

California Compliant: What Is a “Fair Work Week” and Why Does It Matter?

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Maintaining a work-life balance is easier said than done. Whether they work full-time or part-time, many employees find it challenging to ensure that their personal appointments do not conflict with the times they will be working. Those who have young children also need to align childcare to their work schedules. Having a consistent work schedule helps employees manage competing demands. Employees also can better predict how much they will earn if they have regular work hours.

Employers, on the other hand, want maximum flexibility to adjust worker schedules as needed, including to control overtime costs. Retail and hospitality establishments, in particular, may change their staffing based on frequent fluctuations in customer volume. Asking employees to add a shift or extend their hours also helps businesses respond to unexpected absences. Businesses sometimes hedge their supply of available workers by telling them to be “on call” – available to work for a fixed period, but without a guarantee that they will work during that time.

Some state and local legislators have stepped in to address this inherent tension between employees, who want “predictable” schedules, and companies, who want to operate at peak efficiency. A growing number of municipalities (including some in California, Illinois, New York, Texas, and Washington) have passed ordinances requiring some employers to give their workers “secure scheduling” – also commonly referred to as a “fair work week.” (On the state level, only Oregon has passed similar legislation.)

Employers who operate retail stores or restaurants are most likely to be affected by such laws, although in some locations the requirements apply more broadly and may include industries such as hotels/hospitality, health care, manufacturing, and warehousing.

What are Employers’ Obligations When a “Fair Work Week” is Required?

Fair work week requirements vary by jurisdiction, but they often obligate employers to:

- give workers advance notice (typically 10-14 days) of their work schedule;
- permit workers to decline extra shifts not included in the disclosed work schedule;
- pay workers “premiums” if their hours are reduced or a shift is canceled on short notice (often called “predictability pay”);
- post notices of employees’ fair work week rights; and
- protect against retaliation toward workers who exercise fair work week rights.

Some jurisdictions require employers to offer additional hours to current employees before hiring more workers.

Which Jurisdictions in California Have “Fair Work Week” Mandates?

California’s legislature has not required predictable scheduling on a state-wide basis. But the state’s Industrial Welfare Commission, which may issue new proposed Wage Orders later this year, could propose new mandates, potentially including advance notice of work schedules, for some (or all) industries. The current Wage Orders already require companies to pay workers premiums for “reporting time” in some instances when they have been asked to be “on call” or otherwise available for work but were later directed not to work during those times.

Various California municipalities, however, have adopted scheduling protections for workers. The cities of Berkeley, Emeryville, Los Angeles, San Francisco, and San Jose each have a “fair work week” standard. Businesses operating in those areas must read the fine print of each of the standards to determine whether they are considered covered employers and if so, what the applicable jurisdiction(s) require. The City of Los Angeles’ standard is illustrative.

City of Los Angeles’ Fair Work Week Ordinance

The **City of Los Angeles’ Fair Work Week Ordinance** (FWWO) applies to retail businesses having 300+ employees (globally) and to employees: (i) who qualify for minimum wage; (ii) whose primary work is to support retail operations; and (iii) who work at least two hours/week within the city limits. An employer is a “retail business” if it falls within the “retail trade categories and subcategories 44 through 45” of the **North American Industry Classification System (NAICS)**.

The FWWO is detailed, and covered employers should review it carefully. By way of example, the FWWO directs employers to give applicants, at the time a job offer is made to them, a good faith estimate of their anticipated work schedule. The estimate is expected to include: the number of hours the employee will work each week; the days and times when the employee will be working; the locations where the employee will work; and whether any “on call” shifts will be scheduled. Current employees must be given written notice of their work schedule at least 14 days before the first day of the work period. Employers also must update workers of changes to their schedule.

The **Rules and Regulations implementing the FWWO** caution that: “[I]f actual work hours substantially deviate from the estimate ... Employers must have a legitimate, documented business reason that was unknown at the time of the estimate to substantiate the deviation.” The Rules and Regulations define a deviation as “substantial” based on the number of occurrences of specified changes over twelve consecutive work weeks. Employees may be entitled to predictability pay based on some schedule changes initiated by the employer, but there are a handful of exceptions to that rule.

The City’s FWWO also grants current employees “priority for [taking on] additional hours.” Covered employers must offer additional hours to current employees before either hiring a new employee or retaining services of temporary workers provided by staffing agencies. Before hiring or securing other workers, the employer must give current employees 48 hours to respond to the company’s offer for the current employees to agree to work additional hours.

The City’s FWWO bars employers from scheduling workers to work shifts with fewer than ten hours of rest in between hours worked unless the worker consents in writing. Assuming the employee consents to work a shift following “insufficient rest,” the employer must pay the employee a “premium” rate (time-and-a-half) for the entire shift following the insufficient rest period. The City also prohibits employers from requiring workers to find coverage for their shift if they are “unable to work for reasons protected by law.”

Covered employers must retain records of their compliance with the FWWO for a period of three years. Such records include (but are not limited to): work schedules, including any changes to schedules; good faith estimates of work hours; communications with employees about work schedule changes and requests; offers to employees of additional work hours; employees’ consents to work a shift after fewer than ten hours’ rest; and payroll records. “Employers are encouraged to maintain a file for each Employee containing schedules and correspondence regarding schedule changes and offers of additional work...”.

Covered employers must post an Official Notice informing workers about their rights under the FWWO. The required notice, which also must be provided to all new employees at the time of hiring, is available [here](#). Penalties and fines may be assessed against employers for violations of the Ordinance.

Los Angeles County’s Fair Work Week Ordinance

Beginning July 1, 2025, the **Los Angeles County Fair Work Week Ordinance** will require covered “retail employers” to disclose to an employee *before hiring* a “good faith estimate of” the person’s anticipated work schedule, and to give employees at least 14 days’ advance notice of their work schedule. Changing or reducing an employee’s hours after the deadline to give the required notice will obligate the employer to make a “predictability pay” premium, calculated based on



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the worker’s regular rate, to the employee. Workers also will be able to decline additional hours not included in the schedule.

Like the City of Los Angeles, LA County’s Ordinance generally applies to retailers, including businesses within NAICS industry “retail trade categories and subcategories 44 through 45.” Covered businesses are those having 300+ workers, and covered workers are those who perform at least two hours of work per week within the unincorporated parts of the County. Click [here](#) to learn which parts of the County are unincorporated areas.

Covered retail employers must post a copy of a Notice of Retail Employee’s Work Week Rights in the workplace. Such businesses also must retain, for three years, copies of: good faith estimates provided to applicants or employees; work schedules; offers of additional work and employees’ responses to the offers; communications with employees about schedule changes; and payroll records.

Violators of the Ordinance may be subject to penalties and fines (which may be increased for subsequent violations) up to a maximum of \$20,000 per retail employee, per year, or \$30,000 per retail employee, per year, for a retaliation violation.

Other Considerations

When they apply, fair work week ordinances must be considered together with other, potentially overlapping protections for workers. Work schedules may be the subject of collective bargaining agreements if workers are represented by organized labor. State or local laws concerning meal and rest breaks, reporting time pay, or other terms and conditions of employment also may affect workers’ rights.

Employers required to give workers “predictability pay” may want to think carefully about how those amounts are calculated as well as how they are reflected on workers’ earnings statements.

Kate LaQuay is a partner resident in Munck Wilson’s Los Angeles office.

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