



Chicago Adopts Expansive Predictive Scheduling Ordinance

Insights

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The Chicago City Council just approved what is likely the most expansive predictive scheduling law in the country. Business and labor groups came together with Chicago Mayor Lori Lightfoot's staff and the city council to negotiate, draft, and approve the Chicago Fair Workweek Ordinance. The new law, approved yesterday and set to go into effect on July 1, 2020, will soon mandate certain employers to give many lower-income employees advance notice of their schedules and face financial penalties for unexpectedly changing an employee's shift. What do Chicago employers need to know about this significant new law?

Covered Employers And Employees

The Ordinance applies to salaried employees earning no more than \$50,000 a year and hourly employees earning no more than \$26 per hour, and who work in the building services, healthcare, hotel, manufacturing, restaurant, retail, or warehouse services industry.

Further, the Ordinance applies to employers with more than 100 employees globally (250 employees for non-profits) of which 50 of those employees meet the criteria to be covered by the Ordinance. For employers in the restaurant industry, the threshold is 250 employees and 30 locations globally, and franchises with four or more locations in the City of Chicago.

Predictive Scheduling Requirements

Starting July 1, 2020, covered employers will be required to provide covered employees with 10 days' notice of their schedules. Beginning July 1, 2022, the notice increases to 14 days. At the time of hire, employers are further required to give covered employees a good faith estimate of their protected days and hours of work for the first 90 days.

In the event of a schedule change after the prescribed notice deadline, a covered employee has a right to decline any previously unscheduled hours. A covered employee can also decline a shift with less than a 10-hour break from the last shift. If they work that shift, they must be paid 1.25 times their regular rate.

Further, in the event that an employer alters a covered employee's schedule after the deadline, the employer must pay the employee one extra hour of pay in addition to their regular compensation. If a shift is canceled or reduced in hours with less than 24 hours' notice, the employer must pay the employee at least 50 percent of their regular pay rate for any scheduled hours. This applies to on-

call shifts and if the employee is sent home from a shift early. An employer must offer extra shifts to existing employees qualified to do the work before using temporary or seasonal workers.

There are exceptions to the late notice penalties, including (i) if the schedule is changed due to civil unrest or threats, utility outages, acts of nature, or a disaster declaration for healthcare; (ii) a mutually agreed-upon shift trade or coverage arrangement between covered employees if the employer has an existing policy related to exchanging shifts; (iii) if the covered employee and employer mutually agree and confirm in writing; (iv) if a covered employee requests a shift change in writing; (v) subtraction of hours for disciplinary reasons for just cause (discipline must be in writing); (vi) a canceled banquet or ticketed event; and (vii) events outside of the control of manufacturing employers (such as a production delay). With regard to healthcare employers, there are also exceptions in various situations that may increase or decrease the need for covered employees.

Violations Of The Ordinance

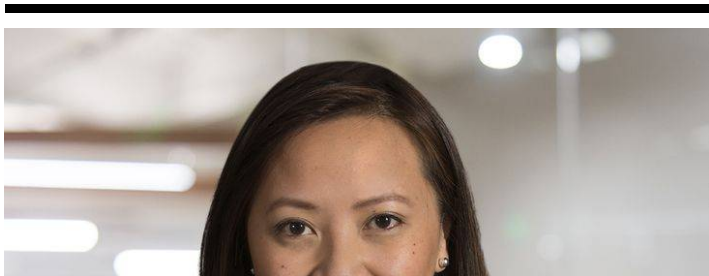
Violations of the Ordinance will carry a fine of between \$300 and \$500 for each offense. If the employer is found to have discriminated or retaliated against an employee for exercising any right under the Ordinance, they will be subjected to a \$1,000 fine.

The Department of Business Affairs and Consumer Protection will enforce the Ordinance. Employees also will have a private cause of action against the employer for violation of the Ordinance; however, they must first lodge a complainant with the Department of Business Affairs and Consumer Protection before they can proceed to court.

The Ordinance creates yet another hoop for employers conducting business in Chicago to jump through. If you are an employer in Chicago who might be covered by the Ordinance, contact one of our [Chicago](#) attorneys or your Fisher Phillips attorney to help make sure your organization is ready for the change. We will continue to monitor further developments and provide updates in anticipation of the Ordinance taking effect, so you should ensure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information.

This Legal Alert provides an overview of a new city ordinance. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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