



FEBRUARY 17, 2022

Maryland Workers Deserve Predictable Hours and Pay

Position Statement in Support of House Bill 431 with Amendment

Given before the House Economic Matters Committee

A healthy labor market is one that opens doors to opportunity and high-quality jobs – jobs that pay a family-supporting wage, that allow workers to participate in their communities and live full lives outside the workplace, and that enable workers to plan for the future and advance their careers. The just-in-time scheduling practices that often characterize low-wage jobs are incompatible with this vision. Workers who cannot predict their hours even a few days in advance cannot count on taking home enough money to afford the basics, cannot effectively plan child care and other needs, and have little opportunity to pursue education or other steps to move their careers forward. Chaotic scheduling practices also make it harder for a worker to stay in a job in the long term and make service industry jobs less attractive, which hinders employers' recruitment and retention strategies.

The Maryland Center on Economic Policy supports House Bill 431 because it would guarantee certain workers a minimum payment for shifts canceled or shortened at the last minute and allow workers to decline dangerous “clopensing” schedules that do not permit sufficient rest time between shifts. The Maryland Center on Economic Policy also proposes four amendments to make the protections offered under House Bill 431 stronger and clearer.

Many Maryland families depend on one or more part-time jobs to help support their families. However, large numbers of part-time workers receive their schedules only one week or less in advance. Currently, employers are able to schedule workers as “on-call” for the day without any guarantee of work or pay, cancel shifts at the last minute, and send workers home early without compensating them. If workers are unable to meet these expectations, they may be punished with fewer hours or even be fired.

House Bill 431 would help protect a portion of part-time workers from unfair scheduling practices that make it harder for them to climb the economic ladder and to care for their families:

- The bill's protections apply only to workers at retail and food service chains (with at least 10 locations nationwide).
- The bill would require covered employers to pay a portion of the lost wages when sending a worker home before the scheduled end of their shift. For shifts scheduled to last at least four hours, the bill requires four hours' pay. For shifts scheduled to last less than four hours, the bill requires employers to pay workers for the full scheduled shift. These requirements do not apply to shifts that are canceled in advance, or if the worker does not report to work as scheduled.
- The bill would require covered employers to pay a minimum amount for on-call shifts in which an employee

is not guaranteed work hours but is required to remain available in case needed. The bill requires two hours' pay for on-call shifts lasting up to four hours and four hours' pay for longer on-call shifts.

- The bill would grant covered workers the right to decline work hours that occur during the 11 hours following the end of a shift. While this requirement does not depend on any specific time of day, it effectively bars mandatory “clopenings” in which a worker must work a late night as well as the following early morning – a scheduling practice that prevents workers from getting sufficient rest and can cause safety hazards. If a covered worker accepts a “clopening” shift, the bill requires the employer to pay time-and-a-half for work performed before the end of the 11-hour inter-shift gap.
- The bill prohibits retaliation against a covered worker for exercising their scheduling rights.

The bill includes multiple provisions to minimize compliance difficulties for employers or workers:

- Covered employers are explicitly allowed to adopt scheduling policies more beneficial to workers than those required under the bill.
- Covered employers are not required to make up for reduced wages if a worker's shift is cut short at the worker's request, under a voluntary shift trade, for health and safety reasons, or for a business closure driven by outside events.

House Bill 431 represents an important step toward a more just and inclusive labor market that offers opportunity to all:ⁱ

- 62% of part-time workers in Maryland are women, compared to 49% of full-time workers.
- 23% of multiracial workers in Maryland work part time, compared to 19% of white workers.
- 12% of part-time workers in Maryland have family income less than the federal poverty line (\$27,750 per year for a family of four) – five times the poverty rate among full-time workers
- 15% of part-time workers in Maryland have family income between 100% and 200% of the poverty line, nearly double the share of full-time workers with incomes in this range.
- 68% of part-time workers in Maryland are at least 25 years old and 87% are at least 20 years old.
- 54% of Maryland workers in food services industries are workers of color, compared to 48% of retail workers and 43% of workers in other industries.
- 30% of retail workers in Maryland are Black, compared to 25% across all industries.
- 18% of food service workers in Maryland are Latinx, compared to 9% across all industries.

The Maryland Center on Economic Policy proposes the following amendments to strengthen and clarify the protections provided under House Bill 431:

- Limiting protections to retail and food service chains excludes large numbers of low-wage and part-time workers across Maryland. The bill should be amended to apply to all non-exempt employees regardless of industry, with the possibility of narrow exceptions to protect public health and safety.
- As introduced, House Bill 431 provides little, if any, protection against scheduling changes made more than one day in advance. The bill should be amended to require advance notice of schedule changes and allow workers to decline hours added with insufficient notice. Senate Bill 664 of 2016 (p. 5 line 9 to p. 6 line 18) includes these provisions.ⁱⁱ

- As introduced, House Bill 431 prohibits retaliation against an employee who declines to work hours not included in an initial work schedule. However, the bill does not define the term “initial work schedule,” specify when it must be provided, or explicitly grant employees a right to decline work hours added later. The bill should be amended to adopt the definition of “initial work schedule” included in Senate Bill 664 of 2016 (p. 4 lines 11 to 13) and the scheduling protections in that bill (p. 5 line 9 to p. 6 line 18).
- The requirements for when a covered employer must pay at least four hours’ wages (p. 4, lines 28 to 32) are unclear. The bill should be amended to clarify that this requirement applies only when an employee is given less than the scheduled hours of work.

House Bill 431 as introduced is an important and meaningful step toward a healthier labor market that offers opportunity to all. With the proposed amendments, the bill would make a major difference for all workers currently forced to contend with chaotic and harmful scheduling practices.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the House Economic Matters Committee make a favorable report on House Bill 431 with amendment.

Equity Impact Analysis: House Bill 431

Bill Summary

House Bill 431 would provide scheduling-related protections to non-exempt employees of retail and food service chains:

- The bill would require covered employers to pay a portion of the lost wages when sending a worker home before the scheduled end of their shift. For shifts scheduled to last at least four hours, the bill requires four hours’ pay. For shifts scheduled to last less than four hours, the bill requires employers to pay workers for the full scheduled shift. These requirements do not apply to shifts that are canceled in advance, or if the worker does not report to work as scheduled.
- The bill would require covered employers to pay a minimum amount for on-call shifts in which an employee is not guaranteed work hours but is required to remain available in case needed. The bill requires two hours’ pay for on-call shifts lasting up to four hours and four hours’ pay for longer on-call shifts.
- The bill would grant covered workers the right to decline work hours that occur during the 11 hours following the end of a shift. If a covered worker accepts such a shift, the bill requires the employer to pay time-and-a-half for work performed before the end of the 11-hour inter-shift gap.
- The bill prohibits retaliation against a covered worker for exercising their scheduling rights.

Background

- Between 2015 and 2019, about 436,000 Maryland workers were employed in the retail and food services industries.ⁱⁱⁱ
- Between 2015 and 2019, about 541,000 Maryland workers worked part-time hours. Two-thirds of part-time workers during this period were at least 25 years old, and seven out of eight were at least 20 years old.

Equity Implications

- 62% of part-time workers in Maryland are women, compared to 40% of full-time workers.
- 23% of multiracial workers in Maryland work part time, compared to 19% of white workers.
- 12% of part-time workers in Maryland have family income less than the federal poverty line (\$27,750 per year for a family of four) – five times the poverty rate among full-time workers
- 15% of part-time workers in Maryland have family income between 100% and 200% of the poverty line, nearly double the share of full-time workers with incomes in this range.
- 54% of Maryland workers in food services industries are workers of color, compared to 48% of retail workers and 43% of workers in other industries.
- 30% of retail workers in Maryland are Black, compared to 25% across all industries.
- 18% of food service workers in Maryland are Latinx, compared to 9% across all industries.

Impact

House Bill 431 would likely **improve racial, gender, and economic equity** in Maryland.

ⁱ MDCEP analysis of 2015–2019 American Community Survey IPUMS microdata. Universe consists of individuals whose place of work is Maryland.

ⁱⁱ Senate Bill 664 of 2016, <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SBO664?ys=2016RS&search=True>

ⁱⁱⁱ MDCEP analysis of 2015–2019 American Community Survey IPUMS microdata. Universe consists of individuals whose place of work is Maryland.