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(Original Signature of Member)

113TH CONGRESS  
2D SESSION

**H. R.**

To permit employees to request changes to their work schedules without fear of retaliation, and to ensure that employers consider these requests; and to require employers to provide more predictable and stable schedules for employees in certain growing low-wage occupations, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. GEORGE MILLER of California (for himself and Ms. DELAURO) introduced the following bill; which was referred to the Committee on

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**A BILL**

To permit employees to request changes to their work schedules without fear of retaliation, and to ensure that employers consider these requests; and to require employers to provide more predictable and stable schedules for employees in certain growing low-wage occupations, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Schedules That Work Act”.

4 (b) FINDINGS.—Congress finds the following:

5 (1) The vast majority of the United States  
6 workforce today is juggling responsibilities at home  
7 and at work. Women are primary breadwinners or  
8 co-breadwinners in 63 percent of families in the  
9 United States and 26 percent of families with chil-  
10 dren are headed by single mothers.

11 (2) Despite the dual responsibilities of today’s  
12 workforce, workers across the income spectrum have  
13 very little ability to make changes to their work  
14 schedules when those changes are needed to accom-  
15 modate family responsibilities. Only 27 percent of  
16 employers allow all or most of their employees to pe-  
17 riodically change their starting and quitting times.

18 (3) Although low-wage workers are most likely  
19 to be raising children on their own, as more than  
20 half of mothers of young children in low-wage jobs  
21 are doing, low-wage workers have the least control  
22 over their work schedules and the most unpredict-  
23 able schedules. For example—

24 (A) roughly half of low-wage workers re-  
25 ported very little or no control over the timing  
26 of the hours they were scheduled to work;

1 (B) many workers in low-wage jobs receive  
2 their schedules with very little advance notice  
3 and have work hours that vary significantly  
4 from week to week or month to month;

5 (C) some workers in low-wage jobs are sent  
6 home from work when work is slow without  
7 being paid for their scheduled shift;

8 (D) in some industries, the use of “call-in  
9 shift” requirements—requirements that workers  
10 call in to work to find out whether they will be  
11 scheduled to work later that day—has become  
12 common practice; and

13 (E) at the same time, 20 to 30 percent of  
14 workers in low-wage jobs struggle with being re-  
15 quired to work extra hours with little or no no-  
16 tice.

17 (4) Unfair work scheduling practices make it  
18 difficult for low-wage workers to—

19 (A) provide necessary care for children and  
20 other family members, including arranging child  
21 care;

22 (B) qualify for and maintain eligibility for  
23 child care subsidies, due to fluctuations in in-  
24 come and work hours, or keep an appointment  
25 with a child care provider, due to not knowing

1           how many hours or when the workers will be  
2           scheduled to work;

3           (C) pursue workforce training;

4           (D) get or keep a second job that some  
5           part-time workers need to make ends meet; and

6           (E) arrange transportation to and from  
7           work.

8           (5) Unpredictable and unstable schedules are  
9           prevalent in retail sales, food preparation and serv-  
10          ice, and building cleaning occupations, which are  
11          among the lowest-paid and fastest-growing occupa-  
12          tions in the workforce today. For workers in those  
13          occupations, often difficult and sometimes abusive  
14          work scheduling practices combine with very low  
15          wages to make it extremely challenging to make  
16          ends meet.

17          (6) Retail sales, food preparation and service,  
18          and building cleaning occupations are among those  
19          most likely to have unpredictable and unstable  
20          schedules. According to data from the Bureau of  
21          Labor Statistics, 66 percent of food service workers,  
22          52 percent of retail workers, and 40 percent of jani-  
23          tors and housekeepers know their schedules only a  
24          week or less in advance. The average variation in  
25          work hours in a single month is 70 percent for food

1 service workers, 50 percent for retail workers, and  
2 40 percent for janitors and housekeepers.

3 (7) Those are among the lowest-paid and fast-  
4 est-growing occupations, accounting for 18 percent  
5 of workers in the economy, some 23,500,000 work-  
6 ers. The median pay for workers in those 3 occupa-  
7 tions is between \$9.15 and \$10.44 per hour, and  
8 women make up more than half of the workers in  
9 those occupations.

10 (8) Employers that have implemented fair work  
11 scheduling policies that allow workers to have more  
12 control over their work schedules, and provide more  
13 predictable and stable schedules, have experienced  
14 significant benefits, including reductions in absentee-  
15 ism and workforce turnover, and increased employee  
16 morale and engagement.

17 (9) This Act is a first step in responding to the  
18 needs of workers for a voice in the timing of their  
19 work hours and for more predictable schedules.

20 **SEC. 2. DEFINITIONS.**

21 As used in this Act, the following definitions apply:

22 (1) BONA FIDE BUSINESS REASON.—The term  
23 “bona fide business reason” means—

24 (A) the identifiable burden of additional  
25 costs to an employer, including the cost of pro-

1 ductivity loss, retraining or hiring employees, or  
2 transferring employees from one facility to an-  
3 other facility;

4 (B) a significant detrimental effect on the  
5 employer's ability to meet organizational needs  
6 or customer demand;

7 (C) a significant inability of the employer,  
8 despite best efforts, to reorganize work among  
9 existing (as of the date of the reorganization)  
10 staff;

11 (D) a significant detrimental effect on  
12 business performance;

13 (E) insufficiency of work during the peri-  
14 ods an employee proposes to work;

15 (F) the need to balance competing sched-  
16 uling requests when it is not possible to grant  
17 all such requests without a significant detri-  
18 mental effect on the employer's ability to meet  
19 organizational needs; or

20 (G) such other reason as may be specified  
21 by the Secretary of Labor (or the corresponding  
22 administrative officer specified in section 8) .

23 (2) CAREER-RELATED EDUCATIONAL OR TRAIN-  
24 ING PROGRAM.—The term “career-related edu-  
25 cational or training program” means an educational

1 or training program or program of study offered by  
2 a public, private, or nonprofit career and technical  
3 education school, institution of higher education, or  
4 other entity that provides academic education, career  
5 and technical education, or training (including reme-  
6 dial education or English as a second language, as  
7 appropriate), that is a program that leads to a rec-  
8 ognized postsecondary credential (as identified under  
9 section 122(d) of the Workforce Innovation and Op-  
10 portunity Act), and provides career awareness infor-  
11 mation. The term includes a program allowable  
12 under the Workforce Investment Act of 1998 (29  
13 U.S.C. 2801 et seq.), the Workforce Innovation and  
14 Opportunity Act, the Carl D. Perkins Career and  
15 Technical Education Act of 2006 (20 U.S.C. 2301  
16 et seq.), or the Higher Education Act of 1965 (20  
17 U.S.C. 1001 et seq.), without regard to whether or  
18 not the program is funded under the corresponding  
19 Act.

20 (3) CAREGIVER.—The term “caregiver” means  
21 an individual with the status of being a significant  
22 provider of—

23 (A) ongoing care or education, including  
24 responsibility for securing the ongoing care or  
25 education, of a child; or

1 (B) ongoing care, including responsibility  
2 for securing the ongoing care, of—

3 (i) a person with a serious health con-  
4 dition who is in a family relationship with  
5 the individual; or

6 (ii) a parent of the individual, who is  
7 age 65 or older.

8 (4) CHILD.—The term “child” means a biologi-  
9 cal, adopted, or foster child, a stepchild, a legal  
10 ward, or a child of a person standing in loco  
11 parentis to that child, who is—

12 (A) under age 18; or

13 (B) age 18 or older and incapable of self-  
14 care because of a mental or physical disability.

15 (5) COVERED EMPLOYER.—

16 (A) IN GENERAL.—The term “covered em-  
17 ployer”—

18 (i) means any person engaged in com-  
19 merce or in any industry or activity affect-  
20 ing commerce who employs 15 or more em-  
21 ployees (described in paragraph (7)(A));

22 (ii) includes any person who acts, di-  
23 rectly or indirectly, in the interest of such  
24 an employer to any of the employees (de-

1           scribed in paragraph (7)(A)) of such em-  
2           ployer;

3           (iii) includes any successor in interest  
4           of such an employer; and

5           (iv) includes an agency described in  
6           clause (iii) or (iv) of subparagraph (A) of  
7           section 101(4) of the Family and Medical  
8           Leave Act of 1993 (29 U.S.C. 2611(4)), to  
9           which subparagraph (B) of such section  
10          shall apply.

11          (B) RULE.—For purposes of determining  
12          the number of employees who work for a person  
13          described in subparagraph (A)(i), all employees  
14          (described in paragraph (7)(A)) performing  
15          work for compensation on a full-time, part-time,  
16          or temporary basis shall be counted, except that  
17          if the number of such employees who perform  
18          work for such a person for compensation fluctuates,  
19          the number may be determined for a  
20          calendar year based upon the average number  
21          of such employees who performed work for the  
22          person for compensation during the preceding  
23          calendar year.

24          (C) PERSON.—In this paragraph, and  
25          paragraph (7), the term “person” has the

1 meaning given the term in section 3 of the Fair  
2 Labor Standards Act of 1938 (29 U.S.C. 203).

3 (6) DOMESTIC PARTNER.—The term “domestic  
4 partner” means the person recognized as being in a  
5 relationship with an employee under any domestic  
6 partnership, civil union, or similar law of the State  
7 or political subdivision of a State in which the em-  
8 ployee resides.

9 (7) EMPLOYEE.—The term “employee” means  
10 an individual who is—

11 (A) an employee, as defined in section 3(e)  
12 of the Fair Labor Standards Act of 1938 (29  
13 U.S.C. 203(e)), who is not described in any of  
14 subparagraphs (B) through (G);

15 (B) a State employee described in section  
16 304(a) of the Government Employee Rights Act  
17 of 1991 (42 U.S.C. 2000e-16c(a));

18 (C) a covered employee, as defined in sec-  
19 tion 101 of the Congressional Accountability  
20 Act of 1995 (2 U.S.C. 1301), other than an ap-  
21 plicant for employment;

22 (D) a covered employee, as defined in sec-  
23 tion 411(c) of title 3, United States Code;

1 (E) a Federal officer or employee covered  
2 under subchapter V of chapter 63 of title 5,  
3 United States Code;

4 (F) an employee of the Library of Con-  
5 gress; or

6 (G) an employee of the Government Ac-  
7 countability Office.

8 (8) EMPLOYER.—The term “employer” means  
9 a person—

10 (A) who is—

11 (i) a covered employer, as defined in  
12 paragraph (4), who is not described in any  
13 of clauses (ii) through (vii);

14 (ii) an entity employing a State em-  
15 ployee described in section 304(a) of the  
16 Government Employee Rights Act of 1991;

17 (iii) an employing office, as defined in  
18 section 101 of the Congressional Account-  
19 ability Act of 1995;

20 (iv) an employing office, as defined in  
21 section 411(c) of title 3, United States  
22 Code;

23 (v) an employing agency covered  
24 under subchapter V of chapter 63 of title  
25 5, United States Code;

- 1 (vi) the Librarian of Congress; or  
2 (vii) the Comptroller General of the  
3 United States; and  
4 (B) who is engaged in commerce (including  
5 government), in the production of goods for  
6 commerce, or in an enterprise engaged in com-  
7 merce (including government) or in the produc-  
8 tion of goods for commerce.

9 (9) FAMILY RELATIONSHIP.—The term “family  
10 relationship” means a relationship with a child,  
11 spouse, domestic partner, parent, grandchild, grand-  
12 parent, sibling, or parent of a spouse or domestic  
13 partner.

14 (10) GRANDCHILD.—The term “grandchild”  
15 means the child of a child.

16 (11) GRANDPARENT.—The term “grandparent”  
17 means the parent of a parent.

18 (12) MINIMUM NUMBER OF EXPECTED WORK  
19 HOURS.—The term “minimum number of expected  
20 work hours” means the minimum number of hours  
21 an employee will be assigned to work on a weekly or  
22 monthly basis.

23 (13) PARENT.—The term “parent” means a bi-  
24 ological or adoptive parent, a stepparent, or a person

1       who stood in a parental relationship to an employee  
2       when the employee was a child.

3           (14) PARENTAL RELATIONSHIP.—The term  
4       “parental relationship” means a relationship in  
5       which a person assumed the obligations incident to  
6       parenthood for a child and discharged those obliga-  
7       tions before the child reached adulthood.

8           (15) PART-TIME EMPLOYEE.—The term “part-  
9       time employee” means an individual who works  
10       fewer than 30 hours per week on average during any  
11       1-month period.

12           (16) RETAIL, FOOD SERVICE, OR CLEANING EM-  
13       PLOYEE.—

14           (A) IN GENERAL.—The term “retail, food  
15       service, or cleaning employee” means an indi-  
16       vidual employee who is employed in any of the  
17       following occupations, as described by the Bu-  
18       reau of Labor Statistics Standard Occupational  
19       Classification System (as in effect on the day  
20       before the date of enactment of this Act):

21           (i) Retail sales occupations consisting  
22       of occupations described in 41–1010 and  
23       41–2000, and all subdivisions thereof, of  
24       such System, which includes first-line su-  
25       pervisors of sales workers, cashiers, gam-

1           ing change persons and booth cashiers,  
2           counter and rental clerks, parts sales-  
3           persons, and retail salespersons.

4           (ii) Food preparation and serving re-  
5           lated occupations as described in 35–0000,  
6           and all subdivisions thereof, of such Sys-  
7           tem, which includes supervisors of food  
8           preparation and serving workers, cooks  
9           and food preparation workers, food and  
10          beverage serving workers, and other food  
11          preparation and serving related workers.

12          (iii) Building cleaning occupations as  
13          described in 37–2011, 37–2012 and 37–  
14          2019 of such System, which includes jani-  
15          tors and cleaners, maids and housekeeping  
16          cleaners, and building cleaning workers.

17          (B) EXCLUSIONS.—Notwithstanding sub-  
18          paragraph (A), the term “retail, food service, or  
19          cleaning employee” does not include any person  
20          employed in a bona fide executive, administra-  
21          tive, or professional capacity, as defined for  
22          purposes of section 13(a)(1) of the Fair Labor  
23          Standards Act of 1938 (29 U.S.C. 213(a)(1)).

24          (17) SECRETARY.—The term “Secretary”  
25          means the Secretary of Labor.

1           (18) SERIOUS HEALTH CONDITION.—The term  
2           “serious health condition” has the meaning given  
3           the term in section 101 of the Family and Medical  
4           Leave Act of 1993 (29 U.S.C. 2611).

5           (19) SIBLING.—The term “sibling” means a  
6           brother or sister, whether related by half blood,  
7           whole blood, or adoption, or as a stepsibling.

8           (20) SPLIT SHIFT.—The term “split shift”  
9           means a schedule of daily hours in which the hours  
10          worked are not consecutive, except that a schedule  
11          in which the total time out for meals does not exceed  
12          1 hour shall not be treated as a split shift.

13          (21) SPOUSE.—

14               (A) IN GENERAL.—The term “spouse”  
15               means a person with whom an individual en-  
16               tered into—

17                       (i) a marriage as defined or recog-  
18                       nized under State law in the State in  
19                       which the marriage was entered into; or

20                       (ii) in the case of a marriage entered  
21                       into outside of any State, a marriage that  
22                       is in the place where entered into and  
23                       could have been entered into in at least 1  
24                       State.

1 (B) SAME-SEX OR COMMON LAW MAR-  
2 RIAGE.—Such term includes an individual in a  
3 same-sex or common law marriage that meets  
4 the requirements of subparagraph (A).

5 (22) STATE.—The term “State” has the mean-  
6 ing given the term in section 3 of the Fair Labor  
7 Standards Act of 1938 (29 U.S.C. 203).

8 (23) WORK SCHEDULE.—The term “work  
9 schedule” means those days and times within a work  
10 period when an employee is required by an employer  
11 to perform the duties of the employee’s employment  
12 for which the employee will receive compensation.

13 (24) WORK SCHEDULE CHANGE.—The term  
14 “work schedule change” means any modification to  
15 an employee’s work schedule, such as an addition or  
16 reduction of hours, cancellation of a shift, or a  
17 change in the date or time of a work shift, by an  
18 employer.

19 (25) WORK SHIFT.—The term “work shift”  
20 means the specific hours of the workday during  
21 which an employee works.

22 (26) VARIOUS ADDITIONAL TERMS.—

23 (A) COMMERCE TERMS.—The terms “com-  
24 merce” and “industry or activity affecting com-  
25 merce” have the meanings given the terms in

1 section 101 of the Family and Medical Leave  
2 Act of 1993 (29 U.S.C. 2611).

3 (B) EMPLOY.—The term “employ” has the  
4 meaning given the term in section 3 of the Fair  
5 Labor Standards Act of 1938 (29 U.S.C. 203).

6 **SEC. 3. RIGHT TO REQUEST AND RECEIVE A FLEXIBLE,**  
7 **PREDICTABLE OR STABLE WORK SCHEDULE.**

8 (a) RIGHT TO REQUEST.—An employee may apply to  
9 the employee’s employer to request a change in the terms  
10 and conditions of employment as they relate to—

11 (1) the number of hours the employee is re-  
12 quired to work or be on call for work;

13 (2) the times when the employee is required to  
14 work or be on call for work;

15 (3) the location where the employee is required  
16 to work;

17 (4) the amount of notification the employee re-  
18 ceives of work schedule assignments; and

19 (5) minimizing fluctuations in the number of  
20 hours the employee is scheduled to work on a daily,  
21 weekly, or monthly basis.

22 (b) EMPLOYER OBLIGATION TO ENGAGE IN AN  
23 INTERACTIVE PROCESS.—

24 (1) IN GENERAL.—If an employee applies to the  
25 employee’s employer to request a change in the

1 terms and conditions of employment as set forth in  
2 subsection (a), the employer shall engage in a time-  
3 ly, good faith interactive process with the employee  
4 that includes a discussion of potential schedule  
5 changes that would meet the employee's needs.

6 (2) RESULT.—Such process shall result in—

7 (A) either granting or denying the request;

8 (B) in the event of a denial, considering al-  
9 ternatives to the proposed change that might  
10 meet the employee's needs and granting or de-  
11 nying a request for an alternative change in the  
12 terms and conditions of employment as set  
13 forth in subsection (a); and

14 (C) in the event of a denial, stating the  
15 reason for denial.

16 (3) INFORMATION.—If information provided by  
17 the employee making a request for a change requires  
18 clarification, the employer shall explain what further  
19 information is needed and give the employee reason-  
20 able time to produce the information.

21 (c) REQUESTS RELATED TO CAREGIVING, ENROLL-  
22 MENT IN EDUCATION OR TRAINING, OR A SECOND JOB.—  
23 If an employee makes a request for a change in the terms  
24 and conditions of employment as set forth in subsection  
25 (a) because of a serious health condition of the employee,

1 due to the employee's responsibilities as a caregiver, or  
2 due to the employee's enrollment in a career-related edu-  
3 cational or training program, or if a part-time employee  
4 makes a request for such a change for a reason related  
5 to a second job, the employer shall grant the request, un-  
6 less the employer has a bona fide business reason for deny-  
7 ing the request.

8 (d) OTHER REQUESTS.—If an employee makes a re-  
9 quest for a change in the terms and conditions of employ-  
10 ment as set forth in subsection (a), for a reason other than  
11 those reasons set forth in subsection (c), the employer may  
12 deny the request for any reason that is not unlawful. If  
13 the employer denies such a request, the employer shall  
14 provide the employee with the reason for the denial, in-  
15 cluding whether any such reason was a bona fide business  
16 reason.

17 **SEC. 4. REQUIREMENTS FOR REPORTING TIME PAY, SPLIT**  
18 **SHIFT PAY, AND ADVANCE NOTICE OF WORK**  
19 **SCHEDULES.**

20 (a) REPORTING TIME PAY REQUIREMENT.—An em-  
21 ployer shall pay a retail, food service, or cleaning em-  
22 ployee—

23 (1) for at least 4 hours at the employee's reg-  
24 ular rate of pay for each day on which the retail,  
25 food service, or cleaning employee reports for work

1 under specific instructions but is given less than  
2 four hours of work, except that if the retail, food  
3 service, or cleaning employee's scheduled hours are  
4 less than 4 hours, such retail, food service, or clean-  
5 ing employee shall be paid for the employee's sched-  
6 uled hours for that day if given less than the sched-  
7 uled hours of work; and

8 (2) for at least 1 hour at the employee's regular  
9 rate of pay for each day the retail, food service, or  
10 cleaning employee is given specific instructions to  
11 contact the employee's employer, or wait to be con-  
12 tacted by the employer, less than 24 hours in ad-  
13 vance of the start of a potential work shift to deter-  
14 mine whether the employee must report to work for  
15 such shift.

16 (b) SPLIT SHIFT PAY REQUIREMENT.—An employer  
17 shall pay a retail, food service, or cleaning employee for  
18 one additional hour at the retail, food service, or cleaning  
19 employee's regular rate of pay for each day during which  
20 the retail, food service, or cleaning employee works a split  
21 shift.

22 (c) ADVANCE NOTICE REQUIREMENT.—

23 (1) INITIAL SCHEDULE.—On or before a new  
24 retail, food service, or cleaning employee's first day  
25 of work, the employer shall inform the retail, food

1 service, or cleaning employee in writing of the em-  
2 ployee's work schedule and the minimum number of  
3 expected work hours the retail, food service, or  
4 cleaning employee will be assigned to work per  
5 month.

6 (2) CHANGE TO SCHEDULE.—Except as pro-  
7 vided in paragraph (3), if the retail, food service, or  
8 cleaning employee's work schedule changes from the  
9 work schedule of which the retail, food service, or  
10 cleaning employee was informed pursuant to para-  
11 graph (1), the employer shall provide each retail,  
12 food service, or cleaning employee with the employ-  
13 ee's new work schedule not less than 14 days before  
14 the first day of the new work schedule. If the ex-  
15 pected minimum number of work hours a retail, food  
16 service, or cleaning employee will be assigned  
17 changes, the employer shall also provide notification  
18 of that change, not less than 14 days in advance of  
19 the first day this change will go into effect. Nothing  
20 in this subsection shall be construed to prohibit an  
21 employer from providing greater advance notice of a  
22 retail, food service, or cleaning employee's work  
23 schedule than is required under this section.

24 (3) WORK SCHEDULE CHANGES MADE WITH  
25 LESS THAN 24 HOURS' NOTICE.—An employer may

1 make work schedule changes as needed, including by  
2 offering additional hours of work to retail, food serv-  
3 ice, or cleaning employees beyond those previously  
4 scheduled, but an employer shall be required to pro-  
5 vide one extra hour of pay at the retail, food service,  
6 or cleaning employee's regular rate for each shift  
7 that is changed with less than 24 hours' notice, ex-  
8 cept in the case of the need to schedule the retail,  
9 food service, or cleaning employee due to the unfore-  
10 seen unavailability of a retail, food service, or clean-  
11 ing employee previously scheduled to work that shift.

12 (4) NOTIFICATIONS IN WRITING.—The notifica-  
13 tions required under paragraphs (1) and (2) shall be  
14 made to the employee in writing. Nothing in this  
15 subsection shall be construed as prohibiting an em-  
16 ployer from using any additional means of notifying  
17 a retail, food service, or cleaning employee of the  
18 employee's work schedule.

19 (5) SCHEDULE POSTING REQUIREMENT.—Every  
20 employer employing any retail, food service, or clean-  
21 ing employee subject to this Act shall post the  
22 schedule and keep it posted in a conspicuous place  
23 in every establishment where such retail, food serv-  
24 ice, or cleaning employee are employed so as to per-  
25 mit them to observe readily a copy. Availability of

1 that schedule by electronic means accessible by all  
2 employees of that employer shall be considered com-  
3 pliance with this subsection.

4 (6) EMPLOYEE SHIFT TRADING.—Nothing in  
5 this subsection shall be construed to prevent an em-  
6 ployer from allowing a retail, food service, or clean-  
7 ing employee to work in place of another employee  
8 who has been scheduled to work a particular shift as  
9 long as the change in schedule is mutually agreed  
10 upon by the employees. An employer shall not be  
11 subject to the requirements of paragraph (2) or (3)  
12 for such voluntary shift trades.

13 (d) EXCEPTION.—The requirements in subsections  
14 (a), (b), and (c) shall not apply during periods when reg-  
15 ular operations of the employer are suspended due to  
16 events beyond the employer's control.

17 **SEC. 5. PROHIBITED ACTS.**

18 (a) INTERFERENCE WITH RIGHTS.—It shall be un-  
19 lawful for any employer to interfere with, restrain, or deny  
20 the exercise or the attempt to exercise, any right of an  
21 employee as set forth in section 3 or of a retail, food serv-  
22 ice, or cleaning employee as set forth in section 4.

23 (b) RETALIATION PROHIBITED.—It shall be unlawful  
24 for any employer to discharge, threaten to discharge, de-  
25 mote, suspend, reduce work hours of, or take any other

1 adverse employment action against any employee in retal-  
2 iation for exercising the rights of an employee under this  
3 Act or opposing any practice made unlawful by this Act.  
4 For purposes of section 3, such retaliation shall include  
5 taking an adverse employment action against any em-  
6 ployee on the basis of that employee's eligibility or per-  
7 ceived eligibility to request or receive a change in the  
8 terms and conditions of employment, as described in such  
9 section, on the basis of a reason set forth in section 3(e).

10 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-  
11 IES.—It shall be unlawful for any person to discharge or  
12 in any other manner discriminate against any individual  
13 because such individual—

14 (1) has filed any charge, or has instituted or  
15 caused to be instituted any proceeding, under or re-  
16 lated to this Act;

17 (2) has given or is about to give, any informa-  
18 tion in connection with any inquiry or proceeding re-  
19 lating to any right provided under this Act; or

20 (3) has testified, or is about to testify, in any  
21 inquiry or proceeding relating to any right provided  
22 under this Act.

23 **SEC. 6. REMEDIES AND ENFORCEMENT.**

24 (a) INVESTIGATIVE AUTHORITY.—

1           (1) IN GENERAL.—To ensure compliance with  
2           this Act, or any regulation or order issued under  
3           this Act, the Secretary shall have, subject to para-  
4           graph (3), the investigative authority provided under  
5           section 11(a) of the Fair Labor Standards Act of  
6           1938 (29 U.S.C. 211(a)).

7           (2) OBLIGATION TO KEEP AND PRESERVE  
8           RECORDS.—Each employer shall make, keep, and  
9           preserve records pertaining to compliance with this  
10          Act in accordance with regulations issued by the  
11          Secretary under section 8.

12          (3) REQUIRED SUBMISSIONS GENERALLY LIM-  
13          ITED TO AN ANNUAL BASIS.—The Secretary shall  
14          not under the authority of this subsection require  
15          any employer to submit to the Secretary any books  
16          or records more than once during any 12-month pe-  
17          riod, unless the Secretary has reasonable cause to  
18          believe there may exist a violation of this Act or any  
19          regulation or order issued pursuant to this Act, or  
20          is investigating a charge pursuant to subsection (c).

21          (4) SUBPOENA POWERS.—For the purposes of  
22          any investigation provided for in this section, the  
23          Secretary shall have the subpoena authority provided  
24          for under section 9 of the Fair Labor Standards Act  
25          of 1938 (29 U.S.C. 209).

1 (b) CIVIL ACTION BY EMPLOYEES.—

2 (1) LIABILITY.—Any employer who violates sec-  
3 tion 5(a) (with respect to a right set forth in section  
4 4) or subsection (b) or (c) of section 5 (referred to  
5 in this section as a “covered provision”) shall be lia-  
6 ble to any employee affected for—

7 (A) damages equal to the amount of—

8 (i) any wages, salary, employment  
9 benefits (as defined in section 101 of the  
10 Family and Medical Leave Act of 1993 (29  
11 U.S.C. 2611)), or other compensation de-  
12 nied, lost, or owed to such employee by  
13 reason of the violation; or

14 (ii) in a case in which wages, salary,  
15 employment benefits (as so defined), or  
16 other compensation have not been denied,  
17 lost, or owed to the employee, any actual  
18 monetary losses sustained by the employee  
19 as a direct result of the violation;

20 (B) interest on the amount described in  
21 subparagraph (A) calculated at the prevailing  
22 rate;

23 (C) an additional amount as liquidated  
24 damages equal to the sum of the amount de-  
25 scribed in subparagraph (A) and the interest

1 described in subparagraph (B), except that if  
2 an employer who has violated a covered provi-  
3 sion proves to the satisfaction of the court that  
4 the act or omission which violated the covered  
5 provision was in good faith and that the em-  
6 ployer had reasonable grounds for believing that  
7 the act or omission was not a violation of a cov-  
8 ered provision, such court may, in the discretion  
9 of the court, reduce the amount of liability to  
10 the amount and interest determined under sub-  
11 paragraphs (A) and (B), respectively; and

12 (D) such equitable relief as may be appro-  
13 priate, including employment, reinstatement,  
14 and promotion.

15 (2) RIGHT OF ACTION.—An action to recover  
16 the damages or equitable relief set forth in para-  
17 graph (1) may be maintained against any employer  
18 (including a public agency) in any Federal or State  
19 court of competent jurisdiction by any one or more  
20 employees for and on behalf of—

21 (A) the employees; or

22 (B) the employees and other employees  
23 similarly situated.

24 (3) FEES AND COSTS.—The court in such an  
25 action shall, in addition to any judgment awarded to

1 the plaintiff, allow a reasonable attorney's fee, rea-  
2 sonable expert witness fees, and other costs of the  
3 action to be paid by the defendant.

4 (4) LIMITATIONS.—The right provided by para-  
5 graph (2) to bring an action by or on behalf of any  
6 employee shall terminate on the filing of a complaint  
7 by the Secretary in an action under subsection (c)(3)  
8 in which a recovery is sought of the damages de-  
9 scribed in paragraph (1)(A) owing to an employee by  
10 an employer liable under paragraph (1) unless the  
11 action described is dismissed without prejudice on  
12 motion of the Secretary.

13 (c) ACTIONS BY THE SECRETARY.—

14 (1) ADMINISTRATIVE ACTION.—The Secretary  
15 shall receive, investigate, and attempt to resolve  
16 complaints of violations of this Act in the same man-  
17 ner that the Secretary receives, investigates, and at-  
18 tempts to resolve complaints of violations of section  
19 6 and 7 of the Fair Labor Standards Act of 1938  
20 (29 U.S.C. 206 and 207), and may issue an order  
21 making determinations, and assessing a civil penalty  
22 described in paragraph (4) (in accordance with para-  
23 graph (4)), with respect to such an alleged violation.

24 (2) ADMINISTRATIVE REVIEW.—An affected  
25 person who takes exception to an order issued under

1 paragraph (1) may request review of and a decision  
2 regarding such an order by an administrative law  
3 judge. In reviewing the order, the administrative law  
4 judge may hold an administrative hearing con-  
5 cerning the order, in accordance with the require-  
6 ments of sections 554, 556, and 557 of title 5,  
7 United States Code. Such hearing shall be conducted  
8 expeditiously. If no affected person requests such re-  
9 view within 60 days after the order is issued under  
10 paragraph (1), the order shall be considered to be a  
11 final order that is not subject to judicial review.

12 (3) CIVIL ACTION.—The Secretary may bring  
13 an action in any court of competent jurisdiction on  
14 behalf of aggrieved employees to—

15 (A) restrain violations of this Act;

16 (B) award such equitable relief as may be  
17 appropriate, including employment, reinstatement,  
18 and promotion; and

19 (C) in the case of a violation of a covered  
20 provision, recover the damages and interest de-  
21 scribed in subparagraphs (A) through (C) of  
22 subsection (b)(1).

23 (4) CIVIL PENALTY.—An employer who willfully  
24 and repeatedly violates—

1 (A) paragraph (1), (4), or (5) of section  
2 4(e) shall be subject to a civil penalty in an  
3 amount to be determined by the Secretary, but  
4 not to exceed \$100 per violation; and

5 (B) subsection (b) or (c) of section 5 shall  
6 be subject to a civil penalty in an amount to be  
7 determined by the Secretary, but not to exceed  
8 \$1,100 per violation.

9 (d) LIMITATION.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), an action may be brought under this sec-  
12 tion not later than 2 years after the date of the last  
13 event constituting the alleged violation for which the  
14 action is brought.

15 (2) WILLFUL VIOLATION.—In the case of such  
16 action brought for a willful violation of section 5,  
17 such action may be brought within 3 years of the  
18 date of the last event constituting the alleged viola-  
19 tion for which such action is brought.

20 (3) COMMENCEMENT.—In determining when an  
21 action is commenced by the Secretary under this  
22 section for the purposes of this subsection, it shall  
23 be considered to be commenced on the date when the  
24 complaint is filed.

1 **SEC. 7. NOTICE AND POSTING.**

2 (a) IN GENERAL.—Each employer shall post and  
3 keep posted, in conspicuous places on the premises of the  
4 employer where notices to employees and applicants for  
5 employment are customarily posted, a notice, to be pre-  
6 pared or approved by the Secretary (or the corresponding  
7 administrative officer specified in section 8) setting forth  
8 excerpts from, or summaries of, the pertinent provisions  
9 of this Act and information pertaining to the filing of a  
10 complaint under this Act.

11 (b) PENALTY.—Any employer that willfully violates  
12 this section may be assessed a civil money penalty not to  
13 exceed \$100 for each separate offense.

14 **SEC. 8. REGULATIONS.**

15 (a) IN GENERAL.—Except as provided in subsections  
16 (b) through (f), not later than 180 days after the date  
17 of enactment of this Act, the Secretary shall prescribe  
18 such regulations as may be necessary to carry out this  
19 Act.

20 (b) BOARD.—Not later than 180 days after the date  
21 of enactment of this Act, the Board of Directors of the  
22 Office of Compliance shall prescribe such regulations as  
23 may be necessary to carry out this Act with respect to  
24 employees described in section 4(7)(C).

25 (c) PRESIDENT.—Not later than 180 days after the  
26 date of enactment of this Act, the President shall prescribe

1 such regulations as may be necessary to carry out this  
2 Act with respect to employees described in section  
3 4(7)(D).

4 (d) OFFICE OF PERSONNEL MANAGEMENT.—Not  
5 later than 180 days after the date of enactment of this  
6 Act, the Office of Personnel Management shall prescribe  
7 such regulations as may be necessary to carry out this  
8 Act with respect to employees described in section 4(7)(E).

9 (e) LIBRARIAN OF CONGRESS.—Not later than 180  
10 days after the date of enactment of this Act, the Librarian  
11 of Congress shall prescribe such regulations as may be  
12 necessary to carry out this Act with respect to employees  
13 of the Library of Congress.

14 (f) COMPTROLLER GENERAL.—Not later than 180  
15 days after the date of enactment of this Act, the Comp-  
16 troller General of the United States shall prescribe such  
17 regulations as may be necessary to carry out this Act with  
18 respect to employees of the Government Accountability Of-  
19 fice.

20 **SEC. 9. RESEARCH, EDUCATION, AND TECHNICAL ASSIST-**  
21 **ANCE PROGRAM.**

22 (a) IN GENERAL.—The Secretary shall provide infor-  
23 mation and technical assistance to employers, labor orga-  
24 nizations, and the general public concerning compliance  
25 with this Act.

1 (b) PROGRAM.—In order to achieve the objectives of  
2 this Act—

3 (1) the Secretary, acting through the Adminis-  
4 trator of the Wage and Hour Division of the Depart-  
5 ment of Labor, shall issue guidance on compliance  
6 with this Act regarding providing a flexible, predict-  
7 able, or stable work environment through changes in  
8 the terms and conditions of employment as provided  
9 in section 3(a); and

10 (2) the Secretary shall carry on a continuing  
11 program of research, education, and technical assist-  
12 ance, including—

13 (A)(i) conducting pilot programs that im-  
14 plement fairer work schedules, including by pro-  
15 moting cross training, providing three weeks or  
16 more advance notice of schedules, providing em-  
17 ployees with a minimum number of hours of  
18 work, and using computerized scheduling soft-  
19 ware to provide more flexible, predictable, and  
20 stable schedules for employees; and

21 (ii) evaluating the results of such pilot pro-  
22 grams for employees, employee's families, and  
23 employers;

24 (B) publishing and otherwise making avail-  
25 able to employers, labor organizations, profes-

1           sional associations, educational institutions, the  
2           various communication media, and the general  
3           public the findings of studies regarding fair  
4           work scheduling policies and other materials for  
5           promoting compliance with this Act;

6           (C) sponsoring and assisting State and  
7           community informational and educational pro-  
8           grams; and

9           (D) providing technical assistance to em-  
10          ployers, labor organizations, professional asso-  
11          ciations, and other interested persons on means  
12          of achieving and maintaining compliance with  
13          the provisions of this Act.

14       (c) GAO STUDY.—

15           (1) STUDY.—The Comptroller General of the  
16          United States shall conduct a study on—

17           (A) the impact of difficult scheduling prac-  
18          tices on employees and employers, including un-  
19          predictable and unstable schedules and sched-  
20          ules over which employees have little control,  
21          and particularly how these scheduling practices  
22          impact absenteeism, workforce turnover, and  
23          employees' ability to meet their caregiving re-  
24          sponsibilities;

1 (B) the prevalence in occupations not de-  
2 scribed in section 2(16)(A) of employees rou-  
3 tinely receiving inadequate advance notice of  
4 the shifts or hours of the employees, being as-  
5 signed split shifts, being sent home from work  
6 prior to the completion of their scheduled shift  
7 without being paid for the hours in their sched-  
8 uled shift, being assigned call-in shifts (where  
9 the employee is required to contact the em-  
10 ployer, or wait to be contacted by the employer,  
11 less than 24 hours in advance of the potential  
12 work shift to determine whether the employee  
13 must report to work), or being called into work  
14 outside of scheduled hours;

15 (C) the effects on employees in occupations  
16 not described in section 2(16)(A) of providing  
17 advance notice of work schedules, reporting  
18 time pay when employees are sent home without  
19 working their full scheduled shift or are as-  
20 signed to call-in shifts but given no work for  
21 those shifts, and split shift pay when employees  
22 are assigned split shifts; and

23 (D) the effects on employers in occupations  
24 not described in section 2(16)(A) of providing  
25 advance notice of work schedules, reporting

1           time pay when employees are sent home without  
2           working their full scheduled shift or assigned to  
3           call-in shifts but given no work for those shifts,  
4           and split shift pay when employees are assigned  
5           split shifts.

6           (2) **REPORTS.**—Not later than 18 months after  
7           the date of enactment of this Act, the Comptroller  
8           General of the United States shall prepare and sub-  
9           mit a report to the appropriate committees of Con-  
10          gress concerning the initial results of the study con-  
11          ducted pursuant to paragraph (1). Not later than 5  
12          years after the date of enactment of this Act, the  
13          Comptroller General shall prepare and submit a fol-  
14          low-up report to such committees concerning the re-  
15          sults of such study.

16 **SEC. 10. RIGHTS RETAINED BY EMPLOYEES.**

17          This Act provides minimum requirements and shall  
18          not be construed to preempt, limit, or otherwise affect the  
19          applicability of any other law, regulation, requirement,  
20          policy, or standard that provides for greater rights for em-  
21          ployees than are required in this Act.

22 **SEC. 11. EXEMPTION.**

23          This Act shall not apply to any employee covered by  
24          a bona fide collective bargaining agreement if the terms

1 of the collective bargaining agreement include terms that  
2 govern work scheduling practices.

3 **SEC. 12. EFFECT ON OTHER LAW.**

4       Nothing in this Act shall be construed as creating or  
5 imposing any requirement in conflict with any Federal or  
6 State law or regulation (including the Americans with Dis-  
7 abilities Act of 1990 (42 U.S.C. 12101 et seq.), the Fam-  
8 ily and Medical Leave Act of 1993 (29 U.S.C. 2611 et  
9 seq.), the National Labor Relations Act (29 U.S.C. 151  
10 et seq.), and title VII of the Civil Rights Act of 1964 (42  
11 U.S.C. 2000e et seq.)), nor shall anything in this Act be  
12 construed to diminish or impair the rights of an employee  
13 under any valid collective bargaining agreement.