

# **2023.2.23 Testimony on MD Fair Scheduling.pdf**

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Position: FAV



Testimony in Support of the Maryland Fair Scheduling Act SB0345  
(cross-filed with HB 349)  
Senate Finance Committee  
February 23, 2023

TO: Hon. Melony Griffith, Chair; Hon. Katherine Klausmeier, Vice Chair and members of the Senate Finance Committee

FROM: Carol Rosenblatt, President, MD/DC Alliance for Retired Americans  
([president@marylanddcara.org](mailto:president@marylanddcara.org))

We seek your support of SB0345. The MD/DC Alliance for Retired Americans is a grassroots advocacy organization with more than 96,000 members. It is part of the Alliance for Retired Americans, which was founded in 2001 by the AFL -CIO and has 4.4 million members nationwide. Our members come from all walks of life and are united in the belief that everyone deserves a secure retirement after a lifetime of hard work. The MD/DC Alliance works closely with the labor movement and other grassroots organizations to build a more just and secure future for all Americans. We have retired members in our chapter from a large number of unions and allied organizations including the American Federation of State, County and Municipal Employees; the International Brotherhood of Electrical Workers; the United Auto Workers; the International Association of Machinists and Aerospace Workers; the Communications Workers of America; Service Employees International Union; International Brotherhood of Teamsters and National Active and Retired Federal Employees to name a sampling.

I am currently a retired member from the American Federation of State, County and Municipal Employees, but have also been a member of Service Employees International Union and Communications Workers of America and am proud that during my employment I had the benefits of collective bargaining agreements including negotiated provisions regarding my schedule. However, at other points in my career I was a retail and restaurant worker and did not have the benefit of fair scheduling.

According to the Women Employed website: "A reliable work schedule with adequate hours shouldn't be a luxury. Every working adult should have one, yet more than half of all full-time hourly workers report that their work schedules are anything but reliable – not stable not predictable, constantly in flux. This all-too-common practice of unfair scheduling is particularly rampant in low-paid jobs where women represent roughly two-thirds of workers. Accordingly, it is women-and especially women of color – who more often bear the brunt of unstable and

unpredictable scheduling. It's bad for workers and ultimately, bad for business. Since work schedules dictate everything, consider the impact of not knowing yours more than a few days- or even a few hours-in advance. You're constantly concerned about whether you'll be given enough hours to make ends meet, consistent enough hours to allow you to take classes or a second job, with sufficient notice to make doctors' appointments and be there for your family. No working person should have to deal with the uncertainty and unnecessary pressure that unfair scheduling creates."

A Department of Labor Blog Post on 9/30/22, The Benefits of Fair Scheduling for Workers and Businesses states "...In a tight labor market like the one we are experiencing now, non-monetary benefits like scheduling flexibility and predictability can help recruit workers, reduce turnover, and increase productivity. While pervasive scheduling issues are common in sectors like retail, hospitality, and food service, many cities and states have passed "fair workweek" laws to provide additional labor protections to workers. Additionally, unions have long played an important role in promoting flexibility, as workers who are represented by a union are more likely to know their schedule in advance compared with non-union workers. ."

In a CNN Business post on 9/12/22, entitled, It's not just money. Unions are fighting for better schedules, safety and work conditions "...It's not just pocketbook issues," said Fred Redmond, secretary-treasurer of the AFL-CIO. "They want their voices heard. They're working horrendous schedules. Workers are finding out their bosses don't respect their voice, they don't respect them."

SB0345 addresses the problem of unpredictable, unfair, and inflexible work scheduling, the burden of which falls disproportionately on low income workers. For all the reasons listed above the MD/DC Alliance for Retired Americans strongly supports SB0345 and requests the committee issue a favorable report.

Thank you for your consideration.

**SB 345 - Maryland Fair Scheduling Act (1).pdf**

Uploaded by: Donna Edwards

Position: FAV



# MARYLAND STATE & D.C. AFL-CIO

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## **SB 345 - Maryland Fair Scheduling Act Senate Finance Committee February 23, 2023**

### **SUPPORT**

**Donna S. Edwards  
President**

**Maryland State and DC AFL-CIO**

Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 345. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

SB 345 offers predictability to workers by offering minimum required pay for a shift in number of hours, for both on-call and scheduled work. This system incentivizes employers to schedule workers responsibly and work to resolve scheduling issues in advance. Without SB 345, workers in the restaurant and retail businesses have difficulty anticipating pay, planning beyond a day or two, adjusting childcare and establishing a healthy work life balance.

New technology allows businesses to track sales and customer data with precise details. Some employers use algorithms based on predicted customer traffic to maintain as lean staff as possible by scheduling workers for minimal hours, be on call at the last minute or leave shifts early.

These same tools can be used to provide workers better schedules if given the right incentives. Businesses claim that the SB 345's recordkeeping provisions are an administrative burden. Companies with 10 or more retail establishments or restaurants typically use digital scheduling and payroll processing services that can comply with the bills requirements easily. Some payroll and scheduling softwares have the ability to help minimize the number of shifts that result in premium pay for workers, helping businesses to save money while offering employees better schedules. David Reischer, an Attorney and CEO of LegalAdvice.com, said that "Employers benefit from a lower turnover rate when workers have greater job satisfaction by knowing their schedule."

Jobs offering unpredictable and unstable work schedules are more likely to be filled by women, especially women of color. She is more likely to face wage gaps and chronic economic loss from being in low paid jobs and she is most likely a single mother. The volatile scheduling complicates and stifles her ability to plan for her children's safe care, attend training or classes to improve skills or even hold a second job to keep her family economically stable. A study conducted at the University of California

demonstrates that one policy change makes a huge difference: making employers guarantee that workers' schedules are at least two weeks in advance and compensate workers for last-minute changes.

Opponents of the bill blame wages, extended benefits and a host of other non-proven reasons for why they are suffering staff shortages. But a recent article in Restaurant Dive states "Most workers are leaving the restaurant industry for these three reasons: to receive higher pay (28%); for access to a more consistent schedule/income (23%); and because they lack access to professional development and promotional opportunities (17%), according to Black Box/Snagajob."

Studies and the industry's own data demonstrate that fair scheduling promotes retention, better economic and well-being for the workers, and improves the industries' staffing shortages. A National Bureau of Economic Research paper following the lives of workers in Emeryville, California after their fair scheduling law was implemented found no effect on the total hours worked per week, but found that it "successfully lowered the frequency of changes in shift start times and end times and in surprise shifts that got added to workers' schedules at the last minute." If our state values and respects the dignity of all work, the requirements within this bill should be completely non-controversial.

We urge a favorable report on SB 345.

**PJC Testimony -SB 345- FAV.pdf**

Uploaded by: Emily Woo Kee

Position: FAV



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**SB 345 – Maryland Fair Scheduling Act**  
***Hearing before the Senate Finance Committee, February 23, 2023***

**Position: SUPPORT**

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project aims to ensure that our state’s low-wage workers receive fair and full payment for their labor, as well as other basic protections on the job. **The PJC supports SB 345 and urges a favorable report.**

Fair scheduling includes a reliable work schedule with adequate hours that allows workers to balance caring for their families, and themselves, while relying on a steady paycheck. Low-wage workers, while accounting for their weekly work schedule, must plan out transportation, including public transit schedules, childcare, and balance the schedule of a second job or school amongst other responsibilities. Fair scheduling should be a basic protection. Unfortunately, in Maryland it is not.

The Public Justice Center’s Workplace Justice Project regularly hears from workers whose hours are cut sporadically and without warning, whose employers communicate changes to their work schedule without proper notice. We also regularly hear from workers whose overly rigid schedules inhibit them from taking necessary personal leave without fearing retaliation. The stories we hear align with the experiences of roughly half of low-wage workers in the country who report having very little or no control over their schedules<sup>1</sup>. Because women represent roughly two-thirds of low-wage workers, they – and especially women of color – are the most impacted by unfair or unpredictable schedules. Seeking fair and flexible scheduling for Maryland workers is a matter of gender, racial, and economic justice.

SB 345 is a good start towards addressing the difficulties faced by restaurant and retail workers – who are often expected to be available at any and all hours. SB 345 requires employers who have told an employee to be available for an on-call shift but do not require the employee to report to work,

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<sup>1</sup> A Better Balance, Fact Sheet: The Need for Fair Schedules, September 2014, available at <https://www.abetterbalance.org/resources/fair-schedules-factsheet/>.

*The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.*



to pay the employee (1) two hours of regular pay for each on-call shift of four hours or less and (2) four hours of regular pay for each on-call shift exceeding four hours.

SB 345 is a modest but important bill. It only covers workers at chain restaurants and chain retail stores. It does not require advance notice to be provided to employees when their schedules change. Nor does it provide other protections offered in some other similar legislation introduced elsewhere, such as the right to request schedule changes. However, the protections offered by SB 345 would still represent a meaningful improvement for the workers covers. SB 345 is an acknowledgement that healthy schedules allow workers to care for themselves without fearing that they will lose their jobs or have their hours significantly reduced.

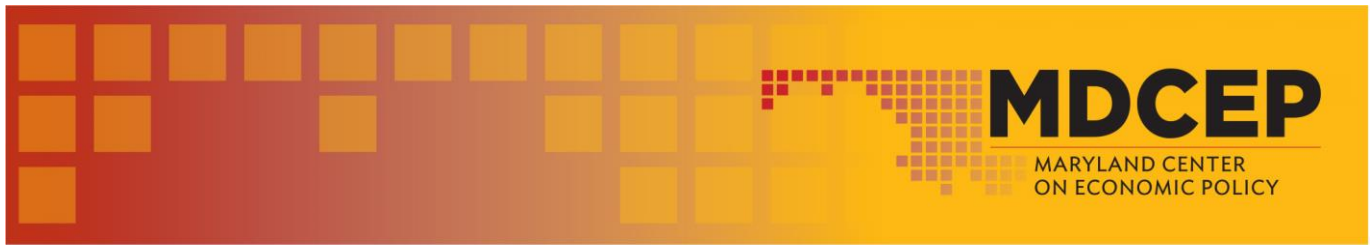
Besides protecting workers, implementing better policy around fair scheduling reduces turnover and the high costs of hiring and training new workers. Giving workers more control over their schedules improves attendance and reduces reliance on public assistance. Fair schedules are both in the interest of workers and business.

For the reasons mentioned above, the Public Justice Center **SUPPORTS SB 345** and requests a **FAVORABLE** report.

**SB 345\_MD Center on Economic Policy\_FAV.pdf**

Uploaded by: Kali Schumitz

Position: FAV



FEBRUARY 23, 2023

# Maryland Workers Deserve Predictable Hours and Pay

## Position Statement in Support of Senate Bill 345 with Amendment

*Given before the Senate Finance 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 Senate Bill 345** because it would guarantee certain workers a minimum payment for shifts canceled or shortened at the last minute and allow workers to decline dangerous “clopeneing” schedules that do not permit sufficient rest time between shifts.

Many Maryland workers 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.

Senate Bill 345 would help protect retail and chain food service 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. 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 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, but not less than four hours’ pay at the straight-time wage.
- 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.

Senate Bill 345 represents an important step toward a more just and inclusive labor market that offers opportunity to all. Between 2015 and 2019:<sup>i</sup>

- 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.

Senate Bill 345 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 Senate Finance Committee make a favorable report on Senate Bill 345.**

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## Equity Impact Analysis: Senate Bill 345

### *Bill Summary*

Senate Bill 345 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, but not less than four hours' pay at the straight-time wage.
- 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.<sup>ii</sup>
- 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*

Between 2015 and 2019:

- 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.
- 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*

Senate Bill 345 would likely **improve racial, gender, and economic equity** in Maryland.

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

<sup>ii</sup> MDCEP analysis of 2015–2019 American Community Survey IPUMS microdata. Universe consists of individuals whose place of work is Maryland.

# **UFCW 400 Testimony in Support of SB 345.pdf**

Uploaded by: Kayla Mock

Position: FAV

**SB 345 - Labor and Employment - Maryland Fair Scheduling Act**  
**SUPPORT**  
February 22, 2023

To: The Honorable Chair Griffith, Vice Chair Klausmeier, and Members of the Senate Finance Committee

From: Kayla Mock, Political & Legislative Director  
United Food and Commercial Workers Union, Local 400

Dear Chair Griffith and members of the Senate Finance Committee:

I appreciate the opportunity to share my testimony on behalf of our over 10,000 members in Maryland, who have worked the frontlines and have been essential employees in grocery, retail, food distribution, law enforcement, and healthcare. Through collective bargaining, our members raise the workplace standards of wages, benefits, safety, and retirement for all workers.

**We strongly support SB 345 and urge this committee to vote favorably.**

In a study published by the Petersen Institute for International Economics, they analyzed the evolution of the labor market over the last year and stated that, "While talk of the "Great Resignation" may leave the impression that employment is surprisingly low, that is not the case. Since last December, the economy has added an average of 555,000 jobs per month, about the monthly pace expected by the Survey of Professional Forecasters in forecasts published earlier this year. This is the result of two offsetting factors: The demand for labor increased much more rapidly than most people expected, as evidenced by an estimated 11 million job openings in November, but at the same time the supply of labor has disappointed, as evidenced by the continued low level of labor force participation."

Low Level of Labor Force Participation: workers across America are leaving their jobs in record numbers. Anecdotal reports suggest that workers—from waitstaff to health care professionals to teachers—are frustrated by low wages, irregular hours, and difficult or unsafe working conditions.

Others are calling this the "Great Jobs Upgrade," as workers take advantage of high labor demand and reject employers who take the "low road"—those who do the bare minimum to maintain an acceptable workplace. Workers are not leaving the labor force – they are seeking better jobs. In my time, I have seen workers without access to fair scheduling quit jobs because they could not schedule childcare, lifesaving medical treatment, and they simply could not afford the instability their job schedule created.

How do we stabilize the Maryland Workforce?

According to the US Department of Labor, only 26% of leisure and hospitality workers know their work schedules less than 1 week in advance. That number drops to 23% for service occupation employees. This is why stability once the schedule is created is important.

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February 22, 2023

SB 345- Labor and Employment - Maryland Fair Scheduling Act SUPPORT

To: The Honorable Chair Griffith

From: Kayla Mock, UFCW Local 400

In most of the industries United Food and Commercial Workers Union Local 400 (UFCW Local 400) represents, we see the importance of fair scheduling. Retail schedules are often unpredictable, posted with late notice, and often leave workers stressed, vulnerable, and feeling as though they are constantly “on call”, even though the nature of their work is not. It can be exhausting and expensive.

The burden of home care and childcare often falls to women, meaning unpredictable schedules and changes disproportionately affects them. The National Women’s Law Center found, “unfair work schedules make it difficult for women to access healthcare for themselves and their loved ones, noting that medical appointments often need to be made well in advance, an impossibility when workers do not know their schedules until days before their shifts.”

As an organizer, I had the opportunity to talk to multiple non-unionized workers. One worker stated that she had to leave her job, as the unpredictable scheduling and late notice shifts left her unable to arrange affordable childcare. It became too expensive for her to work. Therefore, she and her child were both placed on state provided benefits, as she lost her employer provided healthcare. Another worker once told me they had to leave their job because they could not schedule chemotherapy treatments with constant schedule changes; it became a choice of their life or their job.

Fair scheduling fosters healthy practices allowing time for life planning, sleep, commuting, caring for children, a household, or oneself. Fair scheduling also relieves stress, which promotes better mental health practices through work life balance. Workers with fair scheduling employers often feel more secure and content at work and home.

Fair scheduling is also beneficial for businesses. Multiple studies find that businesses who implement predictable scheduling have a decrease in worker turnover, have simpler time tracking on payroll, and increase their worker productivity. Harvard Kennedy’s School’s Shift Project found that fair scheduling, “increased worker happiness and sleep quality, reduced material hardship, and allowed workers to schedule and pay for medical care.”

It is simple – workers who know their schedules and can adequately plan their lives are more productive at work.

UFCW Local 400 is proud to have several collective bargaining agreements that implement fair scheduling standards, some like those proposed here, such as Giant Food and Safeway. Before I became a staff member at UFCW Local 400, I was an employee of Giant Food. Fair scheduling allowed me to earn my degree without having to stress over the expectation of being an “on call worker” in an industry that should not be of such nature. With flexibility and stability, I was able to work my way through school and provide for myself.

Lastly, workers deserve the right to say no, and decline shifts without retaliation. I have heard from numerous retail workers who have talked about having to cancel appointments or miss their children’s events because they were called into work last minute and were too afraid to say no, fearing their hours would be cut in retaliation the next week. No employer should have the power over employees to make them feel that the simple act of missing a phone call during off times or declining a shift could result in a loss of hours and income.



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February 22, 2023

SB 345- Labor and Employment - Maryland Fair Scheduling Act SUPPORT

To: The Honorable Chair Griffith

From: Kayla Mock, UFCW Local 400

Companies who have established fair scheduling with employees are still profitable and have a flexible workforce. They can schedule employees when they need them, call workers in if things are busy, send workers home if it's slow, and create schedules based on peak and valley business. They were still able to plan accordingly to business needs. This bill creates a sustainable practice of scheduling that allows workers the freedom to plan and schedule work around their lives.

On behalf of our members and all Marylanders, **we urge a favorable report from this committee on SB 345, The Maryland Fair Scheduling Act.**

**SB 345 -WLCMD - FAV.pdf**

Uploaded by: Michelle Siri

Position: FAV

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BILL NO.: Senate Bill 345  
TITLE: Maryland Fair Scheduling Act  
COMMITTEE: Finance  
DATE: February 23, 2023  
POSITION: **SUPPORT**

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Senate Bill 345 could make an enormous difference in the lives of working parents, workers seeking to further their careers through additional education, and other people with multiple claims to their time. Many hourly workers are more likely to have employers who schedule them to be on-call with no guarantee of work or pay, cancel shifts at the last minute, or send them home early without pay, while expecting the employee to be available at any and all hours. When workers are unable to meet their employer's last-minute demands, they often face retribution in the form of fewer hours or other retaliation. For a parent, especially a single parent, having a consistent work schedule is often imperative for arranging childcare and for budgeting income. Women are disproportionately represented in industries that routinely engage in such practices, such as retail and food services. They are also disproportionately low-wage positions, placing the burdens firmly on those who can afford it least, the most.

Under current law, it is legal to terminate an employee who cannot make it to work because her babysitter or her school schedule could not accommodate a last-minute schedule change. Senate Bill 345 would ensure that employees within certain food and retail establishments would be guaranteed a minimum amount of on-call pay for times when they are required to report to work and then released without being given the opportunity to work, or for times when they are required to be available to work and then not called in. Additionally, it would provide employees a right to decline work hours that occur within 11 hours of the end of their current shift, and an employer would have to compensate the employee at 1.5 times the regular rate of pay if the employee chooses to work those hours. Significantly, SB 345 also makes clear that an employer may not retaliate against an employee for declining to work hours not initially included within the original work schedule, or for exercising their rights under the statute. The law does not mandate an employer to guarantee any specific number of hours or any particular schedule: it merely requires employers to give adequate notice of the work schedule and any changes to it. Workers and employers are free to agree to mutually change the scheduled hours at any time, but the law would protect a last-minute change from being implemented unilaterally.

The lack of predictability of a job schedule can preclude a Maryland worker from attending school part-time or meeting her obligations to her children. This law would provide more employment opportunities for women in this State, particularly parents of young children. For these reasons, the Women's Law Center urges a favorable report on Senate Bill 345.

*The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.*

# **Testimony Maryland Fair Scheduling Act 2023.pdf**

Uploaded by: Oluwatosin Afolabi

Position: FAV

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Budget and Taxation Committee  
Education, Business and  
Administration Subcommittee

Pensions Subcommittee  
Chair, Rules Committee

*Joint Committees*

Audit and Evaluation Committee

Children, Youth, and Families

Ending Homelessness

Fair Practices and  
State Personnel Oversight

Joint Committee on Pensions

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Joanne C. Benson  
SB 345: Maryland Fair Scheduling Act

Good Afternoon Chair Griffith, Vice Chair Klausmeier, and members of the Finance Committee. I am here to present SB 345 The Maryland Fair Scheduling Act.

This legislation which is crucial to so many in our state addresses growing concerns, and indeed a growing crisis among working families. American workers increasingly need to balance employment with other responsibilities, but to what extent does the workplace accommodate these needs? The non-work responsibilities of the typical American worker have changed dramatically over the past 50 years. With the notion of covid-19 still looming and rising inflation, the common everyday necessities are becoming more scarce for middle to low-class workers. As a result, the fraction of households where all parents work full-time has nearly doubled, and the percentage of full-time workers who are parents in full-time working families has increased substantially. Due to the increase in inflation, there are more responsibilities to be had upon workers who are parents, especially regarding the increase in elderly life expectancy, while also dealing with the responsibility of children.

This bill's purpose is to require employers who employ individuals in a food service facility or retail establishment to pay certain employees at a certain rate of pay for certain shifts of work except under certain circumstances. This bill helps the working residents not to become inconvenienced by short-term notices from their employer regarding scheduling. By allowing employers to freely and unwarrantedly manipulate employees' schedules you disadvantage the employee who may have certain commitments or responsibilities, and in the end, do not have appropriate compensation. These commitments can include family, events, or even something as simple as travel time and money for employees to navigate their way to work. This is why it is important to grant compensation for the worker when they are asked to come into work unexpectedly to cover for any inconveniences the scheduling has caused. We as senators of this great state of Maryland have a time when we arrive at work that is set in

stone for the majority of our time serving. Retail workers and food service workers should be held to that same standard.

When these unpredictable schedules are put in place it makes it difficult for parents to meet their job and caregiving responsibilities. Furthermore, these practices are especially harmful to single parents. The collateral damage of this is we then have children, mainly the eldest sibling, if a part of a larger household, who then becomes the secondary caretaker of their younger sibling while the parent is out fulfilling a role that was inconveniently placed upon them. The child's responsibility thus increases, and a multitude of other things can begin to occur. Such as poor grades in school due to home life and increased stress. When hourly workers have workplace flexibility, productivity increases and absenteeism decreases. Productivity, retention, and reduced costs are important metrics for all businesses. The new era of workers and families will not stand for the iniquity given by employers, which is why we have recent events such as the 2022 "Great Resignation" in which employees have been resigning from their jobs in the masses just recently reaching record numbers. Long-standing dissatisfaction is one of the primary causes of this movement. Therefore, we must provide workplace flexibility and paid leave to strengthen our families, businesses, and economy.

Thus, I respectfully urge the committee to issue a favorable report for SB 345.

# **WDC 2023 Testimony SB0345\_Final.pdf**

Uploaded by: JoAnne Koravos

Position: FWA



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

**Senate Bill 345 - Maryland Fair Scheduling Act  
Finance Committee – February 23, 2023  
SUPPORT WITH AMENDMENT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2023 legislative session. WDC is one of Maryland's largest and most active Democratic clubs with hundreds of politically active members, including many elected officials.

**WDC urges the passage of SB0345.** This bill requires a food service facility that is part of a chain or franchise of at least ten establishments nationwide and a retail establishment that is part of a chain of at least ten retail establishments nationwide to compensate employees for cancelled shifts and to allow an employee to decline work hours during the eleven hours following the end of a shift. A covered employer shall pay an employee for at least four hours for each shift or on-call shift for which the employee reports to work but is required to work less than four hours. If the scheduled hours are less than four hours, the employer shall pay the employee for the scheduled hours. If the employer requires the employee to be available for an on-call shift but does not require the employee to report for work, the employer shall pay the employee two hours of pay for each on-call shift of four hours or less and four hours of pay for each on-call shift exceeding four hours. If an employee voluntarily agrees to work during the eleven hours following the end of a shift, the employer shall pay the employee 1.5 times the regular pay for the hours worked but not less than an amount that is equivalent to four hours of pay. The bill includes reporting and anti-retaliation provisions.

The food and retail service industry – especially chains and franchises – are among the most common users of just-in-time scheduling. In general retail workers are more likely to be women than men, and Black and Hispanic, who are employed in the lower-paid job categories that are most frequently subject to just-in-time scheduling. When workers' schedules are unstable and unpredictable, they struggle to pay rent, hold a second job to make ends meet, or are unable to take classes to improve their work prospects. They are also more likely to suffer untreated stress and health issues, skip meals or rely on food pantries, move in with others, and place their children in unstable, last-minute childcare arrangements. One study found that 80 percent of hourly workers had little or no input into their schedules, and one in three received their schedule less than one week in advance. Another study found that fair schedules reduced employee turnover.

While this bill ensures compensation for workers who have their schedules cancelled or shortened after they report for work and prohibits mandatory back-to-back shifts, it does not address the practice of unpredictable, last minute, just-in-time work schedules without adequate advance notice.

**We ask for your support for SB0345 and strongly urge a favorable committee report. However, we also ask the committee to consider amending this bill to require reasonable advance notice of work schedules.**

Diana E. Conway  
WDC President

Ginger Macomber  
WDC Advocacy Committee



**SB 345\_MDCC\_Maryland Fair Scheduling Act\_UNFAV.pdf**

Uploaded by: Andrew Griffin

Position: UNF



**LEGISLATIVE POSITION:**

**Unfavorable**  
**Senate Bill 345**  
**Maryland Fair Scheduling Act**  
**Senate Finance Committee**

**Thursday, February 23, 2023**

Dear Chairwoman Griffith and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,400 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

Senate Bill 345 requires food service and retail establishments to pay employees for at least four hours (even if the shift they work is for less than this) for each on-call shift for which the employee reports to work. The bill also requires the employer to pay an employee who has an on-call shift but is not called in to work two hours of pay for each on-call shift that is less than four hours and four hours of pay for each on-call shift that is more than four hours. Lastly, if an employee agrees to work a shift that falls within eleven hours after their most recent shift, the employer must pay them 1.5 times their normal wage rate.

Currently, Oregon is the only state to have a restrictive scheduling law in place that impacts retail, hospitality and foodservice. While scheduling laws are intended to create more predictable schedules for workers in targeted industries, they almost always result in unnecessary burdens for both employers and employees. Retail and foodservice establishments are heavily reliant on foot traffic, which results in unpredictable demand. For example, a snowstorm would decrease foot traffic and keep people at home, reducing the number of employees needed that day. Conversely, an unseasonably warm winter day would increase foot traffic and the employer would need additional staff on hand. SB 345 would prohibit employers from being able to respond to these changes in demand.

Evidence from San Francisco, who has a similar scheduling mandate, has shown that twenty percent of impacted businesses reduced the number of part-time hires they made, and a similar proportion reduced the number of employees they scheduled per shift. The Washington Post also reported that many employees in San Francisco were unhappy with the mandate as it limited the employers' ability to offer last minute extra shifts.

Lastly, the COVID-19 pandemic has proven just how flexible retail and foodservice employers need to be when it comes to scheduling. Many employers faced significant staffing shortages due to employees testing positive or having to enter quarantine due to exposure. An employer's ability to reach out to other employees when faced with a scenario like this is critical to them being able to stay open and serve the community.

The Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **SB 345**.



# **SB345 fair scheduling.pdf**

Uploaded by: Kirk McCauley

Position: UNF



## WMDA/CAR Service Station and Automotive Repair Association

February 23, 2023

Chair: Melony Griffith  
Members of Senate Finance Committee

RE: SB 345 - Maryland Fair Scheduling Act  
Position: Unfavorable

Position: In opposition

SB 345 changes what constitutes overtime when an employee works within 11 hours of a previous shift. These hours worked voluntarily should not be configured as overtime until 40 hours are reached. In conversations with my members, I could find none that require their employees to be on standby. This bill would take flexibility away from the employer and employee.

Employees might very well accumulate overtime by working within 11 hours of a previous shift by accumulating over 40 hours or Employee might want to accumulate 40 hours in 4 days, to have 3 days off.

Employees want flexible work schedules to conform to their needs. School and childcare needs is a couple examples.

Having to obtain written consent from an employee only adds another layer of record keeping that is time consuming and costly to the employer.

Employees who choose to work outside their schedule should retain that flexibility without the costly, burdensome, and unnecessary requirements this bill would require of employer.

Please give SB345 an unfavorable report

WMDA/CAR is a trade association that has represented service stations, convenience stores and independent repair shops since 1937. Any questions can be addressed to Kirk McCauley, 301-775-0221 or [kmccauley@wmda.net](mailto:kmccauley@wmda.net)

**sb345.pdf**

Uploaded by: Matthew Pipkin

Position: UNF

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Finance Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 345  
Maryland Fair Scheduling Act  
**DATE:** February 1, 2022  
(2/23)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 345. This bill amends the Labor and Employment Article by creating the Maryland Fair Scheduling Act.

This bill requires the court on page 13, lines 9 through 12, to award actual damages and reinstatement of employment in certain circumstances. The Judiciary has traditionally opposed legislation that includes mandatory provisions. The Judiciary believes it is important for judges to weigh the facts and circumstances for each individual case when making a determination. Provisions that place restrictions on the judge prevent the judge from considering factors unique to the case.

In addition, the language on page 13 is contradictory to established common law in that it allows the court to award actual damages as well as what is equivalent to liquidated damages.

Finally, it is confusing on page 12, line 17, why the legislation provides that a person can file a complaint with the court at any time without first exhausting the extensive administrative remedies established in the bill.

cc. Hon. Joanne Benson  
Judicial Council  
Legislative Committee  
Kelley O'Connor