

LEGISLATIVE DIGEST

[Police Code - Fair Scheduling and Treatment of Formula Retail Employees]

Ordinance amending the Police Code to require formula retail establishments to provide employees with two weeks notice of work schedules, notice of changes to work schedules, and compensation for schedule changes made on less than seven days notice and unused on-call shifts, and to provide part-time employees with the same starting rate of hourly pay, access to time off, and eligibility for promotions, as provided to full-time employees.

Existing Law

No City law requires Formula Retail Establishments to provide advance notice of employee work schedules and schedule changes, compensation for schedule changes and on-call shifts, or equal treatment of part-time employees.

Amendments to Current Law

This proposed ordinance applies to “Formula Retail Establishments,” defined as businesses located in San Francisco that fall under the Planning Code's definition of “Formula Retail Use,” with one or more employees in San Francisco. If the Planning Code’s definition of “Formula Retail Use” should be changed, the definition of “Formula Retail Establishment” would automatically change to duplicate the “Formula Retail Use” definition.

This proposed ordinance also applies to “Property Services Contractors,” defined as contractors or subcontractors of Formula Retail Establishments that provide janitorial and/or security services to Formula Retail Establishments.

The ordinance would require Formula Retail employers to provide their employees in the City with the following:

- Initial Estimate of Minimum Hours: Prior to the start of employment, provide an initial estimate of the employee’s expected minimum number of scheduled shifts per month, and the days and hours of those shifts.
- Two Weeks’ Notice of Schedules: Provide all employees with two weeks’ advance notice of work schedules (“Biweekly Schedules”).
- Notice of Schedule Changes: Provide advance notice of any changes to the employee’s Biweekly Schedule.
- Predictability Pay: For each schedule change the employer makes on less than seven days’ notice, the employer must provide the following compensation (in addition to the employee’s regular pay for working the shift): (a) one hour of pay for each shift change made with less than seven days’ notice but 24 hours’ or more notice, and (b) between

FILE NO. 141024

two and four hours of pay, depending on the duration of the shift, for each shift change made with less than 24 hours' notice.

- On-Call Shift Pay: For each on-call shift for which the employee is required to be available but is not in fact called in to work, the employer must provide between two and four hours of pay, depending on the duration of the on-call shift.

The ordinance provides that the advance notice requirement, as well as the predictability pay and on-call shift pay requirements, do not apply under certain specified circumstances.

The ordinance also requires Formula Retail Establishments to provide equal treatment to part-time employees regarding (1) starting hourly wage, (2) access to employer provided time off, and (3) eligibility for promotions, subject to certain qualifications.

Formula Retail Establishments would be required to post a notice of employees' rights under the ordinance at the workplace and retain employee work schedules and payroll records for three years.

The ordinance prohibits a Formula Retail Establishment or any other party from taking adverse action against any person in retaliation for exercising their rights under the ordinance.

The Office of Labor Standards Enforcement ("OLSE") would be responsible for implementing and enforcing the ordinance. Following an investigation, OLSE could issue a Determination of Violation and order any appropriate relief including requiring the employer to pay lost wages and an additional administrative penalty of \$50 to each employee or person whose rights were violated for each day that the violation occurred or continued. An employer that OLSE determined was in violation of the ordinance could appeal that decision, with the appeal heard by a hearing officer appointed by the Controller's Office.

The City Attorney or any employee or applicant for employment aggrieved by a violation of the ordinance could bring a civil action in court against an Employer for violating the ordinance.

The ordinance would become operative 180 days after its effective date.

n:\legana\as2014\1500104\00970850.doc