Chicago Ordinance Makes Scheduling Employees for Work More Complicated in Seven Industries

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A new Chicago ordinance places complicated restrictions on how employers in 7 industries can schedule employees for work. Employers will face stiff financial penalties for failing to follow the new rules.

Broadly speaking, beginning **July 1, 2020** the Chicago Fair Workweek Ordinance requires an affected employer to provide an eligible employee with written notice of the employee's schedule no less than 10 days before the beginning of the schedule. If the employer adds hours, changes shift times, or subtracts hours inside the 10-day notice window, the affected employee is entitled to additional pay. This additional pay ranges from one hour's pay per shift when hours are added, up to 50% of the expected pay for the shift when a shift is canceled with less than 24 hours' notice.

The seven affected industries are: **Building Services** (which includes janitorial, maintenance and security services), **Healthcare** (including among other things hospitals and long-term care facilities), **Hotels**, **Manufacturing**, **Retail**, **Warehouse Services** (including delivery), and **Restaurants**.

To be subject to the ordinance, in addition to being primarily engaged in one of the 7 industries, an employer must have at least 100 employees "globally," 50 of whom are "Covered Employees." For purposes of the ordinance a **Covered Employee** is someone who spends a majority of work time physically in the City of Chicago and is paid $26.00 per hour or less (or $50,000.00 per year or less if paid a salary). (These pay rates are indexed and will change each year.)

Only Covered Employees are entitled to the notice and other provisions of the ordinance. However, as noted, both hourly and salaried employees can be "Covered Employees," depending on their rate of pay.

Other provisions of the ordinance require the employer, at the beginning of employment, to give a Covered Employee a "good faith estimate" of certain information relating to the employee's expected work over the first 90 days of employment. Moreover, the ordinance institutes a "Right to Rest" - if a Covered Employee works a shift that begins less than 10 hours after the end of the prior shift, the employee must be paid 125% of his or her normal pay for that shift.

The ordinance contains a number of industry-specific, and more general, exceptions and exemptions. For example, the ordinance does not apply to all restaurants; here a "restaurant" is defined as "any business licensed to serve food in the City of Chicago" which has, "globally," at least 30 locations and 250 employees. "Restaurant" also includes franchises where the franchise operator has at least 4 locations in the city. The purpose of this definition, apparently, is to limit the ordinance's impact on small restaurant operations. Another exemption allows a union and employer to agree to waive the application of the ordinance in a collective bargaining agreement.

To review the ordinance, and specifics which may apply to your business, click here.

New York City, San Francisco, Philadelphia, Seattle, and the state of Oregon have enacted similar rules, often called "predictive scheduling" or "Fair Workweek" laws. However, those are generally limited to food service, retail and/or hospitality employees. The Chicago ordinance, by including hospitals, manufacturing, warehouse, and building services, greatly extends the reach of these scheduling rules. Thus many more employers in Chicago will be subject to the rules, and to the penalties for violation which include a fine of $300 to $500 per person per day for failing to follow the requirements of the ordinance.