

HOUSE No. 4698

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 19, 2022.

The committee on Labor and Workforce Development to whom was referred the petition (accompanied by bill, Senate, No. 1235) of Patrick M. O'Connor for legislation relative to the scheduling of employees, the petition (accompanied by bill, Senate, No. 1236) of Marc R. Pacheco, Jason M. Lewis, Christopher Hendricks, Jack Patrick Lewis and other members of the General Court for legislation relative to the scheduling of employees and the petition (accompanied by bill, House, No. 1974) of Sean Garballey, Maria Duaine Robinson and others relative to the scheduling of employees, reports recommending that the accompanying bill (House, No. 4698) ought to pass.

For the committee,

JOSH S. CUTLER.

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the scheduling of employees.

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. The General Laws are hereby amended by inserting after section 1B of
2 chapter 151 the following section:-

3 Section 1C. (a) When an employee in an occupation, as defined in section 2, who is
4 scheduled to work three or more hours reports for duty at the time set by the employer, and that
5 employee is not provided with the expected hours of work, the employee shall be paid for at least
6 three hours on such day at no less than the minimum wage as defined in section 1 or a lesser
7 wage expressly permitted by law or by a waiver of minimum wage granted in writing by the
8 commissioner in accordance with sections 7 or 9.

9 (b) All on-call time is compensable working time unless the employee is not required to
10 be at the work site or another location and is effectively free to use his or her time for his or her
11 own purposes.

12 SECTION 2. The General Laws are hereby amended by inserting after section 51B of
13 chapter 149 the following section:-

14 Section 51C. (a) For the purposes of this section, the following terms shall have the
15 following meanings unless the context clearly indicates otherwise:

16 “Covered employer,” an employer that is a retail establishment, a hospitality
17 establishment or a food services establishment, that employs 50 or more employees worldwide
18 regardless of where those employees perform work, including but not limited to chain
19 establishments or franchises associated with a franchisor or network of franchises that employ
20 more than 50 employees in aggregate. In determining the number of employees for purposes of
21 this subsection, all employees performing work for compensation on a full-time, part-time or
22 temporary basis shall be counted, provided that where the number of employees who work for an
23 employer for compensation fluctuates, business size may be determined for the current calendar
24 year based upon the average number of employees who worked for compensation per week
25 during the preceding calendar year, and provided further that in determining the number of
26 employees performing work for an employer that is a chain business, the total number of
27 employees in that group of establishments shall be counted.

28 “Employee,” any person who performs services for a covered employer for wage,
29 remuneration or other compensation.

30 (b) Upon hiring an employee, a covered employer shall provide such employee with a
31 written, good faith estimate of the employee’s work schedule. The good faith estimate is not a
32 contractual offer binding the employer, provided, however, that an estimate made without a good
33 faith basis shall be a violation of this section. The good faith estimate shall contain: (i) the
34 average number of work hours the employee can expect to work each week; (ii) whether the
35 employee can expect to work any on-call shifts; and (iii) a subset of days and a subset of times or

36 shifts that the employee can expect to work, or days of the week and times or shifts on which the
37 employee will not be scheduled to work.

38 (c) A covered employer shall not schedule or require an employee to work a shift: (1) less
39 than 10 hours after the end of the employee's previous day's shift; or (2) during the 10 hours
40 following the end of a shift that spanned two days.