

SENATE BILL 1116

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CF 7lr3283

By: **Senators Benson, Currie, Lee, and Pinsky**

Introduced and read first time: February 20, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Fair Scheduling, Wages, and Benefits Act**

3 FOR the purpose of requiring a certain employer to provide certain employees with certain
4 estimates and work schedules within certain time periods and notify employees of
5 certain changes to certain schedules; requiring an employer to conspicuously post at
6 a certain location at each work site or transmit by certain electronic means certain
7 information; authorizing an employer to make certain changes to a scheduled shift
8 within a certain period of time; requiring an employer, except under certain
9 circumstances, to pay certain predictability pay under certain circumstances;
10 providing that predictability pay is in addition to certain other pay; providing that a
11 shift trade includes when the employer transmits the shift trade offer under certain
12 circumstances; authorizing an employee to request a change in certain terms and
13 conditions of employment; requiring an employer to engage in a certain interactive
14 process with the employee with respect to the requested changes; authorizing an
15 employer to grant or deny the request except under certain circumstances; requiring
16 an employer, under certain circumstances, to state the reason for a certain denial;
17 requiring an employer to offer additional hours of work to current employees before
18 hiring new employees or subcontractors; providing for the application of certain
19 provisions of this Act; requiring that certain information be posted for certain periods
20 of time; authorizing an employer to post a certain notice concurrently to certain job
21 candidates; requiring an employer, except under certain circumstances, to assign
22 additional hours of work to certain current employees and distribute additional
23 hours of work among certain employees; authorizing an employer to limit the
24 distribution of hours in a certain manner; authorizing an employer to hire new
25 employees and subcontractors under certain circumstances; requiring an employer
26 to make certain efforts to offer employees certain training opportunities; requiring
27 an employer to document compliance with a certain provision of this Act under
28 certain circumstances; requiring that certain documentation be maintained by an
29 employer for a certain period of time; establishing certain rebuttable presumptions;
30 providing that certain employees must be paid the same hourly wage, have the same
31 eligibility to accrue certain benefits, and be provided certain opportunities and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



conditions of employment; requiring each employer to record certain wages in a certain statement of earnings and specify in the statement certain predictability pay; authorizing the Commissioner of Labor and Industry, under certain circumstances, to require an employer to include certain information in a certain statement and use additional means to notify the employer's employees of certain information; requiring an employer to give employees notice of certain rights in a certain manner; requiring employers to keep certain records for a certain minimum period of time and make the records available for inspection by certain individuals; providing that each day an employer violates a certain provision of this Act is a separate violation; prohibiting certain persons from taking certain actions; providing that certain protections apply to certain employees; providing for the enforcement of this Act; requiring the Commissioner to keep a certain identity confidential, except under certain circumstances, and to notify a certain person before a certain disclosure is made; requiring the Commissioner to post certain information on a certain Web site on or before a certain date each year; authorizing the Commissioner to conduct a certain investigation under certain circumstances; requiring the Commissioner to enforce this Act; authorizing the Commissioner to adopt certain regulations; providing for the construction of this Act; providing for a delayed effective date; defining certain terms; and generally relating to fair scheduling, wages, and benefits.

BY repealing and reenacting, with amendments,

Article – Labor and Employment
Section 2–106(b) and 3–102(a)
Annotated Code of Maryland
(2016 Replacement Volume)

BY adding to

Article – Labor and Employment
Section 3–103(k); and 3–1301 through 3–1314 to be under the new subtitle “Subtitle 13. Fair Scheduling, Wages, and Benefits”
Annotated Code of Maryland
(2016 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Labor and Employment

2–106.

(b) Except as provided in subsection (c) of this section, and in addition to authority to adopt regulations that is set forth elsewhere, the Commissioner may adopt regulations that are necessary to carry out:

(1) Title 3, Subtitle 3 of this article;

(2) Title 3, Subtitle 5 of this article;

(3) **TITLE 3, SUBTITLE 13 OF THIS ARTICLE;**

(4) Title 4, Subtitle 2, Parts I through III of this article;

[(4)] (5) Title 5 of this article;

[(5)] (6) Title 6 of this article; and

[(6)] (7) Title 7 of this article.

3–102.

(a) In addition to any duties set forth elsewhere, the Commissioner shall:

(1) enforce Subtitle 2 of this title;

(2) carry out Subtitle 3 of this title;

(3) enforce Subtitle 4 of this title;

(4) enforce Subtitle 9 of this title; [and]

(5) **ENFORCE SUBTITLE 13 OF THIS TITLE; AND**

(6) enforce a local minimum wage law.

3–103.

(K) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER A PROVISION OF SUBTITLE 13 OF THIS TITLE HAS BEEN VIOLATED, ON THE COMMISSIONER’S OWN INITIATIVE OR ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

SUBTITLE 13. FAIR SCHEDULING, WAGES, AND BENEFITS.

3–1301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BONA FIDE BUSINESS REASON” MEANS:

(1) THE IDENTIFIABLE BURDEN OF ADDITIONAL COSTS TO AN EMPLOYER, INCLUDING THE COST OF PRODUCTIVITY LOSS, RETRAINING OR HIRING

1 EMPLOYEES, OR TRANSFERRING EMPLOYEES FROM ONE FACILITY TO ANOTHER
2 FACILITY;

3 (2) A SIGNIFICANT DETRIMENTAL EFFECT ON THE EMPLOYER'S
4 ABILITY TO MEET ORGANIZATIONAL NEEDS OR CUSTOMER DEMAND;

5 (3) A SIGNIFICANT INABILITY OF THE EMPLOYER, DESPITE BEST
6 EFFORTS, TO REORGANIZE WORK AMONG EXISTING STAFF;

7 (4) A SIGNIFICANT DETRIMENTAL EFFECT ON BUSINESS
8 PERFORMANCE;

9 (5) INSUFFICIENCY OF WORK DURING THE PERIODS AN EMPLOYEE
10 PROPOSES TO WORK; OR

11 (6) THE NEED TO BALANCE COMPETING SCHEDULING REQUESTS
12 WHEN AN EMPLOYER WOULD BE UNABLE TO GRANT ALL THOSE REQUESTS WITHOUT
13 A SIGNIFICANT DETRIMENTAL EFFECT ON THE EMPLOYER'S ABILITY TO MEET
14 ORGANIZATIONAL NEEDS.

15 (C) "CAREER-RELATED EDUCATIONAL OR TRAINING PROGRAM" MEANS AN
16 EDUCATIONAL OR TRAINING PROGRAM OR A PROGRAM OF STUDY OFFERED BY A
17 PUBLIC, PRIVATE, OR NONPROFIT CAREER AND TECHNICAL EDUCATION SCHOOL, AN
18 INSTITUTION OF HIGHER EDUCATION, OR ANY OTHER ENTITY THAT PROVIDES
19 ACADEMIC EDUCATION, CAREER AND TECHNICAL EDUCATION, OR TRAINING,
20 INCLUDING REMEDIAL EDUCATION OR ENGLISH AS A SECOND LANGUAGE.

21 (D) "CAREGIVER" MEANS AN INDIVIDUAL WHO IS A SIGNIFICANT PROVIDER
22 OF:

23 (1) ONGOING CARE OR EDUCATION, INCLUDING RESPONSIBILITY FOR
24 SECURING THE ONGOING CARE OR EDUCATION, FOR A CHILD; OR

25 (2) ONGOING CARE, INCLUDING RESPONSIBILITY FOR SECURING THE
26 ONGOING CARE, FOR:

27 (I) AN INDIVIDUAL WITH A SERIOUS HEALTH CONDITION WHO
28 IS IN A FAMILIAL RELATIONSHIP WITH THE INDIVIDUAL PROVIDING THE ONGOING
29 CARE; OR

30 (II) A PARENT OF THE INDIVIDUAL PROVIDING THE ONGOING
31 CARE.

1 **(E) “CHILD” MEANS A BIOLOGICAL, ADOPTED, OR FOSTER CHILD, A**
2 **STEPCHILD, A LEGAL WARD, OR A CHILD OF AN INDIVIDUAL STANDING IN LOCO**
3 **PARENTIS TO THAT CHILD WHO IS:**

4 **(1) A MINOR; OR**

5 **(2) AN ADULT INCAPABLE OF SELF-CARE BECAUSE OF A MENTAL OR**
6 **PHYSICAL DISABILITY.**

7 **(F) “EMPLOYEE” DOES NOT INCLUDE:**

8 **(1) AN INDIVIDUAL WHO IS EXEMPT FROM THE MINIMUM WAGE AND**
9 **OVERTIME PROVISIONS OF THE FEDERAL FAIR LABOR STANDARDS ACT; OR**

10 **(2) AN INDIVIDUAL WHO PERFORMS WORK FOR AN EMPLOYER FOR**
11 **REMUNERATION IF:**

12 **(I) THE INDIVIDUAL IS FREE FROM THE EMPLOYER’S CONTROL**
13 **AND DIRECTION REGARDING THE PERFORMANCE OF THE WORK;**

14 **(II) THE INDIVIDUAL CUSTOMARILY IS ENGAGED IN AN**
15 **INDEPENDENT BUSINESS OR OCCUPATION OF THE SAME NATURE AS THAT INVOLVED**
16 **IN THE WORK; AND**

17 **(III) THE WORK IS:**

18 1. **OUTSIDE THE USUAL COURSE OF BUSINESS OF THE**
19 **EMPLOYER; OR**

20 2. **PERFORMED OUTSIDE ANY PLACE OF BUSINESS OF**
21 **THE EMPLOYER.**

22 **(G) “EMPLOYER” MEANS A PERSON THAT EMPLOYS INDIVIDUALS IN A FOOD**
23 **SERVICES ESTABLISHMENT OR RETAIL ESTABLISHMENT.**

24 **(H) “FAMILIAL RELATIONSHIP” MEANS A RELATIONSHIP WITH:**

25 **(1) A CHILD, SPOUSE, DOMESTIC PARTNER, PARENT, GRANDCHILD,**
26 **GRANDPARENT, SIBLING, OR PARENT OF A SPOUSE OR DOMESTIC PARTNER; OR**

27 **(2) ANY INDIVIDUAL RELATED TO THE EMPLOYEE BY BLOOD OR**
28 **AFFINITY, WHOSE CLOSE ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF**
29 **A FAMILIAL RELATIONSHIP DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION.**

(I) “FOOD SERVICES ESTABLISHMENT” MEANS AN ENTITY THAT IS A FULL-SERVICE OR LIMITED-SERVICE RESTAURANT, AS DEFINED UNDER THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM, NAICS 7221 AND NAICS 7222, IF THE RESTAURANT IS:

(1) PART OF A CHAIN OF AT LEAST 10 RESTAURANTS NATIONWIDE; OR

(2) A FRANCHISE OF AT LEAST 10 ESTABLISHMENTS NATIONWIDE, INCLUDING:

(I) AN INTEGRATED ENTERPRISE THAT OWNS OR OPERATES AT LEAST 10 ESTABLISHMENTS IN THE AGGREGATE NATIONALLY; OR

(II) AN ESTABLISHMENT OPERATED IN ACCORDANCE WITH A FRANCHISE AGREEMENT WHERE THE FRANCHISOR AND THE FRANCHISEE OWN OR OPERATE AT LEAST 10 ESTABLISHMENTS IN THE AGGREGATE NATIONALLY.

(J) “INITIAL WORK SCHEDULE” MEANS THE FIRST WRITTEN WORK SCHEDULE OF AN EMPLOYEE’S SHIFTS FOR A WORKWEEK THAT IS PROVIDED BY AN EMPLOYER TO AN EMPLOYEE.

(K) “ON-CALL SHIFT” MEANS TIME THAT AN EMPLOYER REQUIRES AN EMPLOYEE TO BE AVAILABLE TO WORK AND TO CONTACT THE EMPLOYER, OR THE EMPLOYER’S DESIGNEE, OR TO WAIT TO BE CONTACTED BY THE EMPLOYER, OR THE EMPLOYER’S DESIGNEE, WITHIN 24 HOURS OF THE START OF A POTENTIAL SHIFT TO DETERMINE WHETHER THE EMPLOYEE MUST REPORT TO WORK.

(L) “PARENT” MEANS A BIOLOGICAL OR ADOPTIVE PARENT, A STEPPARENT, OR AN INDIVIDUAL WHO STOOD IN LOCO PARENTIS TO AN EMPLOYEE WHEN THE EMPLOYEE WAS A CHILD.

(M) “PREDICTABILITY PAY” MEANS WAGES THAT ARE PAID TO AN EMPLOYEE AT THE EMPLOYEE’S REGULAR RATE OF PAY, AS DEFINED IN 29 U.S.C. § 207(E), AS REQUIRED UNDER § 3-1304 OF THIS SUBTITLE.

(N) “RETAIL ESTABLISHMENT” MEANS A BUSINESS WHERE GOODS ARE SOLD ON THE PREMISES AT RETAIL AND WHICH IS A PART OF A CHAIN OF AT LEAST 10 RETAIL ESTABLISHMENTS NATIONWIDE.

(O) “SERIOUS HEALTH CONDITION” HAS THE MEANING STATED IN § 101 OF THE FEDERAL FAMILY AND MEDICAL LEAVE ACT.

1 (P) “SHIFT” MEANS THE CONSECUTIVE HOURS AN EMPLOYER REQUIRES AN
2 EMPLOYEE TO WORK OR TO BE ON CALL TO WORK.

3 (Q) “WORK SCHEDULE” MEANS A SCHEDULE OF ALL OF AN EMPLOYEE’S
4 REGULAR AND ON-CALL SHIFTS FOR A CONSECUTIVE 7-DAY PERIOD THAT
5 INCLUDES THE SPECIFIC START AND END TIMES FOR EACH SHIFT.

6 **3-1302.**

7 THIS SUBTITLE MAY NOT BE CONSTRUED TO:

8 (1) DISCOURAGE OR PROHIBIT AN EMPLOYER FROM THE ADOPTION
9 OR RETENTION OF POLICIES THAT ARE MORE BENEFICIAL TO EMPLOYEES THAN THE
10 REQUIREMENTS OF THIS SUBTITLE;

11 (2) DIMINISH THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH A
12 CONTRACT, A COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYMENT BENEFIT
13 PLAN, OR ANY OTHER AGREEMENT THAT ESTABLISHES POLICIES THAT ARE MORE
14 BENEFICIAL TO AN EMPLOYEE THAN THE REQUIREMENTS OF THIS SUBTITLE; OR

15 (3) PREEMPT, LIMIT, OR OTHERWISE AFFECT THE APPLICABILITY OF
16 ANY OTHER LAW, POLICY, OR STANDARD ESTABLISHING SCHEDULING POLICIES
17 THAT PROVIDE ADDITIONAL RIGHTS OR EXTEND OTHER PROTECTIONS TO
18 EMPLOYEES BEYOND THOSE PROVIDED UNDER THIS SUBTITLE.

19 **3-1303.**

20 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN
21 EMPLOYER SHALL:

22 (1) ON HIRING A NEW EMPLOYEE, PROVIDE THE EMPLOYEE WITH A
23 GOOD FAITH WRITTEN ESTIMATE OF THE NUMBER OF HOURS AND THE DAYS AND
24 TIMES THE EMPLOYEE IS EXPECTED TO WORK EACH WEEK, INCLUDING ANY
25 ON-CALL SHIFTS;

26 (2) ON OR BEFORE THE FIRST DAY OF WORK FOR A NEW EMPLOYEE,
27 PROVIDE THE EMPLOYEE WITH A WRITTEN WORK SCHEDULE FOR THE EMPLOYEE’S
28 FIRST 21 DAYS OF WORK;

29 (3) PROVIDE EACH EMPLOYEE WITH AN INITIAL WORK SCHEDULE AT
30 LEAST 21 DAYS BEFORE THE FIRST DAY THE EMPLOYEE IS SCHEDULED TO WORK;

(4) NOTIFY AN EMPLOYEE OF ANY SUBSEQUENT CHANGES MADE TO THE EMPLOYEE'S INITIAL WORK SCHEDULE BEFORE THE CHANGE TAKES EFFECT; AND

(5) WITHIN 24 HOURS AFTER MAKING A CHANGE TO AN EMPLOYEE'S INITIAL WORK SCHEDULE, PROVIDE THE EMPLOYEE WITH A REVISED WORK SCHEDULE.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN EMPLOYER SHALL POST CONSPICUOUSLY AT EACH WORK SITE IN A LOCATION THAT IS READILY ACCESSIBLE TO ALL EMPLOYEES OR TRANSMIT BY ELECTRONIC MEANS READILY ACCESSIBLE TO ALL EMPLOYEES:

(1) AT LEAST 21 DAYS BEFORE THE START OF EACH WORKWEEK, A WRITTEN WORK SCHEDULE THAT INCLUDES THE SHIFTS OF ALL EMPLOYEES AT THE WORK SITE, INCLUDING EMPLOYEES WHO ARE NOT SCHEDULED TO WORK OR BE ON CALL FOR THE WORKWEEK; AND

(2) AN UPDATED SCHEDULE WITHIN 24 HOURS AFTER ANY CHANGE IS MADE TO A PREVIOUSLY POSTED WORK SCHEDULE.

(C) THE REQUIREMENTS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT APPLY DURING PERIODS WHEN OPERATIONS OF THE EMPLOYER ARE SUSPENDED DUE TO EVENTS BEYOND THE EMPLOYER'S CONTROL.

3-1304.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, WITHIN 21 DAYS BEFORE THE FIRST SCHEDULED HOUR OF A SHIFT, AN EMPLOYER MAY:

(1) REDUCE OR EXTEND THE LENGTH OF A SCHEDULED SHIFT OR SCHEDULED ON-CALL SHIFT;

(2) CANCEL AN EMPLOYEE'S SCHEDULED SHIFT OR SCHEDULED ON-CALL SHIFT;

(3) CHANGE THE START OR END TIME OF AN EMPLOYEE'S SCHEDULED SHIFT OR SCHEDULED ON-CALL SHIFT; OR

(4) ADD ONE OR MORE ADDITIONAL SCHEDULED SHIFTS OR SCHEDULED ON-CALL SHIFTS.

1 **(B) (1) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (F) OF THIS**
2 **SECTION, IF AN EMPLOYER MAKES A CHANGE TO AN EMPLOYEE'S WORK SCHEDULE**
3 **UNDER SUBSECTION (A) OF THIS SECTION, THE EMPLOYER SHALL PAY THE**
4 **EMPLOYEE:**

5 **(I) 1 HOUR OF PREDICTABILITY PAY FOR EACH SHIFT OR**
6 **ON-CALL SHIFT THAT IS CHANGED WITHIN 21 DAYS BEFORE, BUT NOT LESS THAN 24**
7 **HOURS BEFORE, THE START OF THE SHIFT OR ON-CALL SHIFT;**

8 **(II) 2 HOURS OF PREDICTABILITY PAY FOR EACH SHIFT OR**
9 **ON-CALL SHIFT OF 4 HOURS OR LESS THAT IS CHANGED WITHIN 24 HOURS BEFORE**
10 **THE START OF THE SHIFT OR ON-CALL SHIFT; AND**

11 **(III) 4 HOURS OF PREDICTABILITY PAY FOR EACH SHIFT OR**
12 **ON-CALL SHIFT OF MORE THAN 4 HOURS THAT IS CHANGED WITHIN 24 HOURS**
13 **BEFORE THE START OF THE SHIFT OR ON-CALL SHIFT.**

14 **(2) THE PREDICTABILITY PAY REQUIRED UNDER PARAGRAPH (1) OF**
15 **THIS SUBSECTION IS IN ADDITION TO ANY OTHER WAGES REQUIRED TO BE PAID TO**
16 **THE EMPLOYEE UNDER THIS TITLE.**

17 **(C) AN EMPLOYER IS NOT REQUIRED TO PAY PREDICTABILITY PAY UNDER**
18 **SUBSECTION (B) OF THIS SECTION IF THE CHANGE TO AN EMPLOYEE'S WORK**
19 **SCHEDULE:**

20 **(1) WAS MADE AT THE REQUEST OF THE EMPLOYEE, INCLUDING A**
21 **REQUEST TO:**

22 **(I) WORK SPECIFIC HOURS OTHER THAN THOSE SCHEDULED BY**
23 **THE EMPLOYER; OR**

24 **(II) USE SICK LEAVE, VACATION LEAVE, PERSONAL DAYS, OR**
25 **OTHER LEAVE OFFERED BY THE EMPLOYER;**

26 **(2) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, IS**
27 **THE RESULT OF A VOLUNTARY, MUTUALLY AGREED-ON SHIFT TRADE AMONG**
28 **EMPLOYEES; OR**

29 **(3) IS NECESSARY TO AVOID A THREAT TO THE HEALTH OR SAFETY OF**
30 **EMPLOYEES OR THE PUBLIC.**

31 **(D) FOR PURPOSES OF SUBSECTION (C) OF THIS SECTION, A SHIFT TRADE**
32 **SHALL INCLUDE WHEN THE EMPLOYER TRANSMITS THE SHIFT TRADE OFFER TO ALL**

1 ELIGIBLE EMPLOYEES AT THE PREVIOUSLY SCHEDULED EMPLOYEE'S REQUEST, IF
2 THE EMPLOYER'S TRANSMITTAL IS:

3 (1) ACCESSIBLE TO ALL ELIGIBLE EMPLOYEES IN THE FORM OF A
4 MASS COMMUNICATION;

5 (2) TRANSMITTED ELECTRONICALLY OR IN WRITING AT THE WORK
6 SITE; AND

7 (3) NOT COERCIVE IN ANY WAY.

8 (E) THERE IS A REBUTTABLE PRESUMPTION THAT PREDICTABILITY PAY IS
9 OWED IF THE EMPLOYER FAILS TO DOCUMENT CONSENT TO A SHIFT TRADE.

10 (F) THE REQUIREMENTS UNDER SUBSECTIONS (A) AND (B) OF THIS
11 SECTION DO NOT APPLY DURING PERIODS WHEN OPERATIONS OF THE EMPLOYER
12 ARE SUSPENDED DUE TO EVENTS BEYOND THE EMPLOYER'S CONTROL.

13 3-1305.

14 (A) AN EMPLOYEE MAY REQUEST A CHANGE IN THE TERMS AND
15 CONDITIONS OF EMPLOYMENT, INCLUDING THE ESTIMATED WORK SCHEDULE
16 PROVIDED IN ACCORDANCE WITH § 3-1303(A)(1) OF THIS SUBTITLE, WITH RESPECT
17 TO:

18 (1) THE NUMBER OF HOURS THE EMPLOYEE IS REQUIRED TO WORK
19 OR BE ON CALL FOR WORK;

20 (2) THE TIMES WHEN THE EMPLOYEE IS REQUIRED TO WORK OR BE
21 ON CALL FOR WORK;

22 (3) THE LOCATION WHERE THE EMPLOYEE IS REQUIRED TO WORK;

23 (4) THE AMOUNT OF ADVANCE NOTICE THE EMPLOYEE RECEIVES OF
24 WORK SCHEDULE ASSIGNMENTS; AND

25 (5) MINIMIZING CHANGES IN THE NUMBER OF HOURS THE EMPLOYEE
26 IS SCHEDULED TO WORK ON A DAILY, WEEKLY, OR MONTHLY BASIS.

27 (B) (1) IF AN EMPLOYEE REQUESTS A CHANGE IN THE TERMS AND
28 CONDITIONS OF EMPLOYMENT UNDER SUBSECTION (A) OF THIS SECTION, THE
29 EMPLOYER SHALL ENGAGE IN A TIMELY, GOOD-FAITH INTERACTIVE PROCESS WITH
30 THE EMPLOYEE THAT INCLUDES A DISCUSSION OF POTENTIAL SCHEDULE CHANGES,

1 INCLUDING ALTERNATIVES TO THE PROPOSED CHANGE, THAT MIGHT MEET THE
2 EMPLOYEE'S NEEDS.

3 (2) IF THE INFORMATION PROVIDED BY THE EMPLOYEE MAKING A
4 REQUEST UNDER SUBSECTION (A) OF THIS SECTION REQUIRES CLARIFICATION, THE
5 EMPLOYER SHALL:

6 (I) EXPLAIN WHAT ADDITIONAL INFORMATION IS REQUIRED
7 FROM THE EMPLOYEE; AND

8 (II) PROVIDE THE EMPLOYEE A REASONABLE PERIOD OF TIME
9 TO PROVIDE THE ADDITIONAL INFORMATION.

10 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
11 AFTER ENGAGING IN THE INTERACTIVE PROCESS REQUIRED UNDER SUBSECTION
12 (B) OF THIS SECTION, THE EMPLOYER MAY GRANT OR DENY THE EMPLOYEE'S
13 REQUEST.

14 (2) UNLESS THE EMPLOYER HAS A BONA FIDE BUSINESS REASON FOR
15 DENYING THE REQUEST, AN EMPLOYER SHALL GRANT A REQUEST FOR A CHANGE IN
16 THE TERMS AND CONDITIONS OF EMPLOYMENT MADE UNDER SUBSECTION (A) OF
17 THIS SECTION BY:

18 (I) AN EMPLOYEE WHO REQUESTS THE CHANGE DUE TO:

19 1. A SERIOUS HEALTH CONDITION OF THE EMPLOYEE;

20 2. THE EMPLOYEE'S RESPONSIBILITIES AS A
21 CAREGIVER; OR

22 3. THE EMPLOYEE'S ENROLLMENT IN A
23 CAREER-RELATED EDUCATIONAL OR TRAINING PROGRAM; OR

24 (II) A PART-TIME EMPLOYEE WHO REQUESTS THE CHANGE FOR
25 A REASON RELATED TO A SECOND JOB.

26 (D) IF THE EMPLOYER DENIES THE EMPLOYEE'S REQUEST MADE UNDER
27 SUBSECTION (A) OF THIS SECTION, THE EMPLOYER SHALL STATE THE REASON FOR
28 THE DENIAL, INCLUDING WHETHER THE REASON IS A BONA FIDE BUSINESS REASON.

29 3-1306.

(A) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN EMPLOYER TO OFFER OR PROHIBIT THE EMPLOYER FROM OFFERING EMPLOYEES WORK HOURS PAID AT A PREMIUM RATE UNDER 29 U.S.C. § 207(A) OR AT AN OVERTIME RATE UNDER § 3-415 OF THIS TITLE.

(B) AN EMPLOYER SHALL OFFER ADDITIONAL HOURS OF WORK TO CURRENT EMPLOYEES WHO WORK LESS THAN 40 HOURS PER WEEK BEFORE HIRING NEW EMPLOYEES OR SUBCONTRACTORS, INCLUDING HIRING THROUGH TEMPORARY SERVICES OR STAFFING AGENCIES, TO UNDERTAKE WORK REQUIRING SUBSTANTIALLY EQUAL SKILL, EFFORT, RESPONSIBILITY, AND DUTIES AND THAT IS PERFORMED UNDER SIMILAR WORKING CONDITIONS.

(C) (1) THIS SUBSECTION DOES NOT APPLY IF ADDITIONAL HOURS OF WORK ARE MADE AVAILABLE:

(I) THROUGH AN OFFER TO EXTEND A SCHEDULED SHIFT; OR

(II) WITHIN 2 DAYS BEFORE AN EMPLOYEE WOULD START THE ADDITIONAL HOURS OF WORK.

(2) IF AN EMPLOYER HAS EXISTING EMPLOYEES UNDERTAKING SUBSTANTIALLY SIMILAR WORK AND EXPECTED TO WORK LESS THAN 40 HOURS PER WEEK DURING THE PERIOD OF WORK AVAILABILITY, AN EMPLOYER SHALL POST:

(I) A NOTICE OF ADDITIONAL HOURS OF WORK THAT ARE AVAILABLE TO CURRENT EMPLOYEES;

(II) THE PROCESS BY WHICH CURRENT EMPLOYEES MAY NOTIFY THE EMPLOYER OF A DESIRE TO WORK THE ADDITIONAL HOURS; AND

(III) THE CRITERIA THE EMPLOYER WILL USE TO DETERMINE THE DISTRIBUTION OF THE ADDITIONAL HOURS OF WORK.

(3) THE NOTICE REQUIRED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL:

(I) BE COMMUNICATED BY ELECTRONIC MEANS READILY ACCESSIBLE TO ALL EMPLOYEES OR POSTED CONSPICUOUSLY AT A LOCATION AT THE WORK SITE THAT IS READILY ACCESSIBLE TO ALL EMPLOYEES, WHICHEVER MEANS IS CUSTOMARILY EMPLOYED TO COMMUNICATE SCHEDULE CHANGES TO EMPLOYEES; AND

(II) INCLUDE:

1 1. THE TOTAL HOURS OF WORK BEING OFFERED;

2 2. THE SCHEDULE OF AVAILABLE SHIFTS;

3 3. WHETHER THE AVAILABLE SHIFTS WILL OCCUR AT
4 THE SAME TIME EACH WEEK; AND

5 4. THE LENGTH OF TIME THE EMPLOYER ANTICIPATES
6 THE ADDITIONAL HOURS OF WORK WILL BE AVAILABLE.

7 (4) THE EMPLOYER MAY POST THE NOTICE CONCURRENTLY TO
8 EXTERNAL JOB CANDIDATES.

9 (D) BEFORE AN EMPLOYER MAY HIRE ADDITIONAL EMPLOYEES OR
10 SUBCONTRACTORS, THE EMPLOYER SHALL POST THE INFORMATION REQUIRED
11 UNDER SUBSECTION (C) OF THIS SECTION FOR:

12 (1) AT LEAST 3 CONSECUTIVE DAYS IF THE ADDITIONAL EMPLOYEES
13 OR SUBCONTRACTORS WOULD WORK FOR THE EMPLOYER FOR A PERIOD OF AT
14 LEAST 7 CONSECUTIVE DAYS; OR

15 (2) AT LEAST 2 CONSECUTIVE DAYS IF THE ADDITIONAL EMPLOYEES
16 OR SUBCONTRACTORS WOULD WORK FOR THE EMPLOYER FOR A PERIOD OF LESS
17 THAN 7 CONSECUTIVE DAYS.

18 (E) (1) AN EMPLOYER SHALL ASSIGN ADDITIONAL HOURS OF WORK, UP
19 TO A TOTAL OF 40 HOURS OF WORK PER WEEK OR MORE AT THE EMPLOYER'S
20 DISCRETION, TO A CURRENT EMPLOYEE WHO:

21 (I) HAS RESPONDED TO THE OFFER OF ADDITIONAL HOURS OF
22 WORK; AND

23 (II) IN THE GOOD FAITH AND REASONABLE JUDGMENT OF THE
24 EMPLOYER, HAS THE SKILLS AND EXPERIENCE TO PERFORM THE ADDITIONAL
25 HOURS OF WORK.

26 (2) (I) IF MORE THAN ONE CURRENT EMPLOYEE HAS RESPONDED
27 TO THE OFFER OF ADDITIONAL HOURS OF WORK, THE EMPLOYER MAY DISTRIBUTE
28 THE ADDITIONAL HOURS AMONG THE INTERESTED, QUALIFIED EMPLOYEES OR MAY
29 OFFER ALL OF THE AVAILABLE HOURS TO ONE QUALIFIED EMPLOYEE.

1 **(II) THE EMPLOYER MAY LIMIT DISTRIBUTION OF HOURS TO**
2 **FULL WORK SHIFTS RATHER THAN DIVIDING THE HOURS AMONG EMPLOYEES.**

3 **(III) THE EMPLOYER MAY DISTRIBUTE THE ADDITIONAL HOURS**
4 **AMONG THE INTERESTED EMPLOYEES ACCORDING TO THE CRITERIA POSTED**
5 **UNDER SUBSECTION (C)(2)(III) OF THIS SECTION.**

6 **(3) IF NO CURRENT EMPLOYEE RESPONDS TO THE OFFER OF**
7 **ADDITIONAL HOURS OF WORK, THE EMPLOYER MAY HIRE NEW EMPLOYEES OR**
8 **SUBCONTRACTORS TO WORK THE ADDITIONAL HOURS.**

9 **(4) AN EMPLOYER SHALL MAKE REASONABLE EFFORTS TO OFFER**
10 **EMPLOYEES TRAINING OPPORTUNITIES TO GAIN THE SKILLS AND EXPERIENCE TO**
11 **PERFORM WORK FOR WHICH THE EMPLOYER TYPICALLY HAS ADDITIONAL NEEDS.**

12 **(F) (1) IF AN EMPLOYER HIRES ADDITIONAL EMPLOYEES OR**
13 **SUBCONTRACTORS RATHER THAN USING CURRENT EMPLOYEES FOR ADDITIONAL**
14 **HOURS OF WORK, THE EMPLOYER SHALL DOCUMENT COMPLIANCE WITH THIS**
15 **SECTION.**

16 **(2) THE DOCUMENTATION REQUIRED UNDER PARAGRAPH (1) OF**
17 **THIS SUBSECTION SHALL BE MAINTAINED BY THE EMPLOYER FOR AT LEAST 3 YEARS**
18 **AFTER THE EMPLOYER HIRED THE ADDITIONAL EMPLOYEES OR SUBCONTRACTORS.**

19 **(3) THERE IS A REBUTTABLE PRESUMPTION THAT AN EMPLOYER HAS**
20 **VIOLATED THIS SECTION IF THE EMPLOYER FAILS TO MAINTAIN THE**
21 **DOCUMENTATION AS REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION.**

22 **3-1307.**

23 **(A) EMPLOYEES WHO HOLD JOBS THAT REQUIRE SUBSTANTIALLY EQUAL**
24 **SKILL, EFFORT, RESPONSIBILITY, AND DUTIES AND THAT ARE PERFORMED UNDER**
25 **SIMILAR WORKING CONDITIONS, REGARDLESS OF THE NUMBER OF HOURS THAT AN**
26 **EMPLOYEE IS SCHEDULED TO WORK OR THE EXPECTED DURATION OF**
27 **EMPLOYMENT, SHALL:**

28 **(1) BE PAID THE SAME HOURLY WAGE;**

29 **(2) HAVE THE SAME ELIGIBILITY TO ACCRUE EMPLOYER-PROVIDED**
30 **PAID AND UNPAID LEAVE AND OTHER BENEFITS; AND**

31 **(3) BE PROVIDED THE SAME PROMOTION OPPORTUNITIES AND**
32 **OTHER CONDITIONS OF EMPLOYMENT.**

(B) SUBSECTION (A) OF THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT DIFFERENCES IN HOURLY WAGES, BENEFITS, PROMOTION OPPORTUNITY, OR OTHER CONDITIONS OF EMPLOYMENT BASED ON REASONS OTHER THAN THE NUMBER OF HOURS THE EMPLOYEE IS SCHEDULED TO WORK OR THE EXPECTED DURATION OF EMPLOYMENT, INCLUDING:

(1) A SENIORITY SYSTEM;

(2) A MERIT SYSTEM; OR

(3) A SYSTEM THAT MEASURES EARNINGS BY QUANTITY PRODUCED PER HOUR OR QUALITY OF PRODUCTION.

(C) SUBSECTION (A)(2) OF THIS SECTION MAY NOT BE CONSTRUED TO AFFECT A REQUIREMENT THAT AN EMPLOYEE WORK A MINIMUM NUMBER OF HOURS TO BE ELIGIBLE TO RECEIVE INSURANCE OR RETIREMENT BENEFITS OR TO AFFECT AN EXCLUSION OF TEMPORARY EMPLOYEES FROM BENEFITS.

3-1308.

(A) EACH EMPLOYER SHALL:

(1) RECORD THE WAGES PAID TO AN EMPLOYEE UNDER § 3-1304 OF THIS SUBTITLE IN THE STATEMENT OF EARNINGS REQUIRED BY § 3-504(A)(2) OF THIS TITLE; AND

(2) SPECIFY IN THE STATEMENT OF EARNINGS THE TOTAL AMOUNT OF PREDICTABILITY PAY PAID UNDER § 3-1304 OF THIS SUBTITLE.

(B) IF NECESSARY TO CARRY OUT THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE AN EMPLOYER TO:

(1) INCLUDE ADDITIONAL INFORMATION IN THE STATEMENT OF EARNINGS; AND

(2) USE ADDITIONAL MEANS TO NOTIFY THE EMPLOYER'S EMPLOYEES OF THE INFORMATION REQUIRED TO BE INCLUDED IN THE STATEMENT OF EARNINGS UNDER SUBSECTION (A) OF THIS SECTION.

3-1309.

1 **(A) AN EMPLOYER SHALL GIVE EMPLOYEES NOTICE OF THEIR RIGHTS**
2 **UNDER THIS SUBTITLE BY CONSPICUOUSLY POSTING NOTICES IN ENGLISH AND**
3 **SPANISH AT A LOCATION AT THE WORK SITE THAT IS READILY ACCESSIBLE TO ALL**
4 **EMPLOYEES.**

5 **(B) THE NOTICES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
6 **SHALL INCLUDE:**

7 **(1) THE RIGHT TO RECEIVE PREDICTABILITY PAY UNDER § 3-1304 OF**
8 **THIS SUBTITLE;**

9 **(2) A STATEMENT THAT RETALIATION AGAINST EMPLOYEES WHO**
10 **EXERCISE THEIR RIGHTS UNDER THIS SUBTITLE IS PROHIBITED; AND**

11 **(3) A STATEMENT THAT EACH EMPLOYEE HAS THE RIGHT TO FILE A**
12 **COMPLAINT OR BRING A CIVIL ACTION TO ENFORCE THE EMPLOYEE'S RIGHTS**
13 **UNDER THIS SUBTITLE.**

14 **3-1310.**

15 **(A) EACH EMPLOYER SHALL KEEP FOR AT LEAST 3 YEARS AN ACCURATE**
16 **RECORD OF:**

17 **(1) THE NAME, ADDRESS, AND OCCUPATION OF EACH EMPLOYEE;**

18 **(2) THE AMOUNT PAID EACH PAY PERIOD TO EACH EMPLOYEE;**

19 **(3) THE HOURS WORKED EACH DAY BY EACH EMPLOYEE;**

20 **(4) THE INITIAL WORK SCHEDULE OF EACH EMPLOYEE;**

21 **(5) THE PREDICTABILITY PAY PAID TO EACH EMPLOYEE; AND**

22 **(6) ANY SUBSEQUENT REVISIONS TO THE INITIAL WORK SCHEDULE**
23 **OF EACH EMPLOYEE.**

24 **(B) THE EMPLOYER SHALL:**

25 **(1) MAKE THE RECORDS KEPT UNDER SUBSECTION (A) OF THIS**
26 **SECTION AVAILABLE FOR INSPECTION BY THE COMMISSIONER TO THE SAME**
27 **EXTENT AND FOR THE SAME PURPOSES AS RECORDS ARE MADE AVAILABLE TO THE**
28 **COMMISSIONER UNDER § 3-425 OF THIS TITLE; AND**

1 **(2) ALLOW AN EMPLOYEE TO INSPECT AT ANY REASONABLE TIME AND**
2 **PLACE ANY RECORD KEPT UNDER SUBSECTION (A) OF THIS SECTION PERTAINING TO**
3 **THE EMPLOYEE.**

4 **(C) EACH DAY THAT AN EMPLOYER FAILS TO KEEP A RECORD, FALSIFIES A**
5 **RECORD, OR OTHERWISE VIOLATES THIS SECTION SHALL CONSTITUTE A SEPARATE**
6 **VIOLATION.**

7 **3-1311.**

8 **(A) IN THIS SECTION, “RETALIATE” MEANS TO ENGAGE IN ANY FORM OF**
9 **INTIMIDATION, THREAT, REPRISAL, HARASSMENT, DISCRIMINATION, OR ADVERSE**
10 **EMPLOYMENT ACTION, INCLUDING:**

11 **(1) DISCIPLINE;**

12 **(2) DISCHARGE;**

13 **(3) SUSPENSION;**

14 **(4) TRANSFER OR ASSIGNMENT TO A LOWER POSITION IN TERMS OF**
15 **JOB CLASSIFICATION, JOB SECURITY, OR ANY OTHER CONDITION OF EMPLOYMENT;**

16 **(5) REDUCTION IN PAY OR HOURS ASSIGNED;**

17 **(6) DENIAL OF ADDITIONAL HOURS;**

18 **(7) INFORMING ANOTHER EMPLOYER THAT THE EMPLOYEE HAS**
19 **ENGAGED IN ACTIVITIES PROTECTED BY THIS SUBTITLE; OR**

20 **(8) REPORTING OR THREATENING TO REPORT THE ACTUAL OR**
21 **SUSPECTED CITIZENSHIP OR IMMIGRATION STATUS OF AN EMPLOYEE, A FORMER**
22 **EMPLOYEE, OR A FAMILY MEMBER OF AN EMPLOYEE OR A FORMER EMPLOYEE TO A**
23 **FEDERAL, STATE, OR LOCAL AGENCY.**

24 **(B) A PERSON MAY NOT INTERFERE WITH, RESTRAIN, OR DENY THE**
25 **EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT PROTECTED UNDER THIS**
26 **SUBTITLE.**

27 **(C) AN EMPLOYER MAY NOT RETALIATE AGAINST AN EMPLOYEE BECAUSE**
28 **THE EMPLOYEE HAS:**

1 **(1) DECLINED TO WORK HOURS NOT INCLUDED IN AN INITIAL WORK**
2 **SCHEDULE; OR**

3 **(2) EXERCISED RIGHTS PROTECTED UNDER THIS SUBTITLE,**
4 **INCLUDING THE RIGHT TO:**

5 **(I) FILE A COMPLAINT UNDER § 3-1312 OF THIS SUBTITLE;**

6 **(II) INFORM ANY PERSON ABOUT THE EMPLOYER'S ALLEGED**
7 **VIOLATION OF THIS SUBTITLE;**

8 **(III) COOPERATE WITH THE COMMISSIONER OR ATTORNEY**
9 **GENERAL IN AN INVESTIGATION OF AN ALLEGED VIOLATION OF THIS SUBTITLE; AND**

10 **(IV) INFORM AN INDIVIDUAL REGARDING THE INDIVIDUAL'S**
11 **RIGHTS UNDER THIS SUBTITLE.**

12 **(D) THERE IS A REBUTTABLE PRESUMPTION THAT AN EMPLOYER HAS**
13 **VIOLATED THIS SECTION IF THE EMPLOYER TAKES AN ACTION LISTED IN**
14 **SUBSECTION (A) OF THIS SECTION AGAINST AN EMPLOYEE WITHIN 90 DAYS AFTER**
15 **THE EMPLOYEE:**

16 **(1) FILES A COMPLAINT WITH THE COMMISSIONER UNDER § 3-1312**
17 **OF THIS SUBTITLE ALLEGING A VIOLATION OF THIS SUBTITLE OR BRINGS A CIVIL**
18 **ACTION UNDER § 3-1313 OF THIS SUBTITLE;**

19 **(2) INFORMS A PERSON ABOUT AN ALLEGED VIOLATION OF THIS**
20 **SUBTITLE BY THE EMPLOYER WITH THE EMPLOYER'S KNOWLEDGE;**

21 **(3) COOPERATES WITH THE COMMISSIONER OR ANOTHER PERSON IN**
22 **THE INVESTIGATION OR PROSECUTION OF AN ALLEGED VIOLATION OF THIS**
23 **SUBTITLE BY THE EMPLOYER;**

24 **(4) OPPOSES ANY POLICY, PRACTICE, OR ACT THAT IS UNLAWFUL**
25 **UNDER THIS SUBTITLE; OR**

26 **(5) INFORMS AN INDIVIDUAL OF THE INDIVIDUAL'S RIGHTS UNDER**
27 **THIS SUBTITLE WITH THE EMPLOYER'S KNOWLEDGE.**

28 **(E) THE PROTECTIONS AFFORDED UNDER THIS SECTION SHALL APPLY TO**
29 **AN EMPLOYEE WHO MISTAKENLY, BUT IN GOOD FAITH, ALLEGES A VIOLATION OF**
30 **THIS SUBTITLE.**

1 **3-1312.**

2 (A) (1) A PERSON MAY FILE A COMPLAINT ALLEGING A VIOLATION OF
3 THIS SUBTITLE WITH THE COMMISSIONER.

4 (2) THE COMMISSIONER SHALL KEEP CONFIDENTIAL THE IDENTITY
5 OF A PERSON WHO FILES A COMPLAINT UNLESS DISCLOSURE IS NECESSARY FOR THE
6 RESOLUTION OF ANY INVESTIGATION OR IS OTHERWISE REQUIRED BY LAW.

7 (3) IF THE COMMISSIONER NEEDS TO DISCLOSE THE IDENTITY OF A
8 PERSON WHO FILES A COMPLAINT, THE COMMISSIONER SHALL, TO THE EXTENT
9 PRACTICABLE, NOTIFY THE PERSON BEFORE THE DISCLOSURE IS MADE.

10 (B) (1) ON RECEIPT OF A COMPLAINT FILED UNDER SUBSECTION (A)(1)
11 OF THIS SECTION, THE COMMISSIONER SHALL SEND A LETTER TO THE EMPLOYER.

12 (2) THE LETTER SHALL:

13 (I) STATE THAT THERE IS A COMPLAINT ALLEGING A
14 VIOLATION OF THIS SUBTITLE FILED AGAINST THE EMPLOYER;

15 (II) STATE THE REQUIREMENTS OF SUBSECTION (C) OF THIS
16 SECTION;

17 (III) STATE THAT FAILURE TO COMPLY MAY RESULT IN A CIVIL
18 ACTION SEEKING DAMAGES, COUNSEL FEES, AND OTHER LEGAL REMEDIES; AND

19 (IV) INFORM THE EMPLOYER THAT RETALIATION AGAINST AN
20 EMPLOYEE FOR EXERCISING RIGHTS UNDER THIS SECTION IS A BASIS FOR A
21 PRIVATE RIGHT OF ACTION SEEKING ADDITIONAL MONETARY DAMAGES TO BE
22 DETERMINED BY A COURT.

23 (C) IF AN EMPLOYER RECEIVES A LETTER SENT UNDER SUBSECTION (B) OF
24 THIS SECTION, WITHIN 10 DAYS AFTER THE DATE OF THE LETTER, THE EMPLOYER
25 SHALL SUBMIT TO THE COMMISSIONER:

26 (1) PROOF OF COMPLIANCE WITH THIS SUBTITLE; OR

27 (2) AN ACTION PLAN THE EMPLOYER WILL IMPLEMENT TO CORRECT
28 ANY VIOLATION OF THIS SUBTITLE.

29 (D) IF THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN
30 VIOLATED, THE COMMISSIONER MAY ISSUE AN ORDER:

(1) REQUIRING THE EMPLOYER TO:

(I) COMPLY WITH THIS SUBTITLE; AND

(II) PAY ANY PREDICTABILITY PAY OR OTHER WAGES OWED TO EMPLOYEES UNDER THIS SUBTITLE;

(2) IMPOSING A CIVIL PENALTY NOT TO EXCEED \$500 FOR EACH VIOLATION OF THIS SUBTITLE; AND

(3) GRANTING ANY OTHER APPROPRIATE RELIEF, INCLUDING:

(I) REINSTATEMENT OF EMPLOYMENT;

(II) INJUNCTIVE RELIEF;

(III) ACTUAL DAMAGES;

(IV) AN ADDITIONAL AMOUNT EQUAL TO TWICE ANY PREDICTABILITY PAY OR OTHER WAGES OWED TO EMPLOYEES UNDER THIS SUBTITLE; AND

(V) AN ADDITIONAL AMOUNT OF LIQUIDATED DAMAGES OF:

1. \$500 FOR EACH VIOLATION OF § 3-1303 OR § 3-1306 OF THIS SUBTITLE; AND

2. \$100 FOR EACH WILLFUL VIOLATION OF § 3-1308 OR § 3-1309 OF THIS SUBTITLE.

(E) (1) WITHIN 30 DAYS AFTER RECEIVING AN ORDER ISSUED UNDER SUBSECTION (D) OF THIS SECTION, AN EMPLOYER MAY REQUEST A DE NOVO ADMINISTRATIVE HEARING.

(2) AN ADMINISTRATIVE HEARING REQUESTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(3) IF AN EMPLOYER DOES NOT REQUEST A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ORDER ISSUED BY THE COMMISSIONER BECOMES FINAL.

1 (4) (I) A FINAL ORDER OF THE COMMISSIONER MAY BE APPEALED
2 IN ACCORDANCE WITH § 10-222 OF THE STATE GOVERNMENT ARTICLE.

3 (II) IF AN EMPLOYER DOES NOT REQUEST JUDICIAL REVIEW OF
4 A FINAL ORDER WITHIN 30 DAYS AFTER THE ORDER BECOMES FINAL, THE
5 COMMISSIONER MAY FILE AN ACTION TO ENFORCE THE ORDER IN THE CIRCUIT
6 COURT FOR THE COUNTY IN WHICH THE EMPLOYER RESIDES OR HAS A PLACE OF
7 BUSINESS.

8 (F) ON OR BEFORE FEBRUARY 1 EACH YEAR, THE COMMISSIONER SHALL
9 POST ON THE WEB SITE OF THE DEPARTMENT OF LABOR, LICENSING, AND
10 REGULATION:

11 (1) THE NUMBER AND NATURE OF COMPLAINTS FILED UNDER THIS
12 SECTION;

13 (2) THE RESULTS OF ANY INVESTIGATIONS RELATED TO A
14 COMPLAINT;

15 (3) THE NUMBER OF ORDERS ISSUED AND PENALTIES IMPOSED
16 UNDER THIS SECTION; AND

17 (4) THE AVERAGE TIME TAKEN FOR A COMPLAINT TO BE RESOLVED.

18 3-1313.

19 (A) (1) ANY PERSON ALLEGING A VIOLATION OF THIS SUBTITLE MAY
20 BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION.

21 (2) AN ACTION MAY BE BROUGHT WHETHER OR NOT A COMPLAINT
22 WAS FIRST FILED WITH THE COMMISSIONER.

23 (3) AN ACTION BROUGHT UNDER THIS SUBSECTION:

24 (I) SHALL BE FILED WITHIN 3 YEARS AFTER THE PERSON KNEW
25 OR SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION; AND

26 (II) MAY BE BROUGHT AS A CLASS ACTION IN ACCORDANCE
27 WITH STATE LAW.

28 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN AN ACTION
29 UNDER SUBSECTION (A) OF THIS SECTION, IF A COURT FINDS THAT AN EMPLOYER
30 HAS VIOLATED THIS SUBTITLE, THE COURT MAY AWARD:

1 (I) DAMAGES NOT TO EXCEED \$500 FOR EACH VIOLATION OF
2 THIS SUBTITLE;

3 (II) REINSTATEMENT OF EMPLOYMENT;

4 (III) INJUNCTIVE RELIEF;

5 (IV) ACTUAL DAMAGES;

6 (V) ANY PREDICTABILITY PAY OR OTHER WAGES OWED TO
7 EMPLOYEES UNDER THIS SUBTITLE PLUS INTEREST;

8 (VI) AN ADDITIONAL AMOUNT EQUAL TO TWICE ANY
9 PREDICTABILITY PAY OR OTHER WAGES OWED TO EMPLOYEES UNDER THIS
10 SUBTITLE;

11 (VII) AN ADDITIONAL AMOUNT OF LIQUIDATED DAMAGES OF:

12 1. \$500 FOR EACH VIOLATION OF § 3-1303 OR § 3-1306
13 OF THIS SUBTITLE; AND

14 2. \$100 FOR EACH WILLFUL VIOLATION OF § 3-1308 OR
15 § 3-1309 OF THIS SUBTITLE; AND

16 (VIII) REASONABLE ATTORNEYS' FEES AND OTHER COSTS.

17 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
18 PARAGRAPH, IF A COURT FINDS THAT AN EMPLOYER HAS VIOLATED § 3-1311(B) OF
19 THIS SUBTITLE OR OTHERWISE DISCRIMINATED AGAINST AN EMPLOYEE, THE
20 COURT SHALL AWARD ACTUAL DAMAGES AND REINSTATEMENT OF EMPLOYMENT.

21 (II) A COURT IS NOT REQUIRED TO AWARD REINSTATEMENT OF
22 EMPLOYMENT IF THE EMPLOYEE WAIVES THE RIGHT TO REINSTATEMENT.

23 (III) IF THE COURT FINDS THAT THE EMPLOYEE HAS BEEN
24 DISCHARGED IN RETALIATION FOR EXERCISING RIGHTS UNDER THIS SUBTITLE, FOR
25 THE PURPOSE OF CALCULATING ACTUAL DAMAGES REQUIRED TO BE AWARDED
26 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERIOD OF VIOLATION
27 BEGINS THE DAY THE EMPLOYEE WAS DISCHARGED AND ENDS THE DAY BEFORE THE
28 EMPLOYEE IS REINSTATED OR THE DAY THE EMPLOYEE AGREES TO WAIVE
29 REINSTATEMENT.

1 **(C) IN AN ACTION BROUGHT BY A PERSON OTHER THAN AN EMPLOYEE, ANY**
2 **WAGES, PREDICTABILITY PAY, OR ACTUAL DAMAGES AWARDED BY THE COURT**
3 **SHALL BE PAID TO THE EMPLOYEES TO WHOM THE VIOLATION RELATES.**

4 **3-1314.**

5 **THIS SUBTITLE MAY BE CITED AS THE FAIR SCHEDULING, WAGES, AND**
6 **BENEFITS ACT.**

7 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
8 **October 1, 2018.**