



THE MARYLAND HOUSE OF DELEGATES  
LEGISLATIVE DISTRICT 15 · MONTGOMERY COUNTY

**LINDA FOLEY**  
ENVIRONMENT AND TRANSPORTATION  
COMMITTEE

6 Bladen Street, Room 220  
Annapolis, MD 21401

410-841-3052 · 301-858-3052  
800-492-7122 Ext. 3052

Linda.Foley@house.state.md.us

**Testimony:** HB431 – Maryland Fair Scheduling Act

**Committee:** Economic Matters

**Hearing Date:** February 22, 2022

**Position:** Favorable

I am Delegate Linda Foley (District 15) and I am presenting HB 431, The Maryland Fair Scheduling Act, which would establish more predictable scheduling for hourly shift workers who are employed by franchised food and retail establishments (part of a chain of at least 10 restaurants nationwide, or a franchise of at least 10 establishments nationwide). The bill sets forth requirements and conditions for employee compensation and protections from last minute changes in shift schedules; it allows employees to decline work hours that occur during the 11 hours following the end of a shift; it includes anti-retaliation provisions if the scheduling rights provision is violated and requires the appropriate maintenance of scheduling and pay records.

The primary purpose of this bill is to deter erratic scheduling and provide hourly employees of these food and retail establishments with predictable work hours. This is essential to provide structure to the workers' own lives and the lives of those who are dependent upon them, such as their children and elderly parents who require caretaking. Far more stringent "fair workweek" laws and ordinances than this bill exists in nine states: California, Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Rhode Island, and Vermont.

To be clear, HB 431 is not an advanced scheduling proposal, and its scope is not as far reaching as the laws and regulations in place in the aforementioned states. It does not mandate that an employer guarantee any schedule, nor does it provide terms for posting a schedule in advance. It merely requires employers to give adequate notice of changes to the work schedule, protects workers from retaliation from employers for declining to work hours not included in an original schedule, and establishes that a worker be provided adequate time in between shifts. Workers and employers are free to mutually agree to change scheduled hours at any time, but the law would protect an unexpected last-minute change from being implemented unilaterally.

Employees often are placed on a standby mode (or "on-call") in case they are needed to cover shifts not worked by other scheduled employees. Workers who are placed on standby and called in to unscheduled shifts must arrange for additional childcare and transportation. Class schedules, second jobs, and budgets also can be impacted.

HB 431 ensures that employees within franchised food and retail establishments be guaranteed a minimum of four hours' work for such "on-call" shifts outside their normal schedules. It also requires a minimum of two hours' pay when a worker is released from working an on-call shift for which they were committed.

Just as importantly, HB 431 protects an employee from being over-scheduled. The bill provides employees the right to decline work hours that occur less than 11 hours after the end of a worked shift. Employers would have to compensate employees at 1.5 times their regular rate of pay for any hours worked by the employee that 11-hour break. It also makes clear that an employer may not retaliate against any employee who declines to work hours not initially scheduled. Employers cannot penalize employees for exercising their rights under the statute.

This bill does not make unreasonable demands on large retailers. Starbucks, for example, decided in 2014 to post work schedules in advance and provide store employees with more consistent schedules from week to week. If Starbucks can adopt such a practice, other retail franchises should be able to do so as well. Even so, the requirements under HB 431 are far less rigorous than the scheduling practices Starbucks has adopted.

Erratic schedules are especially difficult for women workers, who compose a large majority of the hourly workforce, to meet their job and caregiving responsibilities. On-call shifts, fluctuating work schedules and unpredictable hours can turn an employee's life into a chronic crisis over the clock. Not having a predictable schedule drives some mothers out of the workforce because it is too expensive for them to arrange for last minute transportation and childcare.

Consistent work scheduling fosters better health for employees. Providing employees with a sensible break between shifts allows time for sleep, to commute, and to care for oneself. This bill reasonably holds the employer accountable to the employee when last minute shift cancellations occur, or when on-call shift hours are reduced after the employee reports to work.

For many hourly workers, schedule unpredictability leads to adverse health effects. Growing scientific literature links job stress to poor health (such as chronic hypertension and heart disease). Researchers are also increasingly linking poor worker health to poor economic outcomes, such as lower productivity and slower economic growth. As a result, it is not surprising that recent studies establish a positive relationship between fair-minded workplace arrangements and worker health.

The benefits of adopting fair and reasonable scheduling practices can outweigh any costs by reducing absenteeism, lowering turnover, improving the health of workers, and increasing productivity. Lastly, since most workers today are employed in retail and food services, making sure that they can succeed without disrupting their families will help future generations of Marylanders.