

SENATE No. 1000

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth J. Donnelly

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing fair scheduling practices for employees in the Commonwealth.

PETITION OF:

NAME:

Kenneth J. Donnelly

DISTRICT/ADDRESS:

Fourth Middlesex

SENATE No. 1000

By Mr. Donnelly, a petition (accompanied by bill, Senate, No. 1000) of Kenneth J. Donnelly for legislation to establish fair scheduling practices for employees in the Commonwealth. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing fair scheduling practices for employees in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 149 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 148D the following section:-

3 Section 148E. (a) The following words, as used in this section, unless the context
4 otherwise requires, shall have the following meanings:-

5 “Career-related education or training program”, an education or training program offered
6 by a public, private, or nonprofit career and technical education school, institution of higher
7 education, or other entity that provides academic education, career and technical education, or
8 training, including remedial education or English as a second language, that leads to a recognized
9 postsecondary credential, as identified by section 122(d) of the Workforce Innovation and
10 Opportunity Act of 2014, Public Law 113-128, and provides career awareness information. The
11 term includes a program allowable under the Workforce Innovation and Opportunity Act, 29
12 U.S.C. 3101 et seq., the Carl D. Perkins Career and Technical Education Act of 2006, 20 U.S.C.

13 2301 et seq., or the Higher Education Act of 1965, 20 U.S.C. 1001 et seq., without regard to
14 whether or not the program is funded under the corresponding Act.

15 “Caregiver”, an individual with the status of being a significant provider of:

16 (1) ongoing care or education, including responsibility for securing the ongoing care or
17 education, of a child; or

18 (2) ongoing care, including responsibility for securing the ongoing care, of a person with
19 a serious health condition who is in a family relationship with the individual or a parent of the
20 individual, who is age 65 or older.

21 “Employee”, any person employed for hire by an employer in any lawful employment,
22 excluding those employees defined in subsection 3 of section 1A of chapter 151, and including
23 employees employed through the services of a temporary services or staffing agency, or a
24 cleaning or security services contractor.

25 “Employer”, an employer as defined in section 1 of this chapter.

26 “On-call shift”, the time that an employer requires an employee to be available for a work
27 shift and to contact the employer or its designee or wait to be contacted by the employer or its
28 designee to determine whether the employee must report for that shift.

29 “Shift”, the consecutive hours an employer requires an employee to work, provided that
30 a break of 1 hour or less shall not be considered an interruption of consecutive hours.

31 “Work schedule”, all of an employee’s regular and on-call shifts during a consecutive 7-
32 day period.

33 (b) An employer shall pay the employee's regular hourly rate for each on-call shift for
34 which the employee is required to be available but not called into work.

35 (c) The requirements of subsection (b) shall not apply, and an employer shall not be
36 deemed to have violated subsection (b), under any of the following circumstances:

37 (1) work operations cannot begin or continue due to threats to employees or property, or
38 when public authorities recommend that work not begin or continue;

39 (2) work operations cannot begin or continue because public utilities fail to supply
40 electricity, water, or gas, or there is a failure in the public utilities or sewer system;

41 (3) operations cannot begin or continue due to an act of God or other cause not within the
42 control of the employer, including, but not limited to, a major weather event, natural disaster, or
43 a state of emergency declared by a local government or the governor; or

44 (4) the employee trades shifts with another employee through mutual agreement.

45 (d) Subsection (b) shall not apply to any shift changes made at the request of the
46 employee, including employee initiated requests to work hours other than or in addition to those
47 scheduled, requests to use sick leave, vacation time, personal days, or other leave policies offered
48 by the employer or as required by law.

49 (e) An employer shall not discharge, threaten to discharge, demote, suspend, reduce work
50 hours of, or take any other adverse employment action against any employee who requests a
51 change in schedule due to: (i) the employee's responsibilities as a caregiver; (ii) the employee's
52 enrollment in a career-related education or training program; or (iii) if a part-time employee

53 makes a request for such a change for a reason related to a second job, and the employer shall
54 make a good faith effort to fulfill the request of the employee.

55 (f) The attorney general shall, in consultation with the executive office of labor and
56 workforce development, establish rules and regulations for the scheduling of workers necessary
57 to carry out the provisions of this section.

58 (1) Violations for non-payment of wages defined in this section shall be subject to
59 sections 27C, 148A and 150 of this chapter.

60 (2) The attorney general shall have power to enforce this section through injunctive or
61 declaratory relief.