



General Assembly

February Session, 2024

Substitute Bill No. 413



AN ACT CONCERNING PREDICTABLE SCHEDULING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2024*) As used in this section and
2 sections 2 to 10, inclusive, of this act:

3 (1) "Employee" means any individual suffered or permitted to work
4 by a covered employer and who is (A) paid on an hourly basis, (B) not
5 exempt from the minimum wage and overtime compensation
6 requirements of the Fair Labor Standards Act of 1938 and the
7 regulations promulgated thereunder, as amended from time to time,
8 and (C) employed (i) in an occupation in a retail establishment, food
9 services establishment or hospitality establishment, or (ii) as a nursing
10 assistant or orderly, as defined in Sections 31-1131 and 31-1132 of the
11 federal Bureau of Labor Statistics Standard Occupational Classification
12 system or any successor system, at a long-term health care services
13 establishment;

14 (2) "Covered employer" means a retail establishment, a food services
15 establishment, a hospitality establishment or a long-term health care
16 services establishment that is (A) an employer that employs not less than
17 five hundred employees within the United States or globally and, for an
18 employer that is a restaurant where food is prepared, served and
19 consumed on the premises, such employer has not less than thirty
20 restaurant locations within the United States or globally, or (B) a

21 franchisee that is part of a network of franchises within the United States
22 or globally that employs not less than five hundred employees in the
23 aggregate;

24 (3) "Employer" has the same meaning as provided in section 31-71a
25 of the general statutes;

26 (4) "Franchisee" has the same meaning as provided in section 42-133e
27 of the general statutes;

28 (5) "Food services establishment" means the fixed point of service
29 location for food services contractors, caterers, mobile food services,
30 drinking places, full service restaurants, limited service restaurants,
31 cafeterias, grill buffets and buffets and snack and nonalcoholic beverage
32 bars, as defined under Sections 722 to 722515, inclusive, of the 2022
33 North American Industry Classification System, or other classification
34 or subsequent edition of the North American Industry Classification
35 System designated pursuant to regulations adopted by the Labor
36 Commissioner;

37 (6) "Hospitality establishment" means hotel, motel or casino hotel, as
38 defined under Sections 721110 and 721120 of the 2022 North American
39 Industry Classification System, or other classification or subsequent
40 edition of the North American Industry Classification System
41 designated pursuant to regulations adopted by the Labor
42 Commissioner;

43 (7) "Long-term health care services establishment" means a nursing
44 care facility as defined under Section 623110 of the 2022 North American
45 Industry Classification System, or other classification or subsequent
46 edition of the North American Industry Classification System
47 designated pursuant to regulations adopted by the Labor
48 Commissioner;

49 (8) "Regular rate" has the same meaning as provided in section 31-
50 76b of the general statutes;

51 (9) "Retail establishment" means the fixed point of sale location for an
52 establishment as defined under Sections 441 to 45999, inclusive, of the
53 2022 North American Industry Classification System, or other
54 classification or subsequent edition of the North American Industry
55 Classification System designated pursuant to regulations adopted by
56 the Labor Commissioner;

57 (10) "Scheduled work hours" means the hours an employee is
58 scheduled to work or be available to work pursuant to a work schedule
59 provided by a covered employer;

60 (11) "Shift" means the consecutive hours a covered employer
61 schedules an employee to work;

62 (12) "On-call shift" means the consecutive hours a covered employer
63 schedules an employee to be available to report to work at the request
64 or permission of the covered employer;

65 (13) "Work schedule" means the written notice of an employee's
66 scheduled work hours, including specific start and end times for each
67 scheduled shift or on-call shift, during a consecutive seven-day period;

68 (14) "Work schedule change" means any covered employer-initiated
69 modification to an employee's work schedule, including, but not limited
70 to, (A) the addition or reduction of scheduled work hours, (B)
71 cancellation of a shift or portion of a shift, (C) a change in the date, time
72 or location of a shift, or (D) scheduling of an employee for an on-call
73 shift for which the employee does not need to report to work; and

74 (15) "Whistleblower" means a person, or a representative of such
75 person, with knowledge of an alleged violation of sections 2 to 10,
76 inclusive, of this act regardless of whether such person is aggrieved by
77 the violation. "Whistleblower" does not include the state or its
78 representatives.

79 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) Whenever a covered
80 employer hires a new employee, such covered employer shall:

81 (1) Obtain a written statement from the employee that includes (A)
82 the days and times such employee is available to work, and (B) such
83 employee's desired number of scheduled work hours. The covered
84 employer shall inform such employee that such written statement may
85 be modified by the employee at any time; and

86 (2) Provide the employee with a written estimate of the employee's
87 anticipated scheduled work hours that includes (A) the average number
88 of scheduled work hours such employee can expect to work each week,
89 (B) the minimum and maximum number of scheduled work hours the
90 employee can expect to work each week, (C) the minimum length of
91 shifts that the employee can expect to work each week, (D) the number
92 of days, the amount of time and the number of shifts that the employee
93 can expect to work each week, and (E) the days of the week and times
94 or shifts on which the employee will not be scheduled to work. A
95 covered employer may revise such written estimate if there are changes
96 in the employee's availability or if there are changes to the covered
97 employer's business needs. Any written estimate made without a basis
98 in good faith shall be a violation of this subsection.

99 (b) If an employee's average weekly scheduled work hours
100 significantly exceed the number provided in the written estimate, a
101 covered employer shall not be in violation of this section if such covered
102 employer made every effort to schedule the employee for such
103 employee's desired number of weekly scheduled work hours.

104 Sec. 3. (NEW) (*Effective October 1, 2024*) (a) Not later than the date of
105 an employee's first scheduled shift, a covered employer shall provide
106 such employee with the employee's work schedule for the period
107 commencing on the date of the employee's first scheduled shift and
108 ending on the last date of the seven-day period covered by the work
109 schedule posted by the covered employer pursuant to subsection (b) of
110 this section. Thereafter, a covered employer shall provide the employee
111 such employee's work schedule in accordance with the provisions of
112 subsection (b) of this section.

113 (b) Not later than fourteen days prior to the first date of any work
114 schedule, a covered employer shall post the work schedule in a
115 conspicuous place at such covered employer's workplace and shall
116 distribute to each employee of such covered employer a copy of such
117 employee's work schedule. Such distribution may be by electronic
118 means if electronic means are regularly used to communicate
119 scheduling information to such covered employer's employees. The
120 work schedule shall include all employees currently employed by such
121 covered employer, whether or not such employees are scheduled to
122 work any shifts in such work schedule.

123 (c) If there is a change in an employee's work schedule, a covered
124 employer shall (1) provide such employee with notice, in writing, of
125 such change as soon as possible and prior to such work schedule change
126 taking effect, and (2) revise the posted work schedule to reflect such
127 change not later than twenty-four hours after making such change to the
128 work schedule.

129 (d) No covered employer shall require an employee to work any
130 hours not included in the original or any subsequent versions of the
131 posted work schedule. An employee may consent to work any such
132 hours, provided such consent is in writing.

133 (e) No covered employer shall require an employee to work any shift
134 that begins less than eleven hours after the end of such employee's
135 previous day's shift or during the eleven-hour period following the end
136 of a shift that spanned more than one day. An employee may consent to
137 work such shift, provided such consent is in writing. If an employee
138 consents to working such shift, such employee shall be paid
139 compensation at one and one-half times the employee's regular rate of
140 pay for the hours worked during such shift.

141 (f) (1) An employee may request adjustments to such employee's
142 work schedule, including, but not limited to, requests (A) to be
143 scheduled (i) for certain hours, days or locations of work, (ii) for more
144 or fewer work hours, or (iii) consistently for a specified or minimum

145 number of weekly work hours, or (B) to not be scheduled for work shifts
146 during certain days or times or at certain locations.

147 (2) A covered employer shall engage in a collaborative process to
148 discuss any employee's request for an adjustment or change to such
149 employee's work schedule, and may grant or deny the request for any
150 bona fide business reason that is not unlawful.

151 Sec. 4. (NEW) (*Effective October 1, 2024*) (a) For each instance a covered
152 employer (1) adds one or more hours of work to an employee's work
153 schedule, or (2) changes the date, time or location of an employee's shift
154 without a reduction of hours less than seven days prior to the
155 commencement of such employee's scheduled shift, such covered
156 employer shall pay such employee one additional hour of pay at such
157 employee's regular rate.

158 (b) Any time a covered employer cancels or reduces the scheduled
159 work hours of an employee's scheduled shift (1) after such employee
160 reports to work for such scheduled shift, or (2) less than seven days prior
161 to the commencement of such scheduled shift, such covered employer
162 shall pay such employee at one-half of such employee's regular rate for
163 the scheduled work hours of such cancelled shift or for the scheduled
164 work hours that were reduced for such shift.

165 (c) The provisions of this section shall not apply if a covered employer
166 changes, reduces or cancels an employee's scheduled work hours due
167 to:

168 (1) An employee's written request, including, but not limited to, a
169 request to use sick leave, vacation leave or other leave pursuant to the
170 covered employer's policy;

171 (2) A mutually agreed upon shift trade or coverage arrangement
172 between employees, subject to an existing covered employer policy
173 regarding such shift trade or coverage arrangement; or

174 (3) The inability of a covered employer's operations to begin or

175 continue due to (A) the failure of a public utility, (B) the shutdown of
176 public transportation, (C) fire, flood or other natural disaster, or (D) an
177 emergency declaration issued by the President of the United States or
178 the Governor.

179 Sec. 5. (NEW) (*Effective October 1, 2024*) (a) Prior to hiring a new
180 employee from an external applicant pool or through a contractor,
181 including a temporary help service or an employment agency, as
182 defined in section 31-129 of the general statutes, a covered employer
183 shall make every effort to schedule such covered employer's current
184 employees for such current employees' desired number of weekly
185 scheduled work hours identified in the written statements provided
186 pursuant to section 2 of this act, provided a covered employer may hire
187 a new employee if such covered employer's current employees lack, and
188 cannot obtain with reasonable training, the qualifications necessary to
189 perform the duties of the position being filled.

190 (b) If a covered employer fails to offer such covered employer's
191 current employees opportunities to work such current employees'
192 desired number of weekly scheduled work hours before hiring a new
193 employee from an external applicant pool or through a contractor, such
194 covered employer shall compensate such covered employer's current
195 employees at such current employees' regular hourly rate for hours
196 worked by a newly hired employee that occurred within a current
197 employees' desired number of weekly scheduled work hours identified
198 in the written statement provided pursuant to section 2 of this act.

199 (c) Nothing in this section shall be construed to require any covered
200 employer to schedule employees to work hours required to be paid at
201 an overtime rate under state or federal law.

202 Sec. 6. (NEW) (*Effective October 1, 2024*) Nothing in sections 2 to 5,
203 inclusive, of this act shall be construed to prohibit a covered employer
204 from adopting policies related to employee scheduling that are more
205 favorable to an employee than those required by sections 2 to 5,
206 inclusive, of this act.

207 Sec. 7. (NEW) (*Effective October 1, 2024*) Each covered employer,
208 subject to the provisions of sections 2 to 5, inclusive, of this act, shall
209 keep and maintain a true and accurate record for not less than three
210 years of (1) the shifts worked each day and each week by each of its
211 employees, (2) each employee's work schedule, and (3) any revisions to
212 such work schedule.

213 Sec. 8. (NEW) (*Effective October 1, 2024*) The Labor Commissioner may
214 adopt regulations, in accordance with the provisions of chapter 54 of the
215 general statutes, to implement and enforce the provisions of sections 2
216 to 5, inclusive, and section 7 of this act, including, but not limited to, a
217 process for the commissioner to address complaints relating to
218 violations of said sections 2 to 5, inclusive, and section 7 of this act.

219 Sec. 9. (NEW) (*Effective October 1, 2024*) (a) Any person aggrieved by
220 a violation of any provision of sections 2 to 5, inclusive, and section 7 of
221 this act, or a collective bargaining agent on behalf of such person, or the
222 Labor Commissioner may bring a civil action in the Superior Court to
223 recover damages, civil penalties and such equitable and injunctive relief
224 as the court deems appropriate. Any individual who prevails in such
225 civil action shall be awarded reasonable attorney's fees and costs to be
226 taxed by the court. Any covered employer alleging an individual
227 bringing a civil action under this section is an independent contractor
228 shall bear the burden of proof that such individual is, under applicable
229 law, an independent contractor rather than an employee of such covered
230 employer.

231 (b) In the case of a civil action under this section, the Superior Court
232 may grant, in addition to, or as an alternative to, any other remedies
233 provided by law, the following relief to an employee, or former
234 employee, for a violation of any provision of sections 2 to 5, inclusive,
235 and section 7 of this act:

236 (1) All compensatory damages and other relief required to make the
237 employee or former employee whole;

238 (2) An order directing the covered employer to comply with the

239 recordkeeping requirements of section 7 of this act;

240 (3) For each violation of the provisions of section 3 of this act, (A) two
241 hundred dollars, and (B) an order directing compliance with said
242 section;

243 (4) For each violation of the provisions of section 4 of this act, (A)
244 payment of compensation withheld in violation of said section, (B) three
245 hundred dollars, and (C) an order directing compliance with said
246 section;

247 (5) For each violation of the provisions of section 2 of this act, (A) two
248 hundred dollars, and (B) an order directing compliance with said
249 section; and

250 (6) For each violation of the provisions of section 5 of this act, (A) the
251 greater of five hundred dollars or such employee's actual damages, and
252 (B) an order directing compliance with said section.

253 (c) The relief authorized pursuant to subsection (b) of this section
254 shall be imposed on a per-employee or per-instance basis for each
255 violation.

256 (d) A covered employer that violates a provision of section 2 of this
257 act, subsections (a) to (c), inclusive, of section 3 of this act or section 4 or
258 5 of this act may be assessed a civil penalty by the court of not more than
259 two hundred dollars for each employee affected by such violation
260 during each pay period such violation continued. Any civil penalty
261 assessed under this subsection shall be paid to the Labor Commissioner.

262 Sec. 10. (NEW) (*Effective October 1, 2024*) (a) (1) A whistleblower may,
263 on behalf of the state, bring a civil action in the Superior Court against a
264 covered employer who violates any provision of sections 2 to 5,
265 inclusive, of this act to seek equitable remedies or penalties described in
266 section 9 of this act.

267 (2) The state may intervene in an action brought under this section at
268 any time from the commencement of the action until thirty days after

269 the commencement of the action. After thirty days, the state may
270 intervene with permission from the court.

271 (b) (1) Not less than thirty days before the action is filed, the
272 whistleblower shall give written notice to the Labor Commissioner of
273 the specific provisions of sections 2 to 5, inclusive, of this act that such
274 whistleblower alleges a covered employer violated.

275 (2) The commissioner may prosecute an action brought under this
276 section in the name of the Labor Department or allow the whistleblower
277 to proceed on behalf of the state.

278 (c) (1) The proceeds of any judgment entered in favor of a
279 whistleblower pursuant to this section shall be distributed as follows:
280 (A) Seventy-five per cent to the department for enforcement of this
281 section; and (B) twenty-five per cent to the first whistleblower who filed
282 the action.

283 (2) In addition to the amount described in subdivision (1) of this
284 subsection, the court shall award reasonable attorney's fees to a
285 whistleblower who prevails in an action brought pursuant to said
286 subdivision.

287 (d) The court shall review any settlement of civil action filed pursuant
288 to this chapter. Once the court determines that such settlement is fair,
289 adequate, reasonable and in the public interest, the court shall approve
290 such settlement.

291 (e) The right to bring an action under this section shall not be
292 impaired by any private contract.

293 (f) An action under this section shall be tried promptly and without
294 regard to concurrent adjudication of private claims.

295 (g) If any part of a whistleblower's claim under this section is ordered
296 or submitted to arbitration or is resolved by way of final judgment,
297 settlement or arbitration in favor of the employee, the employee
298 whistleblower shall retain standing to recover penalties for violations

299 suffered by the other employees in any forum having jurisdiction over
300 the claim.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	New section
Sec. 2	October 1, 2024	New section
Sec. 3	October 1, 2024	New section
Sec. 4	October 1, 2024	New section
Sec. 5	October 1, 2024	New section
Sec. 6	October 1, 2024	New section
Sec. 7	October 1, 2024	New section
Sec. 8	October 1, 2024	New section
Sec. 9	October 1, 2024	New section
Sec. 10	October 1, 2024	New section

Statement of Legislative Commissioners:

In Section 1(9), "4413" was changed to "441" for accuracy; in Section 3(a), references to "shift" were changed to "scheduled shift" for clarity and accuracy; in Section 4(a), "scheduled work hours" was changed to "scheduled shift" for clarity and accuracy; in Section 7(a) "and maintain" was inserted after "keep" for consistency with standard drafting conventions; in Section 9(b), in Subdivs. (4), (5) and (6), "said subsection" was changed to "said section" for accuracy; in Section 10, in Subsec. (e), "this section is not" was changed to "this section shall not be" for consistency with standard drafting conventions, and in Subsec. (g), "the employee whistleblower retains" was changed to "the employee whistleblower shall retain" for consistency with standard drafting conventions.

LAB *Joint Favorable Subst. -LCO*