

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

17
18

H.239

Introduced by Representatives Kornheiser of Brattleboro, Mulvaney-Stanak of Burlington, Anthony of Barre City, Burke of Brattleboro, Christie of Hartford, Cina of Burlington, Colburn of Burlington, Cordes of Lincoln, Hooper of Burlington, Small of Winooski, Surprenant of Barnard, Townsend of South Burlington, Troiano of Stannard, Vyhovsky of Essex, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Labor; employment practices; good cause employment; reliable work schedules

Statement of purpose of bill as introduced: This bill proposes to require employers to provide their employees with a reliable work schedule, to require employers to reimburse employees for necessary expenditures that are incurred by employees in the course of employment, and to establish a good cause standard for termination of employment.

An act relating to establishing various employment standards and protections

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

2 Sec. 1. FINDINGS

3 The General Assembly finds the following:

4 (1) Reliable work schedules.

5 (A) Low-wage and service workers experience a variety of
6 challenges in their jobs, including few, if any, contractual job protections and
7 little to no control over their schedules.

8 (B) The COVID-19 Pandemic has exacerbated these challenges and
9 the tenuous economic situation faced by low-wage and service workers.

10 (C) A significant percentage of low-wage and service workers are
11 women and people of color, groups that have long experienced
12 institutionalized and structural discrimination in the United States.

13 (D) According to a recent issue brief from the General Assembly's
14 Joint Fiscal Office, for the week ending November 14, 2020 about 73 percent
15 of unemployment insurance recipients were women and about 26 percent of
16 recipients worked in the hospitality and food service sectors.

17 (E) Workers in service and retail jobs have a higher frequency of
18 irregular shift schedules, on-call shifts, split shifts, or rotating shifts.

19 (F) According to some national studies, workers whose jobs include
20 irregular shift schedules, on-call shifts, split shifts, or rotating shifts report a

1 greater degree of conflict between work and family than workers who work a
2 regular or predictable schedule.

3 (G) Nationally, the frequency of irregular shift schedules is greatest
4 among workers earning less than \$40,000.00 per year.

5 (H) Requiring employers to provide workers with a more reliable and
6 predictable schedule will enhance workers' wellbeing and make Vermont a
7 more attractive place for workers and families to relocate, live, and raise
8 children.

9 (2) Good cause standard for dismissal.

10 (A) The Vermont statutes offer workers protection from many forms
11 of arbitrary or discriminatory treatment in the workplace.

12 (B) Some Vermont workers enjoy protections from termination for
13 no reason or termination for an arbitrary, capricious, trivial, or pretextual
14 reason pursuant to a collective bargaining agreement or contract.

15 (C) Other Vermont workers, however, do not enjoy such protections.
16 Those workers are known as "at-will" employees. An "at-will" employee may
17 be discharged for any reason that is not prohibited by law or public policy or
18 for no reason at all.

19 (D) Currently, absent an agreement between an employer and an
20 employee to the contrary, an employee is presumed to be an "at-will"
21 employee in 49 out of 50 U.S. states.

1 (E) However, Montana and most industrialized countries provide
2 workers with legal protections against arbitrary dismissal. Among other
3 things, Montana’s law makes it illegal to discharge an employee for other than
4 “good cause” after the employee has completed his or her probationary period.
5 “Good cause” can include a variety of legitimate business reasons, including
6 an employee’s failure to perform his or her job duties satisfactorily, disruption
7 to the employer’s operations, or other economic factors.

8 (F) The additional job security that a “good cause” standard for
9 dismissal provides will distinguish Vermont from other states and make it a
10 more attractive place for workers and families to relocate, live, and raise
11 children.

12 (3) Reimbursement of work expenses.

13 (A) The COVID-19 Pandemic has forced many workers to shift to
14 working remotely, and a significant number of newly remote workers have
15 relocated to Vermont during the Pandemic.

16 (B) A recent study found that nationally, 16 percent of employers
17 plan to continue having at least a portion of their employees work remotely
18 after the COVID-19 Pandemic ends.

19 (C) Working remotely can create additional flexibility and enhance
20 the wellbeing of workers by eliminating time spent commuting, making

1 workers more available to care for family members, and enhancing work-life
2 balance.

3 (D) However, working remotely can also generate significant
4 expenses for workers, including the costs of information technology, Internet
5 access, and office furniture.

6 (E) While some employers reimburse their employees for home
7 office expenses and equipment, others do not.

8 (F) Currently, California, Illinois, Iowa, Montana, New Hampshire,
9 and South Dakota require employers to reimburse their employees for
10 necessary work expenses.

11 (G) Requiring reimbursement for necessary work expenses can make
12 Vermont a more attractive place for remote workers and their families to
13 relocate, live, and raise children and can serve as an economic development
14 tool for the State.

15 Sec. 2. 21 V.S.A. § 310 is added to read:

16 § 310. SCHEDULING

17 (a) An employer shall provide each of its employees with a reliable work
18 schedule.

19 (b) As used in this section:

20 (1) “On-call shift” means a time period when the employer requires the
21 employee to be available for work, regardless of whether the employee

1 actually works or is required to report to his or her work location. The term
2 “on-call shift” does not include a regular shift.

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

6 (3)(A) “Reliable work schedule” means that an employer does the
7 following:

8 (i) not later than 14 days before the first day of a schedule period,
9 which shall be at least one week, provides each employee with a work
10 schedule covering the period that shows all regular and on-call shifts for the
11 employee during the period;

12 (ii) except as provided in subdivision (iii) of this subdivision
13 (b)(3)(A), does not change an employee’s schedule at any time after 14 days
14 before the first day of the relevant schedule period except under the following
15 circumstances:

16 (I) the employer’s operation at the scheduled work location
17 cannot begin or continue on a particular day due to threats made to employees
18 or property at the work location, a utility failure, a natural disaster, a fire at or
19 near the work location, a state of emergency declared by the Governor or the
20 president of the United States, or severe weather conditions that pose a threat
21 to employee safety;

1 (II) the employee requested a change to his or her schedule;

2 (III) the employee voluntarily traded his or her shift with
3 another employee; or

4 (IV) the employer requests the employee to work additional
5 hours due to an unanticipated absence or high volume of work, provided that
6 the employer shall pay the employee one-and-one-half times his or her regular
7 wage rate for any additional hours that the employee agrees to work; and

8 (iii) pays an employee for the number of hours that the employee
9 was scheduled to work during any shifts that are eliminated after 14 days
10 before the first day of the relevant schedule period for any reason other than as
11 permitted pursuant to subdivision (ii) of this subdivision (b)(3)(A).

12 (B) Nothing in this subdivision (b)(3) shall be interpreted to require
13 an employee to agree to work an additional shift or additional hours if the
14 employer requests the employee to perform the additional work fewer than 14
15 days before the first day of the relevant schedule period.

16 Sec. 3. 21 V.S.A. § 311 is added to read:

17 § 311. REIMBURSEMENT OF EMPLOYEE EXPENSES

18 (a)(1) An employer shall reimburse an employee for all necessary
19 expenditures or losses incurred by the employee within the employee's scope
20 of employment that are directly related to services performed for the employer.

