4 the exercise or the attempt to exercise, any right provided
5 under section 3, 4, or 5.

6 (b) RETALIATION PROHIBITED.—It shall be unlawful
7 for any employer to discharge, threaten to discharge, de-
8 mote, suspend, reduce work hours of, or take any other
9 adverse employment action against any employee in retal-
10 iation for exercising the rights of an employee under this
11 Act or opposing any practice made unlawful by this Act.

12 For purposes of section 3, such retaliation shall include
13 taking an adverse employment action against any em-
14 ployee on the basis of that employee's request for a change
15 in work schedule, or because of an employee's eligibility
16 or perceived eligibility to request or receive a change in
17 the terms and conditions of employment, as described in
18 such section, on the basis of a reason set forth in section
19 3(c).

20 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
21 IES.—It shall be unlawful for any person to discharge or
22 in any other manner discriminate against any individual
23 because such individual—

24 (1) has filed any charge, or has instituted or
25 caused to be instituted any proceeding, under or re-
26 lated to this Act;

4 (3) has testified, or is about to testify, in any
5 inquiry or proceeding relating to any right provided
6 under this Act.

7 SEC. 7. REMEDIES AND ENFORCEMENT.

8 (a) INVESTIGATIVE AUTHORITY.—

1 believe there may exist a violation of this Act or any
2 regulation or order issued pursuant to this Act, or
3 is investigating a charge pursuant to subsection (c).

4 (4) SUBPOENA POWERS.—For the purposes of
5 any investigation provided for in this section, the
6 Secretary shall have the subpoena authority provided
7 for under section 9 of the Fair Labor Standards Act
8 of 1938 (29 U.S.C. 209).

9 (b) CIVIL ACTION BY EMPLOYEES.—

10 (1) LIABILITY.—

11 (A) IN GENERAL.—Any employer who vio-
12 lates subsection (a) of section 6 (with respect to
13 a right provided under section 3 or 5 or sub-
14 section (a), (b), or (c) of section 4) or sub-
15 section (b) or (c) of such section (each such
16 provision referred to in this section as a “cov-
17 ered provision”) shall be liable to any employee
18 affected for—

19 (i) damages equal to the amount of—
20 (I) any wages, salary, employ-
21 ment benefits (as defined in section
22 101 of the Family and Medical Leave
23 Act of 1993 (29 U.S.C. 2611)), or
24 other compensation denied, lost, or

owed to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits (as so defined), or other compensation have not been denied, lost, or owed to the employee, any actual monetary losses sustained by the employee as a direct result of the violation;

10 (ii) interest on the amount described
11 in clause (i) calculated at the prevailing
12 rate;

13 (iii) except as described in subparagraph (B), an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii); and

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18 (iv) such equitable relief as may be
19 appropriate, including employment, rein-
20 statement, and promotion.

1 the employer had reasonable grounds for believ-
2 ing that the act or omission was not a violation
3 of a covered provision, such court may, in the
4 discretion of the court, waive such liquidated
5 damages.

6 (2) RIGHT OF ACTION.—An action to recover
7 the damages, interest, or equitable relief set forth in
8 paragraph (1) may be maintained against any em-
9 ployer (including a public agency) in any Federal or
10 State court of competent jurisdiction by any one or
11 more employees for and on behalf of—

12 (A) the employees; or
13 (B) the employees and any other employees
14 similarly situated.

15 (3) FEES AND COSTS.—The court in such an
16 action shall, in addition to any judgment awarded to
17 the plaintiff, allow a reasonable attorney's fee, rea-
18 sonable expert witness fees, and other costs of the
19 action to be paid by the defendant.

20 (4) LIMITATIONS.—The right provided by para-
21 graph (2) to bring an action by or on behalf of any
22 employee shall terminate on the filing of a complaint
23 by the Secretary in an action under subsection (c)(4)
24 in which a recovery is sought of the damages, inter-
25 est, or equitable relief described in paragraph (1)(A)

1 owing to an employee by an employer liable under
2 paragraph (1) unless the action described is dis-
3 missed without prejudice on motion of the Secretary.

4 (c) ACTIONS BY THE SECRETARY.—

5 (1) ADMINISTRATIVE ACTION.—The Secretary
6 shall receive, investigate, and attempt to resolve
7 complaints of violations of this Act in the same man-
8 ner that the Secretary receives, investigates, and at-
9 tempts to resolve complaints of violations of sections
10 6 and 7 of the Fair Labor Standards Act of 1938
11 (29 U.S.C. 206 and 207), and may issue an order
12 making determinations, and assessing a civil penalty
13 described in paragraph (3) (in accordance with para-
14 graph (3)), with respect to such an alleged violation.

15 (2) ADMINISTRATIVE REVIEW.—An affected
16 person who takes exception to an order issued under
17 paragraph (1) may request review of and a decision
18 regarding such an order by an administrative law
19 judge. In reviewing the order, the administrative law
20 judge may hold an administrative hearing con-
21 cerning the order, in accordance with the require-
22 ments of sections 554, 556, and 557 of title 5,
23 United States Code. Such hearing shall be conducted
24 expeditiously. If no affected person requests such re-
25 view within 60 days after the order is issued under

1 paragraph (1), the order shall be considered to be a
2 final order that is not subject to judicial review.

3 (3) CIVIL PENALTY.—

4 (A) IN GENERAL.—An employer who will-
5 fully and repeatedly violates—

6 (i) section 4 or 5 shall be subject to
7 a civil penalty in an amount per violation
8 that is not less than \$500 and not more
9 than \$1,000; or

10 (ii) subsection (b) or (c) of section 6
11 shall be subject to a civil penalty in an
12 amount per violation that is not less than
13 \$1,100 and not more than \$5,000.

14 (B) WILLFULLY AND REPEATEDLY.—For
15 purposes of subparagraph (A):

16 (i) REPEATEDLY.—The term “repeat-
17 edly”, with respect to a violation, means 2
18 or more such violations.

19 (ii) WILLFULLY.—The term “will-
20 fully”, with respect to a violation, means
21 such a violation for which, based on all of
22 the facts and circumstances surrounding
23 the violation, an employer—

24 (I) knew that its conduct was
25 prohibited by, as applicable, section 4

1 or 5 or subsection (b) or (c) of section
2 6; or
3 (II) showed reckless disregard for
4 the requirements of, as applicable,
5 section 4 or 5 or subsection (b) or (c)
6 of section 6.

- 10 (A) restrain violations of this Act;
- 11 (B) award such equitable relief as may be
- 12 appropriate, including employment, reinstatement,
- 13 and promotion; and

14 (C) in the case of a violation of a covered
15 provision, recover the damages and interest de-
16 scribed in clauses (i) through (iii) of subsection
17 (b)(1)(A).

18 (d) LIMITATION.—

24 (2) WILLFUL VIOLATION.—In the case of such
25 action brought for a willful violation of section 6,

1 such action may be brought within 3 years of the
2 date of the last event constituting the alleged viola-
3 tion for which such action is brought.

4 (3) COMMENCEMENT.—In determining when an
5 action is commenced by the Secretary or by an em-
6 ployee under this section for the purposes of this
7 subsection, it shall be considered to be commenced
8 on the date when the complaint is filed.

9 (e) OTHER ADMINISTRATIVE OFFICERS.—

10 (1) BOARD.—In the case of employees described
11 in section 2(10)(C), the authority of the Secretary
12 under this Act shall be exercised by the Board of Di-
13 rectors of the Office of Congressional Workplace
14 Rights.

15 (2) PRESIDENT; MERIT SYSTEMS PROTECTION
16 BOARD.—In the case of employees described in sec-
17 tion 2(10)(D), the authority of the Secretary under
18 this Act shall be exercised by the President and the
19 Merit Systems Protection Board.

20 (3) OFFICE OF PERSONNEL MANAGEMENT.—In
21 the case of employees described in section 2(10)(E),
22 the authority of the Secretary under this Act shall
23 be exercised by the Office of Personnel Management.

24 (4) LIBRARIAN OF CONGRESS.—In the case of
25 employees of the Library of Congress, the authority

1 of the Secretary under this Act shall be exercised by
2 the Librarian of Congress.

3 (5) COMPTROLLER GENERAL.—In the case of
4 employees of the Government Accountability Office,
5 the authority of the Secretary under this Act shall
6 be exercised by the Comptroller General of the
7 United States.

8 **SEC. 8. NOTICE AND POSTING.**

9 (a) IN GENERAL.—Each employer shall post and
10 keep posted, in conspicuous places on the premises of the
11 employer where notices to employees and applicants for
12 employment are customarily posted, a notice, to be pre-
13 pared or approved by the Secretary (or, as applicable, the
14 corresponding administrative officer specified in section
15 7(e)) setting forth excerpts from, or summaries of, the
16 pertinent provisions of this Act and information pertaining
17 to the filing of a complaint under this Act.

18 (b) PENALTY.—Any employer that willfully violates
19 this section may be assessed a civil money penalty not to
20 exceed \$100 for each separate offense.

21 **SEC. 9. REGULATIONS.**

22 (a) SECRETARY OF LABOR.—

23 (1) IN GENERAL.—Except as provided in sub-
24 sections (b) through (f), not later than 180 days
25 after the date of enactment of this Act, the Sec-

1 retary shall issue such regulations as may be nec-
2 essary to implement this Act.

5 (A) IN GENERAL.—In carrying out para-
6 graph (1), the Secretary shall issue regulations
7 that specify a process the Secretary will follow,
8 in accordance with subparagraph (B), to iden-
9 tify and designate occupations in addition to re-
10 tail, food service, cleaning, hospitality, or ware-
11 house occupations that are appropriate for cov-
12 erage under section 4.

13 (B) CRITERIA.—The regulations under
14 subparagraph (A) shall provide that the Sec-
15 retary shall so designate an additional occupa-
16 tion—

20 (I) receive advance notice of their
21 work schedules less than 14 days be-
22 fore the first day of the work sched-
23 ules; or

24 (II) experience fluctuations in the
25 number of hours the employees are

5 (C) DATA REVIEW.—In issuing regulations
6 under subparagraph (A), the Secretary shall
7 specify the process by which the Department of
8 Labor will review data from stakeholders, and
9 data collected or generated by the Department,
10 in designating occupations.

11 (b) BOARD.—

12 (1) IN GENERAL.—Not later than 180 days
13 after the date of enactment of this Act, the Board
14 of Directors of the Office of Congressional Work-
15 place Rights shall issue such regulations as may be
16 necessary to implement this Act with respect to em-
17 ployees described in section 2(10)(C). The proce-
18 dures applicable to regulations of the Board issued
19 for the implementation of the Congressional Ac-
20 countability Act of 1995 (2 U.S.C. 1301 et seq.),
21 prescribed in section 304 of that Act (2 U.S.C.
22 1384), shall be the procedures applicable to regula-
23 tions issued under this subsection.

24 (2) CONSIDERATION.—In prescribing the regu-
25 lations, the Board shall take into consideration the

1 enforcement and remedies provisions concerning the
2 Office, and applicable to rights and protections
3 under the Family and Medical Leave Act of 1993
4 (29 U.S.C. 2601 et seq.), under the Congressional
5 Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

6 (3) MODIFICATIONS.—The regulations issued
7 under paragraph (1) to implement this Act shall be
8 the same as substantive regulations issued by the
9 Secretary to implement this Act, except to the extent
10 that the Board may determine, for good cause
11 shown and stated together with the regulations
12 issued by the Board, that a modification of such
13 substantive regulations would be more effective for
14 the implementation of the rights and protections
15 under this Act with respect to the employees de-
16 scribed in section 2(10)(C).

17 (c) PRESIDENT.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Presi-
20 dent shall issue such regulations as may be nec-
21 essary to implement this Act with respect to employ-
22 ees described in section 2(10)(D).

23 (2) CONSIDERATION.—In prescribing the regu-
24 lations, the President shall take into consideration
25 the enforcement and remedies provisions concerning

1 the President and the Merit Systems Protection
2 Board, and applicable to rights and protections
3 under the Family and Medical Leave Act of 1993,
4 under chapter 5 of title 3, United States Code.

5 (3) MODIFICATIONS.—The regulations issued
6 under paragraph (1) to implement this Act shall be
7 the same as substantive regulations issued by the
8 Secretary to implement this Act, except to the extent
9 that the President may determine, for good cause
10 shown and stated together with the regulations
11 issued by the President, that a modification of such
12 substantive regulations would be more effective for
13 the implementation of the rights and protections
14 under this Act with respect to the employees de-
15 scribed in section 2(10)(D).

16 (d) OFFICE OF PERSONNEL MANAGEMENT.—

17 (1) IN GENERAL.—Not later than 180 days
18 after the date of enactment of this Act, the Office
19 of Personnel Management shall issue such regula-
20 tions as may be necessary to implement this Act
21 with respect to employees described in section
22 2(10)(E).

23 (2) CONSIDERATION.—In prescribing the regu-
24 lations, the Office shall take into consideration the
25 enforcement and remedies provisions concerning the

1 Office under subchapter V of chapter 63 of title 5,
2 United States Code.

3 (3) MODIFICATIONS.—The regulations issued
4 under paragraph (1) to implement this Act shall be
5 the same as substantive regulations issued by the
6 Secretary to implement this Act, except to the extent
7 that the Office may determine, for good cause shown
8 and stated together with the regulations issued by
9 the Office, that a modification of such substantive
10 regulations would be more effective for the imple-
11 mentation of the rights and protections under this
12 Act with respect to the employees described in sec-
13 tion 2(10)(E).

14 (e) LIBRARIAN OF CONGRESS.—

15 (1) IN GENERAL.—Not later than 180 days
16 after the date of enactment of this Act, the Librar-
17 ian of Congress shall issue such regulations as may
18 be necessary to implement this Act with respect to
19 employees of the Library of Congress.

20 (2) CONSIDERATION.—In prescribing the regu-
21 lations, the Librarian shall take into consideration
22 the enforcement and remedies provisions concerning
23 the Librarian of Congress under title I of the Fam-
24 ily and Medical Leave Act of 1993 (29 U.S.C. 2611
25 et seq.).

12 (f) COMPTROLLER GENERAL.—

24 (3) MODIFICATIONS.—The regulations issued
25 under paragraph (1) to implement this Act shall be

1 the same as substantive regulations issued by the
2 Secretary to implement this Act, except to the extent
3 that the Comptroller General may determine, for
4 good cause shown and stated together with the regu-
5 lations issued by the Comptroller General, that a
6 modification of such substantive regulations would
7 be more effective for the implementation of the
8 rights and protections under this Act with respect to
9 employees of the Government Accountability Office.

10 **SEC. 10. RESEARCH, EDUCATION, AND TECHNICAL ASSIST-
11 ANCE PROGRAM AND SURVEYS.**

12 (a) **IN GENERAL.**—The Secretary shall provide infor-
13 mation and technical assistance to employers, labor orga-
14 nizations, and the general public concerning compliance
15 with this Act.

16 (b) **PROGRAM.**—In order to achieve the objectives of
17 this Act—

18 (1) the Secretary, acting through the Adminis-
19 trator of the Wage and Hour Division of the Depart-
20 ment of Labor, shall issue guidance on compliance
21 with this Act regarding providing a flexible, predict-
22 able, or stable work environment through changes in
23 the terms and conditions of employment as provided
24 in section 3(a); and

4 (A)(i) conducting pilot programs that im-
5 plement fairer work schedules, including by pro-
6 moting cross-training, providing 3 weeks or
7 more advance notice of schedules, providing em-
8 ployees with a minimum number of hours of
9 work, and using electronic workforce manage-
10 ment systems to provide more flexible, predict-
11 able, and stable schedules for employees; and

12 (ii) evaluating the results of such pilot pro-
13 grams for employees, employee's families, and
14 employers;

15 (B) publishing and otherwise making avail-
16 able to employers, labor organizations, profes-
17 sional associations, educational institutions, the
18 various communication media, and the general
19 public the findings of studies regarding fair
20 work scheduling policies and other materials for
21 promoting compliance with this Act;

22 (C) sponsoring and assisting State and
23 community informational and educational pro-
24 grams; and

6 (c) CURRENT POPULATION SURVEY.—The Secretary,
7 acting through the Commissioner of the Bureau of Labor
8 Statistics, and the Director of the Bureau of the Census
9 shall—

10 (1) include in the Current Population Survey
11 questions on—

12 (A) the magnitude of fluctuation in the
13 number of hours the employee is scheduled to
14 work on a daily, weekly, or monthly basis;

15 (B) the extent of advance notice an em-
16 ployee receives of the employee's work schedule;

17 (C) the extent to which an employee has
18 input in the employee's work schedule; and

19 (D) the number of hours that an employee
20 would prefer to work, relative to the number of
21 hours the employee is currently working; and

1 the Current Population Survey and the American
2 Time Use Survey.

3 **SEC. 11. RIGHTS RETAINED BY EMPLOYEES.**

4 This Act provides minimum requirements and shall
5 not be construed to preempt, limit, or otherwise affect the
6 applicability of any other law, requirement, policy, or
7 standard that provides for greater rights for employees
8 than are required in this Act.

9 **SEC. 12. EXEMPTION.**

10 This Act shall not apply to any employee covered by
11 a valid collective bargaining agreement if—

12 (1) the terms of the collective bargaining agree-
13 ment include terms that govern work scheduling
14 practices; and

15 (2) the provisions of this Act are expressly
16 waived in such collective bargaining agreement.

17 **SEC. 13. EFFECT ON OTHER LAW.**

18 (a) IN GENERAL.—Nothing in this Act shall be con-
19 strued as superseding, or creating or imposing any re-
20 quirement in conflict with, any Federal, State, or local
21 regulation or other law (including the Americans with Dis-
22 abilities Act of 1990 (42 U.S.C. 12101 et seq.), the Fam-
23 ily and Medical Leave Act of 1993 (29 U.S.C. 2601 et
24 seq.), the National Labor Relations Act (29 U.S.C. 151
25 et seq.), the Fair Labor Standards Act of 1938 (29 U.S.C.

1 201 et seq.), and title VII of the Civil Rights Act of 1964
2 (42 U.S.C. 2000e et seq.)).

3 (b) RELATIONSHIP TO COLLECTIVE BARGAINING
4 RIGHTS.—Nothing in this Act (including section 12) shall
5 be construed to diminish or impair the rights of an em-
6 ployee under any valid collective bargaining agreement.

○