

City of Seattle

Secure Scheduling Proposals ♦ 08-09-16

Policy	Proposal
Noteworthy Definition	Expanded definition of “on-call” to include off-site waiting time regardless of whether employee’s activities are substantially restricted.
Employer coverage	<ul style="list-style-type: none"> • Large limited/quick food service (definition includes but is not limited to drinking places, mobile food service, and limited service restaurants) and retail employers with 500+ employees worldwide, counting all employees in the franchise network and integrated enterprise • Full-service restaurants with 500+ employees and an additional requirement of 40+ locations worldwide.
Employee coverage	<ul style="list-style-type: none"> • Hourly, non-exempt employees (i.e. same definition as Minimum Wage Ordinance). • Employees must work at least 50% within city of Seattle boundaries (same as FCE ordinance). • Worker Initiated Alternative: Workers of covered employers may ratify, through a collective bargaining agreement, an alternative structure for secure scheduling that meets the public policy goals of this ordinance
Good faith estimate of work schedule	<ul style="list-style-type: none"> • For new and existing employees, employer provides written good faith estimate (median number of hours and whether they will be expected to work on-call shifts) at hire and shall revise annually and when there is a significant change. • Employer must provide estimate as part of “notice of employment information” that is required by Wage Theft Ordinance and must provide it in English and primary language of the employee. • Good faith estimate shall not constitute a contractual offer and the employer shall not be bound by the estimate. However, the employer shall initiate an interactive process with the employee to discuss any significant change from the good faith estimate, and if applicable state a bona fide business reason for the change.
Right to request input into the work schedule	<ul style="list-style-type: none"> • Employee can make request at hire and during employment • Employer must engage in timely, interactive process to discuss the request. • Employer must have “bona fide business reason” for denying requests related to employee’s serious health condition, caregiving, education, or second job responsibilities/conflicts. For requests of this nature, employer must provide written response.
Right to rest between work shifts	<ul style="list-style-type: none"> • The employer shall not schedule an employee to shifts that are separated by less than 10 hours unless the employee has requested or consented to it. • If employee requests or consents to work this kind of shift, the employer must compensate at 1.5x regular rate of pay for the hours worked less than 10 hours since the previous shift. • Does not apply to split shifts.
Advance notice of work schedule	<ul style="list-style-type: none"> • Existing employee = 14 days advance notice • New employee and employees returning from a leave of absence = Notice through the end of the currently posted work schedule
Work schedule changes	<ul style="list-style-type: none"> • Employer-initiated changes = Employer must provide timely notice by in-person conversation, telephone call, email, text message, or other accessible electronic or written format. • Employee has right to decline any shift not on the posted schedule.

	<ul style="list-style-type: none"> • Employee-initiated changes = Employee must provide notice per the employer's usual and customary notice and procedural requirements for foreseeable changes, or as soon as practicable for unforeseeable circumstances and shall generally comply with an employer's reasonable normal notification policies and/or call-in procedures. • Employer may ask but shall not require employees to search for or find a replacement employee to cover any hours during which the employee is unable to work a scheduled shift.
<p>Compensation for work schedule changes (i.e. predictability pay)</p>	<ul style="list-style-type: none"> • Additions = One hour of pay at regular rate in addition to wages earned <ul style="list-style-type: none"> ○ Any addition of shifts or hours of work not on the original schedule, or ○ Changing date, start or end time of a shift with no loss of hours. ○ Direct one on one communication from employers to employees attempting to find coverage for shifts for any reason.
	<ul style="list-style-type: none"> • Subtractions = .5x pay at regular rate for length of shift, or the remainder of the shift <ul style="list-style-type: none"> ○ Subtracting hours from a regular shift before or after the employee reports for duty; ○ Changing the date or start or end time of shift resulting in a loss of hours; ○ Cancelling a shift; or ○ Scheduling an employee for an on-call shift for which the employee does not need to report to work.
	<ul style="list-style-type: none"> • Exceptions <ul style="list-style-type: none"> ○ Mutually agreed upon shift swaps or coverage among employees (that may be approved in writing by the employer) will not incur predictability pay. ○ In addition, employer facilitated shift swaps or coverage using mass communications, such as text or email, will not incur predictability pay so long as coverage is for existing hours that need to be filled due to an employee's inability to work a scheduled shift. <ul style="list-style-type: none"> ○ This is inclusive of situations in which an employee quits, is fired or coverage is needed for a reduction of an employee's hours for disciplinary reasons. ○ Additional hours that were included in an "access to hours" offer of work; ○ Voluntary changes to employees own schedule would not incur predictability pay. Documentation of change to schedule required. ○ Employees whose hours are cut for disciplinary reasons are not entitled to predictability pay. Incident leading to discipline must be documented. ○ Operations cannot begin or continue due to threats to employees or property; when civil authorities recommend that work cannot begin or continue; when public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or due to natural disaster or other cause not within the employer's control pursuant to rules issued by the Director.
<p>Access to hours for existing employees</p>	<ul style="list-style-type: none"> • Employer must offer additional hours of work to existing employees before hiring additional employees or subcontractors, or temps for that particular workplace. • Employer must post written notice of available hours in conspicuous and accessible location where employee notices are customarily posted. For electronic postings, employees must be given access to the notice in workplace. • 3 day posting requirement; 2 days acceptance (in writing). • Employer must inform all employees of opportunity for new hours/shifts. Employer only required to offer additional work to existing, qualified candidate(s). Employer may assign shifts rather than parceling hours among employees.

	<ul style="list-style-type: none"> • Employers may reduce the 3-day posting requirement by obtaining a written declination of additional hours from all eligible employees. • Seasonal Employment = Employer may delay scheduling such hours and permit new employees to start working for training purposes, provided that the employer provides the existing employee with a prospective start date for the additional hours. • Exceptions <ul style="list-style-type: none"> ○ Availability List - If employers intends to use an availability list, employees are automatically included on the list. An employer may ask all employees (only after offer and acceptance) if they would prefer to not be contacted for additional hours. Employers would only have to contact employees on the list to offer additional hours, not all employees, prior to hiring a new employee ○ Additional hours of work that the employer has designated for diversity or young adult hiring programs that are affiliated with an external government entity or non-profit organization
Notice of Rights	Display poster in the workplace
Records	Maintain records that demonstrate compliance
Enforcement & Remedies	<ul style="list-style-type: none"> • Same as PSST, WT, and MW (e.g. up to 3x amount owed, penalties/fines, private right of action) • Pattern and practice of systemic underscheduling (comparing scheduled hours to actual worked hours) would be a violation of the ordinance.
Two Year Study	<ul style="list-style-type: none"> • Council shall request the City Auditor to contract with academic researchers who have a proven track record of rigorous analysis of the impacts of labor standards regulations to conduct an evaluation of the impacts of this ordinance for the baseline, 6 month, 18 month, and two-year periods following implementation. • A non-exhaustive list of areas to be studied includes; overall costs to businesses of implementation, differences and challenges between limited and full services restaurants in implementing the ordinance, and the interplay of diversity program exception with access to hours. • Council, in collaboration with the Executive, shall use the results of the evaluation to identify possible areas for revision and to determine whether to extend application, in whole or in part, to employers in different industries and/or with different thresholds for coverage.