



Summary: The San Francisco Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance.

Economic and labor force changes since the Great Recession have changed the way many Americans support themselves and their families. Workers who would prefer full-time jobs are working in part-time jobs because those are the only jobs they can find; most of these workers have little control over their work schedules. In California, the number of individuals employed part-time because they cannot find full-time work or because their hours were reduced has nearly tripled since 2006.¹

Introduced by Supervisor David Chiu, the **San Francisco Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance** aims to reduce last minute scheduling of work schedules, and promote equal treatment of part-time workers at “chain” stores. This ordinance was introduced as part of a larger legislative package known as the **Retail Workers Bill of Rights**.³

Who is affected by the ordinance?

The Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance applies to “formula retail” businesses, a local definition that includes chain stores with 11 or more locations worldwide. However, this legislation applies to a subset of those businesses, which employ 20 or more individuals in the city of San Francisco, and have 20 or more locations worldwide. The legislation also includes property services contractors that provide janitorial or security services to these businesses.⁴

What employee protections are included in the ordinance?⁵

Initial notification of work schedules and minimum hours: Before a person begins her job, employers must provide her with a description of her work schedule and an estimate of the minimum hours she is expected to work each month. The employee may request modifications of the proposed work schedule, and the employer must consider and respond to the request.

Advance notice of work schedules: Employers are required to post work schedules in a conspicuous location at least two weeks in advance. Changes to the posted schedule should be communicated in person or through appropriate forms of electronic communication (e.g. telephone call, email, or text). Employers shall retain employee work schedules and payroll records for three years.

Compensation for schedule changes and on-call shifts: If the employer makes changes to the posted schedules, the employee will receive a certain amount of pay in addition to the hours worked, referred to as “**predictability pay**.” Schedule changes include modifications to the date or time of the scheduled shift and shift cancellations. Employers are also required to compensate employees who are scheduled to be “on-call” for a particular shift but are not called in to work.⁶

Work Schedule Changes	Predictability Pay
Changes with less than seven days notice but 24 hours or more notice.	One hour of pay in addition to the hours worked.
Changes with less than 24 hours notice.	For shifts of 4 hours or less: Two hours of pay, in addition to the hours worked. For shifts of more than 4 hours: Four hours of pay, in addition to the hours worked.
On-call shifts cancelled with less than 24 hours notice.	For shifts of 4 hours or less: Two hours of pay, in addition to the hours worked. For shifts of more than 4 hours: Four hours of pay, in addition to the hours worked.

Exceptions: Employers are not required to provide predictability pay under certain circumstances. These exceptions include natural disasters, public utilities failures, voluntary employee shift-trading, and the unexpected unavailability of another employee when the employer did not receive at least seven days' notice.

Fair treatment for part-time workers: Part-time employees and full-time employees with the same job shall be paid the same starting hourly rate. Part-time employees must also have the same access to time off, and the same eligibility for promotions as their full-time equivalents.

Notice of employee rights: San Francisco's Office of Labor Standards Enforcement (OLSE) will provide a notice to employers – written in English, Spanish, Chinese, Tagalog, and all languages spoken by more than 5% of the San Francisco workforce – that shall be posted in a conspicuous location at the workplace to inform employees of their rights under this ordinance.

Retaliation Prohibited: The employer cannot retaliate against an employee for exercising rights under this ordinance.

Implementation and Enforcement: San Francisco's Office of Labor Standards Enforcement (OLSE) will implement and enforce the ordinance. OLSE may order appropriate relief for violations of this ordinance, including the payment of lost wages by the employer to the employee. Employers who violate this ordinance may also be fined \$50 to be paid to the employee who experienced the violation, and an additional fine paid to the City in an amount no greater than the enforcement costs.

Reporting: OLSE will provide an annual, written report to the Board of Supervisors starting on January 31, 2016 until January 31, 2018, and then transition to a biennial report. The report will examine implementation and enforcement of this ordinance and provide recommendations for improvements.

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Notes

1. Bureau of Labor Statistics, U.S. Department of Labor, "Employment Level – Part-time for Economic Reasons. All industries (2006 – 2013)" available at www.bls.gov/webapps/legacy/cpsatab8.htm. Data provided is seasonally adjusted and includes all industries. National data is reported as annual averages of monthly data; Bureau of Labor Statistics, U.S. Department of Labor, "States: Employed and unemployed persons by full- and part-time status, 1997–2013p annual averages" (2014). Date of contact: June 2014. 2013 data is preliminary and subject to change.
2. For more information on the San Francisco Predictable Scheduling and Fair Treatment Ordinance, see "Policy Code – Fair Scheduling and Treatment of Formula Retail Employees" available at <https://sfgov.legistar.com/LegislationDetail.aspx?ID=1934159&GUID=F57CC8F9-2969-4210-B84E-91BE76A30F63&Options=Advanced&Search>.
3. For more information on the Retail Workers Bill of Rights, see "Retail Workers Bill of Rights" available at www.retailworkerrights.com.
4. For more information on formula retail establishments, see Strategic Economics, "San Francisco Formula Retail Economic Analysis" (2014). Prepared for San Francisco Planning Department.
5. These provisions reflect the introduced version of the San Francisco Predictable Scheduling and Fair Treatment Ordinance.
6. The employer is not required to provide additional compensation if the employee is called in for the on-call shift or if the employer notifies the employee with 24 hours or more notice of changes or cancellations to the on-call shift.