

## ALERTS

### Labor & Employment Law Alert - “Retail Workers’ Bill Of Rights” To Take Effect In San Francisco Impacting Retailers, Janitorial Firms And Security Services

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Retail establishments with operations in San Francisco will need to determine if they need to comply with the new “Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance” law, dubbed by its proponents as the “Retail Workers’ Bill of Rights.” This new law, which is the first of its kind in the United States, is set to take effect on Jan. 5, 2015, and become operative on July 5, 2015.

#### *Applies to Retail Establishments and Their Contractors*

The new law applies to “formula retail establishments,” defined as businesses located in San Francisco that have 20 or more employees in the city and at least 20 retail sales establishments worldwide. It also applies to “property service contractors,” defined as contractors or subcontractors that provide janitorial or security services to formula retail establishments, and specifies that contracts entered into with such property service contractors must include a provision requiring compliance with the new law.

#### *Creates Expansive Employee Protections*

As both its official and unofficial names imply, the new law creates expansive protections for retail employees. Former Supervisor David Chiu, who introduced the proposed law, described it as addressing the fact that many retail workers have to “grapple with erratic schedules, unstable income, misused scheduling technology and last-minute on-call limbo.” The law specifically identifies “stores, restaurants, and bars,” which together represent 83 percent of formula retail establishments in San Francisco, as engaging in the “erratic and on-call scheduling practices” it aims to eradicate.

Under the new law employers will be required, with certain exceptions, to provide their San Francisco employees with:

- an initial written estimate of expected minimum number of shifts per month, including the days and hours of those shifts, prior to the start of employment;
- two weeks’ advance notice of work schedules by posting or electronically transmitting schedules at least every 14 days;
- notice of any changes to the work schedule, though the amount of required notice is not specified;
- “predictability pay,” which is additional compensation for each

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change to an employee's schedule made with less than seven days' notice, in an amount of either one hour of pay if the shift change is made with more than 24 hours' notice, or between two and four hours of pay, depending on the shift length, if the change is made with less than 24 hours' notice; and

- on-call shift pay when an employee is required to be available but is not called in to work with less than 24 hours' notice, in an amount between two and four hours of compensation depending on the shift length.

#### *Requires Equal Treatment of Part-Time Employees*

In addition to the expansive protections for all employees described above, the new law requires equal treatment of part-time employees, defined as employees who work fewer than 35 hours per week. Affected employers will be required to provide equal treatment to part-time employees as compared to their full-time counterparts with respect to starting hourly wages, access to employer-provided time off, and eligibility for promotions.

#### *Includes Posting, Recordkeeping, and Anti-Retaliation Provisions*

Affected employers will also be required to conspicuously post a notice, which is to be provided by the San Francisco Office of Labor Standards Enforcement, at every San Francisco location, to retain work schedule and payroll records for three years, and to provide the Office of Labor Standards Enforcement access to such records. In addition, the new law prohibits retaliation against employees who attempt to exercise the new rights they have been granted.

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