

NEW REQUIREMENTS FOR FAST FOOD EMPLOYERS AND RETAIL CORPORATIONS IN NYC

Labor & Employment Alert
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On Tuesday, May 30, 2017, New York City Mayor Bill de Blasio signed into law the “Fair Workweek” legislative package that is designed to ensure predictability of schedules and paychecks for workers in the in New York City fast food and retail industries.

The bills are intended to reduce scheduling unpredictability in the fast food and retail industries. Under this legislation, fast food employers must:

- Provide employees written notice of their schedules no less than two weeks in advance.
- Provide new employees a written “good faith” estimate of their weekly hours.
- Offer any new shifts to current employees before hiring new employees.
- Deduct and remit voluntary contributions to advocacy groups at an employee’s written request.

Fast food employers also are prohibited from scheduling employees to work back-to-back shifts that close a restaurant one day and open it the next day if there are fewer than 11 hours between the shifts. If an employee asks for, or consents to, such shifts, employers must pay the employee an additional \$100.00.

Also, if a fast food employer makes changes to an employee’s schedule with less than 14 days’ notice, the employer must pay the employee a bonus in addition to their regular compensation which ranges from \$10 to \$75, with the highest amount being paid for changes that employers make with less than 24 hours’ notice.

For retail employees, New York City retailers with 20 or more employees are prohibited from scheduling their employees for “on call” shifts that require employees to check in with their employers on little to no notice about whether or not they will be working on any given day.

Retail employers also are prohibited from canceling or changing work shifts within 72 hours of the start of the shift, except under specific circumstances such as natural disasters or failure of public utilities.

Attorneys

Peter Godfrey

John Godwin

Practices & Industries

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Finally, retailers must post employees' schedules at least three days before the beginning of the scheduled work hours.

This package of bills will become effective 180 days after being signed into law, or November 26, 2017. The New York City's Office of Labor Policy and Standards, which is part of the Department of Consumer Affairs, will enforce these laws.

These new requirements will impose significant and burdensome obligations on New York City fast food and retail employers. These employers will now have significantly less flexibility with respect to scheduling, which will result in higher costs. Covered employers should begin planning for compliance now so they can be prepared when these laws become effective on November 26, 2017.

Failure to comply with these requirements can result in significant liability for employers. If the Department of Consumer Affairs determines that an employer has violated these requirements, the employer can be ordered to rescind any discipline issued or reinstate a terminated employee, and it can be liable for back pay, compensatory damages, and penalties ranging from \$200 to \$3,000 per employee, per violation. In addition, where an employer has exhibited a pattern or practice of such violations, it may face a civil penalty of up to \$15,000.

Please contact one of our labor and employment attorneys should you have questions about this legislation.