



**TESTIMONY IN SUPPORT OF THE DISTRICT OF COLUMBIA  
“Hours and Scheduling Stability Act of 2015”**

TO: Vincent B. Orange, Sr., Chair  
Committee on Business, Consumer, and Regulatory Affairs  
FROM: Elizabeth Ben-Ishai, Senior Policy Analyst, Center for Law and Social Policy  
DATE: January 13, 2016

My name is Elizabeth Ben-Ishai. I am a senior policy analyst at the Center for Law and Social Policy (CLASP). CLASP is a national organization that works to improve the lives of low-income people by developing and advocating for federal, state, and local policies that strengthen families and create pathways to education and work. CLASP is based in the District of Columbia and has long been involved in initiatives to improve job quality for D.C. workers.

CLASP strongly supports the Hours and Scheduling Stability Act of 2015. This legislation includes important provisions to address the lack of predictability, stability, and flexibility many hourly workers in the food and retail industries currently experience – conditions that have an adverse effect on individuals, communities, and businesses in the District. If passed, this legislation would increase family economic stability; enable workers to meet their obligations both at work and home; and boost the local economy by reducing turnover and increasing productivity.

According to a 2015 study of the service sector in the District, nearly half of employees surveyed receive their job schedules less than one week in advance.<sup>1</sup> An astonishing one-third of these workers receive less than three days’ notice. Without sufficient notice of work hours, many families struggle to find quality child care arrangements, plan transportation, attend classes to the further careers, and hold second jobs, which are often necessary for lower wage workers. The same survey also found that many workers experience last minute changes to their schedules; must make themselves available at all times, yet rarely receive the full-time hours they desire; and are often required to be “on call” without pay and with only a 50 percent chance of being called in to work for wages. In the District, scheduling policies are a racial equity issue: workers of color are disproportionately affected by unfair scheduling practices.<sup>2</sup>

The issues affecting workers in the District are part of a nation-wide trend toward “just-in-time” scheduling practices, which attempt to match labor to customer demand, with little attention to the effects on workers’ lives. Moreover, such practices often have adverse effects on businesses, as described below. Nationally, 41 percent of early career workers in hourly jobs receive one week or less advance notice of their schedules, and three-quarters see their hours fluctuate from week to week.<sup>3</sup> Thus, as the figures cited above from a D.C.-specific study indicate, District workers are faring at least as badly as the national average, and often worse. The District’s City Council is not alone in considering legislative action to improve work conditions related to scheduling. Around the country, more than a dozen state legislatures have considered scheduling public policies, and many municipalities are also examining laws.<sup>4</sup> San Francisco became the first locality to pass a scheduling bill – “The Retail Workers Bill of Rights” – in 2014.

The Hours and Scheduling Stability Act includes the following provisions (in brief below), which would create more stability and predictability for workers in the food service and retail industries employed by “chain”<sup>5</sup> establishments:

- Employers must provide employees with 21 days notice of their schedules;
- Employers must compensate employees for changes to schedules after the schedule has been posted (“predictability pay”);
- Expands D.C.’s reporting time pay law to ensure that employers compensate employees for shifts that are cancelled or reduced (as already required by law) *and* when employees are placed “on call” but not called in with less than 24 hours’ notice;
- Employers must offer qualified existing employees additional hours of work before hiring new staff or temporary workers;
- Employers must not discriminate against part-time employees; they are entitled to equitable pay, leave, and advancement opportunities;
- Enforcement and record keeping provisions are in place to ensure that the law would be meaningful for the workers it is intended to protect and that those who exercise their rights do not face retaliation;

These provisions are not only good for workers, they are also feasible for and often beneficial to employers. Many large employers already provide their workers with three weeks of advance notice of schedules, including Wal-Mart and Costco. Employers often rely on scheduling software to help them manage their workforce. Workplace Systems, a company that sells scheduling software, explains in its recent compliance guide for San Francisco’s new scheduling law (which includes many provisions similar to the proposed law in the District) “[C]ompanies that comply with the regulations may [...] see increases in employee engagement, decrease turnover, and achieve more sales through better-served customers.” The company’s Vice President, JD Miller, also noted in a recent webinar that, using technology, employers can easily comply with scheduling laws like San Francisco’s.

Employers can accurately predict most of their labor needs, according to researchers.<sup>6</sup> Thus, while predictability pay is a fair way to compensate workers who must contend with last minute scheduling changes, employers should be able to avoid the costs of this premium pay by employing careful scheduling practices at the outset – practices that are good for business.

All employers, even smaller ones, can reap the benefits of fair scheduling. Even though they would not be subject to this law, a growing number of smaller DC employers are speaking out in support of fair scheduling. For example, Marcia St. Hilaire-Finn, owner of a Petworth child care center with about 30 staff, notes, “Having happy employees is critical for the success of our business. Fair and flexible scheduling is one way we accomplish this.” Tony Lucca, a DC restaurateur who employs more than 60 people states, “For us, fair scheduling just makes sense. It not only helps our workers; it also makes life easier for me and my managers...Because of how we treat our staff, we have relatively low turnover and employees are satisfied with their jobs.” For more on the business case for fair scheduling practices, please see CLASP’s brief outlining the research and highlighting District employers who support this Act, located at <http://www.clasp.org/resources-and-publications/publication-1/Job-Schedules-that-Work-for-Businesses-in-the-District.pdf>.

Thank you for considering the The Hours and Scheduling Stability Act. We strongly urge you to move this legislation forward to quickly address the pressing needs of D.C. workers.

Sincerely,

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CLASP

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<sup>1</sup> Ari Schwartz, Michael Wasser, Merrit Gillard, and Michael Paarlberg, *Unpredictable, Unsustainable: The Impact of Employers' Scheduling Practices in D.C.*, DC Jobs with Justice, Jobs with Justice Education Fund, DC Fiscal Policy Institute, and Georgetown University Department of Government, 2015, [http://www.dcjntent/uploads/2015/06/DCJWJ\\_Scheduling\\_Report\\_2015.pdf](http://www.dcjntent/uploads/2015/06/DCJWJ_Scheduling_Report_2015.pdf).

<sup>2</sup> Schwartz et al, *Unpredictable, Unsustainable: The Impact of Employers' Scheduling Practices in D.C.*

<sup>3</sup> Susan J. Lambert, Peter J. Fugiel, Julia R. Henly, *Precarious Work Schedules among Early-Career Employees in the US: A National Snapshot*, The University of Chicago, 2014, [https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly\\_precarious\\_work\\_schedules.august2014\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly_precarious_work_schedules.august2014_0.pdf)

<sup>4</sup> The Center for Law and Social Policy, "A National Repository of Resources on Job Scheduling Policy," <http://www.clasp.org/issues/work-life-and-job-quality/scheduling-resources>.

<sup>5</sup> Chain is defined as 20 or more food services establishments and 5 or more retail establishments nationwide, with other provisions affecting whether an employer is covered by the law.

<sup>6</sup> Liz Ben-Ishai, *Job Schedules that Work for Businesses*, Center for Law and Social Policy, July 15, 2015, [http://www.clasp.org/resources-and-publications/publication-1/2015.07.14\\_J](http://www.clasp.org/resources-and-publications/publication-1/2015.07.14_J).