

PREDICTIVE SCHEDULING LAWS ARE A GROWING CHALLENGE FOR RETAILERS: ANSWERS TO YOUR TOP 5 QUESTIONS

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Predictive Scheduling Laws Are a Growing Challenge for Retailers: Answers to Your Top 5 Questions

Adaptability and flexibility are critical to success in the retail industry. But for retailers and other business owners operating in multiple locations, that flexibility is increasingly affected by the growing number of predictive scheduling laws across the country. These laws – which are commonly referred to as fair work week laws – are designed to provide employees with more certainty and stability in their work schedules, but they can also create significant compliance challenges for employers that depend on quick staffing decisions to meet customer demand. We'll answer your top five questions and give you a five-step compliance plan.

1. What Are Predictive Scheduling Laws?

Predictive scheduling laws generally require you to provide employees with advance notice and greater predictability when it comes to work schedules. The goal is to help employees better manage obligations outside of work, including childcare, transportation, and other personal responsibilities. Although these laws vary by jurisdiction, they often require employers to:

- provide a good faith estimate of expected hours or schedules at the time of hire;
- post work schedules in advance (typically by 14 days);

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- obtain written consent from employees to work hours not on their schedule;
- pay premiums when schedules are changed on short notice; and
- offer additional hours to existing employees before hiring new employees.

The details, however, can differ significantly depending on where a business operates.

2. Why Are Retailers Especially Affected?

For retailers in particular, scheduling needs tend to shift based on various factors such as customer traffic, seasonal demand, product launches, promotions, weather, and employee availability. Predictive scheduling laws can make it harder to adjust in real time, especially when employers need to add, reduce, or reassign shifts on short notice.

A store may need more coverage during a weekend rush, fewer employees during a slow weekday afternoon, or immediate replacements when an employee calls out from a shift.

Practices that once seemed routine, such as sending employees home early, asking someone to stay late, or adjusting a shift after a schedule has been posted, may trigger additional obligations under these laws. In some jurisdictions, those changes may require premium pay. In others, they may require employee consent or additional documentation.

3. How Widespread Are Predictive Scheduling Laws?

Predictive scheduling is not currently required at the federal level, but a growing number of states and local jurisdictions have enacted laws in this area. For multi-location businesses, compliance often means managing various local requirements.

San Francisco was the first location to enact a predictive scheduling law in 2015, followed by Seattle, San Jose, Emeryville (CA), New York City, Philadelphia, Chicago, Los Angeles, Berkeley, Evanston (IL), and Los Angeles County.

At the state level, Oregon remains the only place with statewide predictive scheduling laws, which apply to certain

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industries. Importantly, each of these laws applies to retailers in some fashion.

Notably, some states have blocked cities and municipalities from enacting their own predictive scheduling laws, including Florida, Kansas, Tennessee, Alabama, Michigan, Ohio, Georgia, Arkansas, Iowa, Indiana, and Wisconsin.

4. What Are the Potential Penalties?

The penalties for violating predictive scheduling laws can vary significantly depending on the jurisdiction. In many locations, employers may face:

- administrative penalties;
- monetary fines;
- payment of schedule-change premiums or other unpaid amounts owed to employees; and
- exposure to private litigation.

Further, it is not uncommon for employers to face government investigations or enforcement actions by local labor agencies, particularly where there are repeated violations or broader concerns about wage-and-hour compliance practices.

Recent enforcement activity also suggests a more aggressive approach in certain jurisdictions. In cities such as Seattle and New York, retail employers have faced hundreds of thousands of dollars in civil penalties and employee restitution throughout 2025 and into 2026.

An important note: Predictive scheduling claims can be part of larger wage-and-hour disputes involving recordkeeping, timekeeping, pay practices, or alleged retaliation. For that reason, even what may seem like a small scheduling issue can create significant risk if compliance practices are not consistent and well documented.

5. What Should Retailers Keep in Mind?

Retail and hospitality business leaders, especially those with operations in multiple jurisdictions, should consider taking these five steps now:

- **Be proactive.** Determine whether any of your locations are subject to predictive scheduling requirements and whether those laws apply based on industry, size, chain status, or number of employees. Stay ahead of new developments and build a compliance plan that works for your operations.
- **Review your scheduling practices, policies, and manager training.** In many cases, the greatest risk does not come from a written policy problem, but from day-to-day decisions made by managers who are trying to respond quickly to business needs.
- **Assess whether your HR systems can support compliance.** This is a major key to success. Technology can help with advance notice, documentation, and consistency, but only if the systems are properly configured and managers are using them correctly.
- **Decide on a compliance strategy.** Consider whether a location-specific compliance plan or a broader company-wide scheduling protocol makes the most sense. A more uniform approach may simplify administration, but it can also increase labor costs. A localized approach may better match legal requirements, but it often requires more oversight and training.
- **Work with your attorney.** Legal counsel can help you work through your compliance strategy. Businesses that understand the requirements, review their practices, and strengthen manager training and internal systems will position themselves to reduce risk while preserving as much flexibility as possible.

Conclusion

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