

Department of Legislative Services
2023 Session
Agency Explanation of Impact

Bill number: HB0349

Cross file:

Bill title: Maryland Fair Scheduling Act

Agency: Judiciary (Administrative Office of the Courts) - (jdy / 292)

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To assist our department in preparing a fiscal and policy note for this proposed legislation, please provide detailed responses to the questions below.

If you have additional information that cannot be included in either this Word document or the provided Excel file, please send that information **in a separate email** to fnotes@mlis.state.md.us **with the bill number included in the document and the email subject line.**

1. Will this legislation have a fiscal and/or operational impact on your agency?

YES NO

If yes, please proceed to question #2 on page 2.

If no, please briefly indicate **why** below and then proceed to question #6 on page 4.

2. General Operational/Fiscal Impact on Your Agency – Please describe the operational and/or fiscal impact of the proposed legislation on your agency.

House Bill 349 requires employers who employ within the food service facility or retail establishment to pay a certain, established pay rate for certain shiftwork. The proposed legislation defines employer as a person that employs individuals in a food service facility or retail establishment. Additionally, the proposed legislation further defines food service facilities. Employer does not include the State and units of the State, county and units of a county, or a municipal corporation in the State.

The proposed legislation adds a new subtitle, Fair Scheduling under Labor and Employment. This section defines on-call work and how it aligns with the food service industry and the retail establishment. HB 349 defines the rate of pay for on-call. The proposed legislation also permits employees to decline an on-call shift after 11 hours of working consecutively, and if the employee chooses to work after an 11-hour shift, the rate of pay, increase to 1.5 times the employee's regular rate for the hours worked.

The HB 349 establishes that employers must communicate to employees with a notice of rights under this new subtitle, which include employees right to receive pay under § 3–1803 and § 3–1804, the prohibition to retaliate when an employee exercises their rights under the subtitle, and employees can bring a complaint or a civil action to enforce rights.

In addition, the proposed legislation states the requirements for an employer under this subtitle to ensure that there is a record of wages and to comply with what the commissioner may require from an employer. The employer must also comply with the Department of Labor regarding record keeping for this proposed bill regarding fair scheduling. In the added, § 3–1808 describes means of retaliation according to this proposed legislation and the process of filing with the commissioner and the investigative process for a complaint that is filed. The proposed legislation states the process that the commissioner will follow when addressing complaints under this added section and that an employer can request an administrative hearing. The commissioner will be responsible to posting on the Department of Labor's website the number of complaints and the average time to take for complaints to be resolved.

The exact impact that this legislation would have on caseload is difficult to project due to the uncertainty of the number of additional case filings that may be received; however, the Judiciary does not anticipate numbers that would have a significant fiscal or operational impact, with an effective October 1, 2023.

3. Impact on Revenues – Please estimate any increase or decrease in revenues (general, special, federal, or other funds) in each of the next five fiscal years. Enter the estimated amounts in the *Revenues* worksheet in the provided Excel file and describe in the space below.

- Please be aware of delayed effective dates or other factors that may cause revenue increases/decreases to begin in later years.

- Please explain the cause(s) of the revenue increase(s)/decrease(s), any assumptions and/or calculations used, and any variations if the revenue impact(s) are not constant.
- If federal funds are affected, please describe how (e.g., loss of funds for noncompliance, availability of new funds, etc.)

N/A

4. Impact on Expenditures – Please estimate the increase or decrease in expenditures in each of the next five fiscal years using the *Expenditures* worksheet in the provided Excel file and describe in the space below.

- Please be aware of delayed effective dates or other factors that may cause expenditure increases/decreases to begin in later years.
- Please explain the need for the number and type of personnel (both permanent and contractual), including (1) what specific provision(s) of the bill necessitate additional staff; (2) what the duties of each type of employee will be; and (3) why existing personnel cannot absorb the additional work.
- Please describe the items included under “Other Operating Expenses” and explain any assumptions or calculations used in your estimates.
- Please specify the fund type (general, federal, special, or other) or combination of fund types of the expenditure increases and/or decreases.

N/A

5. Anticipated in Proposed Operating/Capital Budget? – Have funds been included in your agency’s proposed operating or capital budget in anticipation of this legislation? Or has your agency submitted a request for funding in a supplemental budget? If so, please indicate specific amount(s) budgeted and budget code(s).

N/A

6. Other Information – Please provide any other information that may be helpful in determining the fiscal effect of this legislation, even if the bill does not directly affect your agency.

N/A

7. Effect on Local Governments – Will local government operations or finances (revenues or expenditures) be affected by this legislation? If yes, please describe how.

N/A

8. Effect on Small Businesses – Will existing small businesses be affected (either positively or negatively) by this legislation and/or will the legislation encourage or discourage new small business opportunities? If so, please describe.

State law defines a small business as a corporation, partnership, sole proprietorship, or other business entity, including affiliates that: (1) is independently owned and operated; (2) is not dominant in its field; and (3) employs 50 or fewer full-time employees.

There is an impact, and cannot distinguish the operational or fiscal impact.