

Chapter ### of the Acts of 2015

AN ACT ESTABLISHING JUST SCHEDULING FOR EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 148 of said chapter 149 of the General Laws in the 2012 Official Edition, is hereby amended by striking out, in line 57 the words “the name of the employer, the name of the employee, the day, month, year, number of hours worked, and hourly rate, and” and inserting in place thereof the following words:- : (i) the name of the employer; (ii) the name of the employee; (iii) the day, month, year, number of hours worked, and hourly rate; (iv) the day, month, year, number of predictability pay hours paid, and the hourly predictability pay rate, as required by section 148C of Chapter 149; and (v) .

SECTION 2. Section 15 of chapter 151 of the General Laws is hereby amended by inserting after the words "of the hours worked each day and each week by each employee" in line the words:- , of the initial work schedule and all subsequent revisions to the work schedule, as required by section 148C of Chapter 149.

SECTION 3. Chapter 149 of the General Laws is hereby further amended by inserting after section 148B the following section:-

Section 148C. Just Scheduling Act. (a) For the purposes of this chapter, the following terms shall be defined as follows:

“Employee” shall mean any individual employed by an employer, excluding those employees contained in chapter 151, section 1A, subsection 3.

“Employer” shall include any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public employer.

“On-call shift” or “on-call hours” shall mean time that an employer requires an employee to be available to work, and to contact the employer or its designee or wait to be contacted by the employer or its designee to determine whether the employee must report to work at that time.

“Predictability Pay” shall mean payments to an employee, calculated on an hourly basis at the employee’s regular hourly rate. An employer must pay an employee predictability pay, when required by this section, in addition to any wages earned for work performed by the employee. For purposes of this chapter, predictability pay shall be deemed to be wages, including but not limited to section 150, 27(c), and 148(a).

"Regular hourly rate" shall have the same meaning as defined under section 1A of chapter 151 and regulations promulgated thereunder.

"Shift" shall mean the consecutive hours an employer requires an employee to work or to be on-call to work, provided that a break of one hour or less shall not be considered an interruption of consecutive hours.

"Work schedule" shall mean all of an employee's regular and on-call shifts during a consecutive 7-day period.

(b) The employer shall give each employee his or her individual initial work schedule in writing at least 21 days prior to the first day of that work schedule. The employer must contact the employee to notify him or her of any change prior to the change taking effect and must provide the employee with a revised written work schedule reflecting any changes within 24 hours of making the change. An employer cannot require an employee to work hours not included in that initial work schedule without consent in writing by the employee. On or before the commencement of employment, the employer shall provide the employee with a written work schedule for the employee's first 21 days. An employee's work schedule must begin on the same day of the week each week, unless the employer provides 21 days advance written notice of a change in the start day of the work schedule.

(c) The employer shall post 21 days in advance of the start of each week a written schedule that includes the shifts of all current employees at that worksite, whether or not they are scheduled to work or be on call that week. The employer shall update that posted schedule within 24 hours of any change. The schedule must be posted in a place that is readily accessible and visible to all employees of the employer at that worksite.

(d) An employee has the right to request to change his or her work schedule, request to limit his or her availability to work particular hours, or otherwise provide input into his or her work schedule.

(e) Less than 21 days and more than 24 hours before the first scheduled hour of a shift, an employer may subtract hours from the shift, cancel the shift, change the start or end time of a shift, or add hours of work, as permitted by subsection (b) of this section, provided that the employer pays the employee 1 hour of predictability pay, in addition to wages earned, for each shift that is changed, as permitted by this subsection.

(f) Within 24 hours of the first scheduled hour of the shift, an employer must pay 1 hour of predictability pay, in addition to wages earned, if the employer: (i) shortens a shift to 4 or more hours; (ii) changes the start and end time of a shift, but does not alter the total number of hours in that shift; or (iii) adds hours of work, as permitted by subsection (b) of this section.

(g) An employer is required to pay an employee for four hours or the number of hours the employee was scheduled to work, whichever is less, at the employee's regular hourly rate, regardless of the actual hours worked by the employee, on any day: (i) the employer requires the employee to report to work or (ii) the employee is notified within 24 hours of the start of any shift that the shift has been shortened or the employee is not required to report to work..

(h) An employee has the right to decline work hours that occur: (i) less than 11 hours after the end of the previous day's shift or (ii) during the 11 hours following the end of a shift that spans two days. An employer must compensate an employee at one-and-a-half times the employee's regular hourly rate, as defined in section 1A of chapter 151 and regulations promulgated thereunder, for any such hours worked.

(i) The provisions of subsections (e) and (f) shall not apply to any shift changes made at the request of the employee, including employee-initiated requests to work hours other than those scheduled by the employer or requests to use sick leave, vacation time, personal days, or other leave policies offered by the employer, or as required by law.

(j) Nothing in this subsection shall be construed to prevent an employer from allowing an employee to work in place of another employee who has been scheduled to work a particular shift as long as the change in schedule is mutually agreed upon by the employees. An employer shall not be subject to the requirements of (e) and (f) for such voluntary shift trades.

(k) The attorney general shall enforce this section and shall promulgate rules and regulations necessary for enforcement. The attorney general may obtain injunctive or declaratory relief for this purpose. A violation of this section shall be subject to paragraphs (1) and (2) of subsection (b) and subsection (c) of section 27C and section 150.

(l) Nothing in this section shall be construed: (i) to discourage or prohibit an employer from the adoption or retention of policies related to scheduling that are more beneficial to employees than those required herein; or (ii) as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing policies that are more beneficial to an employee than required herein.

(m) This section provides minimum requirements pertaining to scheduling and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for scheduling policies that create more rights or extend other protections to employees.

SECTION 4. Section 148A of said chapter 149, as so appearing, is hereby amended by inserting after the word "chapter", in line 3 the words:- , including but not limited to section 148C.

SECTION 5. Section 150 of said chapter 149, as so appearing, is hereby amended by inserting after the word "148B", in line 21 the words:- , 148C.