
OLR Bill Analysis

HB 6924

AN ACT LIMITING "ON-CALL" SHIFT SCHEDULING.

SUMMARY

This bill generally requires employers with at least 25 employees to pay certain types of employees (i.e., those in wholesale or retail occupations, restaurant occupations, and certain occupations in hotels or residential care facilities) half of their regular pay rate for any scheduled hours that the employer cancels or reduces (1) after the employee reports to work the scheduled hours or (2) less than 72 in advance. The bill provides exceptions to this requirement under certain circumstances, such as mutually agreed upon shift swapping by employees, power outages, or severe weather conditions that pose a threat to employee safety.

If an employer schedules such an employee to work with less than 72 hours' notice, the bill requires the scheduling to be (1) mutually agreed to, freely and without coercion; (2) in writing; and (3) done on a case-by-case basis. It prohibits an employer from requiring an employee to sign a prospective agreement before or during the employee's employment.

The bill also requires these employers to pay these employees a time-and-a-half rate for working a shift that begins less than 11 hours after the employee's previous shift ended.

The bill allows the labor commissioner to adopt regulations to implement and enforce its provisions. It requires employers, unless they are exempted by the regulations, to keep true and accurate records, for at least three years, of each employee's (1) daily and weekly shifts worked and (2) work schedule and schedule revisions.

It also specifies that it does not (1) prohibit an employer from

adopting scheduling policies that are more beneficial to employees than those required by the bill or (2) diminish an employer's obligation to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement if it is more beneficial to an employee than the bill.

EFFECTIVE DATE: October 1, 2019

COVERED EMPLOYERS AND EMPLOYEES

Employers

Employers subject to the bill's provisions are those with at least 25 employees, aggregated across all locations operated by the employer. They include any individual; partnership; association; joint stock company; trust; corporation; the administrator or executor of a deceased person's estate, the conservator of the estate of someone deemed incompetent by the court, or their receivers, trustees, successors, or assignees; a franchisee; and the state and any of its political subdivisions.

Employees

Employees under the bill are those who are paid on an hourly basis and not exempt from the minimum wage and overtime pay requirements of the federal Fair Labor Standards Act and its regulations. To be covered by the bill, an employee must also work in (1) any occupation in the mercantile trade; (2) a restaurant occupation; (3) certain occupations in a hotel, motel, or resort; or (4) certain occupations within a nursing or residential care facility.

Mercantile Trade Occupations. Under the bill, the mercantile trade is the wholesale or retail selling of groceries or commodities and any supplemental or incidental operations. Occupations in it include buying, delivery, maintenance, office, stock, and clerical work. They do not include repair and service employees if the major portion of their duties is unrelated to the mercantile trade.

Restaurant Occupations. Under the bill, restaurant occupations include anyone who prepares or serves food for human consumption

or any incidental or supplemental operations, regardless of (1) where the food is served or (2) whether preparing and serving food is the employer's sole business. However, they do not include preparing and serving food in (1) a nonprofit education, charitable, or religious organization where food service is not regularly available to the general public or (2) hospitals, convalescent homes, or homes for the elderly where food service is incidental to patient care but is not regularly available to the general public.

The bill specifies that restaurant occupations include employees of restaurants; cafeterias; the portion of hotels that prepares and serves food; commissaries; fast food outlets; grills; coffee shops; luncheonettes; sandwich shops; tearooms; nightclubs; cabarets; automats; caterers; frankfurter stands; food vending machine operators; the portion of department stores that serves food; drugstores; candy stores; bakeries; pizzerias; delicatessens; places of amusement and recreation; commercial and industrial establishments; and social, recreational, fraternal and professional clubs that serve food regularly or intermittently.

Hotel, Motel, and Resort Occupations. Hotel, motel, and resort occupations covered by the bill have one of the following broad or detailed occupation code numbers and titles, as defined by the federal Bureau of Labor Statistics (BLS): 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; or 43-4170 receptionists and information clerks.

Nursing or Residential Care Facility Occupations. Nursing or residential care facility occupations covered by the bill have the BLS occupation code number and title 31-1130 nursing assistants, orderlies, and psychiatric aides.

WORK CANCELLATION PAY

The bill requires an employer to pay an employee one-half of the employee's regular pay rate for any of the employee's scheduled work hours that the employer cancels or reduces (1) after the employee reports to work the scheduled hours or (2) less than 72 hours before the start of the scheduled work hours. Under the bill, "scheduled work hours" are the hours an employee is scheduled to work under a written notice of the employee's regular and on-call hours over a consecutive seven-day period.

Exceptions

Under the bill, an employer does not have to pay an employee for cancelling or reducing the employee's scheduled work hours if it was due to any of the following reasons:

1. the employee's written request, including requests to use sick, vacation, or other leave provided by the employer;
2. a mutually agreed on shift trade or coverage arrangement between employees, subject to an applicable existing employer policy; or
3. the employer's inability to operate due to (a) threats to the employees or employer's property, (b) a public utility failure or public transportation shutdown, (c) fire, flood, or other natural disaster, (d) a state of emergency declared by the President or governor, or (e) severe weather conditions that threaten employee safety.

WORKING WITH LESS THAN 11 HOURS BETWEEN SHIFTS

The bill allows an employee to decline to work a shift that begins less than 11 hours after the employee's previous shift ended. But if the employee agrees to work such a shift, the bill requires the employee to consent in writing and the employer to pay the employee one and one-half times the employee's regular pay rate for working the shift.

Under the bill, a "shift" is the consecutive hours, excluding breaks of one hour or less, that an employer schedules an employee to work. It also includes the hours an employer schedules an employee to be

available to work at the employer's request or permission (i.e., "on-call"). Thus, the bill also requires employers to pay employees time-and-a-half when they are on-call for work less than 11 hours after their previous shift ended.

BACKGROUND

Related Bill

sSB 764, reported favorably by the Labor and Public Employees Committee, is identical to this bill.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 4 (03/21/2019)