

Chicago 'Fair Workweek' Ordinance Requires Employers to Provide Scheduling Notice to Covered Employees

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On July 24, 2019, the city of Chicago enacted the **Chicago Fair Workweek Ordinance**, intended to “enact and enforce fair and equitable employment scheduling practices in the City of Chicago...” Most provisions of the Ordinance go into effect on July 1, 2020.

Employers Covered by the Ordinance

The Ordinance covers employers primarily engaged in building services, health care, hotel, manufacturing, restaurant, retail and warehouse services industries and who employ 100 or more employees (250 or more employees for not-for-profit corporations), at least 50 of whom are considered “Covered Employees.” A Covered Employee spends the majority of his or her time at work in a covered industry while physically present in the city of Chicago and who earns \$50,000 or less per year as a salaried employee, or \$26.00 or less per hour as an hourly employee. For purposes of meeting these minimums, the number of Covered Employees is aggregated if they are employed by members of a unitary business group for Illinois income tax purposes.

The Ordinance covers restaurants only if the business has at least 30 locations and 250 employees. Restaurant businesses having three or fewer locations in the city under a sole franchise are exempt from coverage. In addition, there are certain other exceptions for employees who self-schedule or who work at certain types of venues or events.

Requirements of the Ordinance

If a business is an employer covered by the Ordinance, it must do the following:

- Prior to or upon commencement of employment, provide new hires who are Covered Employees with a good faith written estimate of the employee’s projected days and hours of work for the first 90 days of employment;
- Provide Covered Employees with written notice of work hours by posting the work schedule at least 10 days in advance (14 days in advance beginning July 1, 2022);
- Pay Covered Employees one hour of “Predictability Pay” at the employee’s regular rate of

pay for each shift or hours change made by the employer within the 10- or 14-day schedule posting period;

- Pay Covered Employees at least 50% of the employee's regular rate of pay for any scheduled hours subtracted from the employee's shift with less than 24-hours' notice;
- Offer any additional shifts of work first to existing qualified Covered Employees and then, if not accepted by such employees, to temporary or seasonal employees who have previously worked for the employer;
- Pay an employee 1.25 times the regular rate, if he or she works a shift that begins less than 10 hours after the end of his or her previous shift;
- Post notice of employees' rights under the Ordinance and provide notice of rights to each Covered Employee with the first paycheck subject to the Ordinance.

There are exceptions to these scheduling requirements including circumstances where scheduling changes are beyond the employer's control, such as power outages, medical and other emergencies, where scheduling changes are due to a Covered Employee's request or shift trade, or where certain types of special events are cancelled or unexpectedly require more workers. In addition, employers are not required to schedule employees to work hours requiring overtime or premium pay.

Rights of Covered Employees

When the employer provides a Covered Employee with an estimate of work hours and schedule before starting work, the Covered Employee may request a modification of his or her projected schedule. The employer is required to consider such request and then provide written notice of its determination within three days. Covered Employees may decline to work any shift or hours added to their schedules within the 10- or 14-day schedule posting period or any shift scheduled to begin within 10 hours of the end of the employee's previous shift. Covered Employees also have the right to request a modified work schedule during their employment.

Enforcement and Penalties

The Ordinance is enforced by the Department of Business Affairs and Consumer Protection, and aggrieved employees may bring a civil suit for damages, costs and attorneys' fees after first exhausting remedies with the Department. Violations carry a penalty of \$300-\$500 per occurrence or \$1,000 for retaliation against an employee for asserting rights under the Ordinance. The Commissioner of Business Affairs and Consumer Protection has been authorized to study the effectiveness of the Ordinance and make further recommendations on its impact.

Chicago employers who may be subject to the Ordinance should look at their policies and procedures to address the requirements well in advance of the effective date of July 1, 2020.

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