

1 H.812

2 Introduced by Representative Fields of Bennington

3 Referred to Committee on

4 Date:

5 Subject: Labor; employment practices; scheduling

6 Statement of purpose of bill as introduced: This bill proposes to require
7 employers to provide an employee with at least 14 days' advance notice of his
8 or her work schedule; to provide an employee with 10 hours off between shifts
9 or pay the employee one-and-one-half times his or her regular hourly wage for
10 the second shift; to provide current employees with the option to take available
11 shifts before hiring a new employee; and to pay an employee that is called in to
12 work on his or her scheduled day off for at least two hours of work.

13 An act relating to employee scheduling

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 21 V.S.A. § 310 is added to read:

16 § 310. SCHEDULING

17 (a) As used in this section:

18 (1) "Employee" shall have the same meaning as in section 302 of this
19 subchapter except that it shall not include an individual employed in a bona
20 fide executive, administrative, or professional capacity.

1 (2) “On-call shift” means a time period when the employer requires the
2 employee to be available for work, regardless of whether the employee
3 actually works or is required to report to his or her work location. The term
4 “on-call shift” does not include a regular shift.

5 (3) “Regular shift” means a time period during which the employee is
6 scheduled to work for the employer or to report to his or her work location,
7 or both.

8 (b)(1) Not later than 14 days before the first day on the schedule, an
9 employer shall provide each employee with a work schedule covering a period
10 of at least one week that shows all regular and on-call shifts for the employee
11 during the schedule period.

12 (2) An employer shall not change an employee’s work schedule less
13 than 14 days before the first day shown on the schedule except under the
14 following circumstances:

15 (A) The employer’s operation at the employee’s scheduled work
16 location cannot begin or continue on a particular day due to:

17 (i) threats made to the employees or to the employer’s property at
18 the work location;

19 (ii) a public utility failure such as a power outage;

20 (iii) a natural disaster, including a fire at or near the work location;

1 (iv) a state of emergency declared by the President of the United
2 States or the Governor; or

3 (v) severe weather conditions that pose a threat to employee
4 safety;

5 (B) the employee requested a change to his or her schedule in
6 writing;

7 (C) the employee voluntarily traded his or her shift with another
8 employee pursuant to any policy the employer may have adopted in relation to
9 employees exchanging shifts; or

10 (D) the employer has requested the employee to work additional
11 hours due to an unanticipated absence or high volume of work, provided that
12 the employer pays the employee one-and-one-half times his or her regular
13 wage rate for any additional hours that the employee agrees to work.

14 (3) Except as otherwise provided pursuant to section 384 of this chapter,
15 an employer shall not be required to pay an employee one-and-one-half times
16 his or her regular wage rate if the employer requires the employee to work
17 during a scheduled on-call shift. An employer shall pay an employee for any
18 time during an on-call shift when the employee is subject to the control of the
19 employer or engaged to wait on or near the employer's premises.

20 (c) An employer shall not require an employee to work two shifts with
21 fewer than 10 hours between the first shift and the second shift unless the

1 employer pays the employee one-and-one-half times his or her regular wage
2 rate for the second shift.

3 (d)(1) Prior to hiring a new employee, including a temporary employee, or
4 an independent contractor to work shifts at a particular work location that the
5 employer's existing employees are not currently scheduled to work, the
6 employer for a period of not less than three calendar days shall offer the shifts
7 to its existing employees that work at that work location.

8 (2)(A) An employer may allocate shifts offered pursuant to
9 subdivision (1) of this subsection (d) among any existing employees that notify
10 the employer that they would like to work those shifts according to any written
11 policy that the employer has adopted and provided to its existing employees.

12 (B) Nothing in this subsection shall be construed to require an
13 employer to schedule an employee to work a shift offered pursuant to
14 subdivision (1) of this subsection (d) if that would result in the employer's
15 being required to pay the employee one-and-one-half times his or her regular
16 wage rate pursuant to section 384(b) of this chapter or subsection (b) of this
17 section.

18 (3) The employer may hire a temporary employee or independent
19 contractor to work any shift offered pursuant to subdivision (1) of this
20 subsection if:

1 (A) no existing employee notifies the employer during the three-day
2 period required pursuant to subdivision (1) of this subsection that he or she
3 would like to work that shift; or

4 (B) the employer is unable to allocate the shift to any employee
5 because it would result in the employer's being required to pay the
6 employee one-and-one-half times his or her regular wage rate pursuant to
7 subsection 384(b) of this chapter or subsection (b) of this section.

8 (e) If, at the request of the employer, an employee works on his or her
9 scheduled day off for a period of less than two hours, the employer shall pay
10 the employee an amount equal to two hours at one-and-one-half times his or
11 her regular wage rate for the time that he or she worked.

12 (f) Notwithstanding the provisions of section 303 of this subchapter:

13 (1) the Commissioner of Labor shall enforce the provisions of this
14 section in the same manner as a complaint for unpaid wages pursuant to
15 section 342a of this chapter; and

16 (2) an employer that violates the provisions of this section shall be
17 subject to an administrative penalty of not more than \$100.00 for each
18 violation.

19 Sec. 2. EFFECTIVE DATE

20 This act shall take effect on July 1, 2018.