

HB 2193 A STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 04/18/17

Action: Without recommendation as to passage, with amendments, and be referred to Rules.
(Printed A-Eng.)

Vote: 5-3-1-0

Yeas: 5 - Bynum, Doherty, Evans, Fahey, Holvey

Nays: 3 - Barreto, Hack, Heard

Exc: 1 - Kennemer

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Requires private employers in retail, hospitality or food service industries that employ at least 100 employees in this state to provide employee written good faith estimate of employee's work schedule at time of hire and to revise annually and for significant changes due to employee availability or employer business needs. Requires interactive process when significant change is made to good faith estimate. Requires certain large employers to provide 14-day written notice of work schedule. Allows employee to decline work hours not included in schedule. Requires certain large employers to compensate employees when employer changes schedule with less than 14-days notice. Establishes right to rest between shifts for employees of certain large employers. Requires certain large employers to provide extra pay for hours worked when fewer than 10 hours separate shifts over two days. Prohibits certain large employers from engaging in pattern or practice of underscheduling employee work hours where employee actually works significantly more hours than in written schedule. Becomes operative July 1, 2018. Extends sunset date of existing preemption on local scheduling laws until July 1, 2022. Declares emergency; effective upon passage.

ISSUES DISCUSSED:

- Difficulty employees have in responding to schedule changes made with little notice
- Potential impact of scheduling requirements would have on employers
- Unpredictable demand in retail, hospitality and food service

EFFECT OF AMENDMENT:

Replaces original measure.

BACKGROUND:

In 2015, San Francisco implemented the nation's first set of scheduling protections. Connecticut also considered a predictive scheduling bill that year. In 2016, Seattle became the second city in the country to pass a comprehensive set of scheduling policies for retail and food service workers. Emeryville, CA, also adopted a fair workweek bill.

In Oregon, the House Committee on Business and Labor held hearings on measures concerning predictable scheduling (House Bills 2010 and 3377) in 2015. Neither measure passed out of committee. A work group met throughout the 2016 interim to discuss the proposed policy and to receive input from San Francisco and Seattle city officials who had or were in the process of adopting ordinances on scheduling protections.

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House Bill 2193-A is limited to employers in the retail, hospitality and food service industries who employ at least 100 employees in Oregon, including chains and franchises. A full-service restaurant with at least 100 employees is subject only if they have at least 40 or more full-service restaurants nationwide. The measure requires the employer to provide each employee a good faith estimate of their work schedule. This estimate must include the average number of hours per week the employee can expect to work and indicate if the employee will be scheduled for on-call shifts. This estimate must be provided at the time of hiring and every year thereafter. The employer must provide the work schedule in writing at least 14 days in advance. If the schedule is changed by the employer, the employee is entitled to additional compensation as follows:

- When employer subtracts scheduled hours, the employee is paid for half of the hours not worked;
- When the employer adds hours, the employee is paid for one additional hour;
- When the employer does not call an on-call employee to work, the employee is paid for half of the hours not worked.

The measure also requires the employer to allow the employee to rest between shifts. Referred to as "clopening," an employee who closes at night and is brought back in early the next day to open, is entitled to additional pay if 10 hours do not separate the shifts. House Bill 2193-A provides exceptions to predictability pay when an employee requests a schedule change or finds a replacement in a shift swap, and when an employer provides notice of available hours through a mass communication and receives a volunteer to work the hours. A worker asserting a violation of the Act can file a complaint with the Bureau of Labor and Industries (BOLI) or file a civil action. BOLI may assess a statutory penalty payable to the aggrieved party that is \$500 for first violation and \$1,000 for subsequent violations.

The measure extends the preemption on local government scheduling regulations to July 1, 2022.