



Local Ordinances Not Sold On Gig Workers In Retail

Insights

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Is there nowhere that the gig economy can't go? As gig workers expand into increasingly unlikely industries—including restaurants, hospitality, beauty, healthcare, and even science—it comes as no surprise that retail wants in on the action. Would-be retail workers are gaining access to open shifts in storefronts through companies like Snag Work, which offers an on-demand platform that connects workers with open shifts for sales, stocker, cashier, customer service positions, and other roles. Although Snag Work is only in a few cities on the east coast so far, companies like it are already cropping up across the country.

However, the gig economy's impact on the retail space stands to differ from its impact on other industries. A recent Washington Post article pointed out that many retailers are already reluctant to hire full-time employees because of the potential for overtime and the requirement that they provide benefits. No doubt, part-time workers are cheaper than full-time ones. Temporary workers who, in many states, are not entitled to any employer-provided benefits, are even more cost-effective. Thus, having a pool of available gig workers at the ready significantly decreases a qualified part-time employee's chances of being hired full-time.

That being said, some states and municipalities have enacted protections for retail workers facing low hours and unpredictable schedules. For instance, in 2014, San Francisco passed the country's first Retail Employee Bill of Rights. Among other things, the San Francisco ordinances require employers to offer additional hours of work to existing part-time employees before hiring new employees, provide two weeks' notice of work schedules, provide "predictability pay" if schedules change, and provide part-time employees with the same terms and conditions of employment as full-time employees. Since San Francisco's Retail Employee Bill of Rights went into effect, San Jose, Emeryville, Seattle, New York City, Washington D.C., New Hampshire, and Oregon have all passed laws protecting part-time retail workers. Further, California, Connecticut, Illinois, Maryland, Massachusetts, Michigan, and New Jersey have all considered comparable requirements.

Moreover, unlike many employee rights ordinances that do not directly address the gig economy's independent contractor model, the provisions passed by San Francisco and other jurisdictions will, in no uncertain terms, hamper gig workers' entrance into the industry. Indeed, San Francisco's ordinance expressly requires employers to give existing part-time employees preference over new employees *or contractors* in assigning new shifts. In other words, employers cannot hire a gig worker for a shift unless it has been offered to and declined by an existing part-time employee.

There is no doubt that the gig economy will continue to grow and occupy new spaces. However, when it comes to retail, storefronts should think twice before hanging their shingle for new contractors.