

## Philadelphia Enacts Fair Workweek Ordinance

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The Philadelphia City Council recently passed the Fair Workweek Employment Standards Ordinance (the “Ordinance”), which will impose new restrictions on retail, fast food, and hospitality employers with regard to employee scheduling and pay practices. The Ordinance was signed by Mayor Jim Kenney on December 20, 2018, and will take effect on January 1, 2020.

The Ordinance applies to employers that have 250 or more employees and 30 or more locations worldwide, regardless of where those employees perform work (including full-time, part-time, temporary and seasonal employees). Such employers will be required, among other things, to:

- Provide newly hired employees with a written, good faith estimate of their work schedule, including the average number of hours the employee can be expected to work each week;
- Provide employees with at least ten days’ written notice of their work schedules (which will increase to fourteen days as of January 1, 2021);
- Notify employees of any proposed changes to their work schedules as promptly as possible and before the change takes effect; and
- Give consideration to employee work schedule requests, including requests not to be scheduled for certain times or locations.

Employers may make changes to schedules for up to 24 hours after they are posted. Subject to certain exceptions, schedule changes made after 24 hours will trigger “predictability pay” for employees, which is measured by the employee’s hourly rate of pay and must be paid each time the employer makes a qualifying change (in addition to the employee’s regular pay for hours worked).

The Ordinance also provides a right to rest between work shifts by permitting employees to decline additional shifts, without penalty, that would begin less than nine hours after the end of a previous shift. Alternatively, employees who accept such shifts will receive an additional payment of \$40 for each accepted shift.

Employees subject to a collective bargaining agreement may waive the requirements of the Ordinance provided such waiver is explicitly set forth in the agreement in “clear and unmistakable terms and only so long as the agreement is in effect contractually.” Unilateral implementation of a waiver is prohibited.

In addition to including a notice requirement and record retention requirements, the Ordinance provides employees with a private right of action for violations of the law. Available remedies include back pay, liquidated damages up to \$2,000, attorney’s fees and other equitable relief.

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