

116TH CONGRESS
1ST SESSION

S. _____

To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Schedules That Work Act”.

4 (b) FINDINGS.—Congress finds the following:

5 (1) The vast majority of the United States
6 workforce today is juggling responsibilities at home
7 and at work. Women are primary breadwinners or
8 co-breadwinners in 64 percent of families in the
9 United States.

10 (2) Despite the dual responsibilities of today’s
11 workforce, both hourly and salaried workers often
12 have little ability to make changes to their work
13 schedules when those changes are needed to accom-
14 modate family responsibilities.

15 (3)(A) Mothers working in low-wage jobs are
16 more likely to be the primary or sole breadwinner for
17 their families than mothers working in higher-wage
18 jobs. For example, nearly 7 in 10 mothers in the
19 one-fifth of households in the United States with the
20 lowest incomes bring home all or most of their fami-
21 lies’ income, compared to less than one-third of their
22 counterparts in the highest-income quintile.

23 (B) At the same time, low-wage workers have
24 the least control over their work schedules and the
25 most unpredictable schedules. Across industries,
26 more than half (55 percent) of low-paid hourly work-

1 ers report that they receive a week or less of notice
2 of their work schedules, and nearly two-thirds (65
3 percent) report that their employer controls the tim-
4 ing of their work hours. In some industries, “just-
5 in-time” scheduling practices, which base workers’
6 schedules on perceived consumer demand to mini-
7 mize labor costs, are particularly common. Employ-
8 ers using these practices often post work schedules
9 with little notice, vary work hours widely from week
10 to week, cancel shifts at the last minute, and sched-
11 ule employees for “on call” shifts (requiring an em-
12 ployee to call in to work to find out whether the em-
13 ployee will have to work later that day) or
14 “clopening” shifts (requiring an employee to work a
15 closing shift at night followed by an opening shift a
16 few hours later). For example, surveys of nearly
17 30,000 hourly workers employed by the 80 largest
18 retail and food service chains in the United States
19 show that—

20 (i) about two-thirds of hourly retail and
21 food service workers receive their work sched-
22 ules with less than 2 weeks’ advance notice;

23 (ii) more than one in 4 hourly retail and
24 food service workers have been scheduled for

1 on-call shifts, and half have worked “clopensing”
2 shifts; and

3 (iii) only one in 5 hourly retail and food
4 service workers report working a regular day-
5 time schedule.

6 (4) Unfair work scheduling practices make it
7 difficult for low-wage workers to—

8 (A) provide necessary care for children and
9 other family members, including securing and
10 maintaining stable child care;

11 (B) access and receive needed care for the
12 workers’ own serious health conditions;

13 (C) pursue workforce training;

14 (D) get or keep a second job, which many
15 workers need to make ends meet;

16 (E) plan for and access transportation to
17 reach worksites; and

18 (F) qualify for and maintain eligibility for
19 needed public benefits and work supports, such
20 as child care subsidies and benefits under the
21 supplemental nutrition assistance program, due
22 to fluctuations in income and work hours.

23 (5) A growing body of research demonstrates
24 that unstable and unpredictable work schedules have
25 significant detrimental impacts on sleep quality,

1 mental health, and happiness, and are associated
2 with unstable child care arrangements and negative
3 health and behavioral outcomes for children. These
4 work schedules—and the work-family conflict they
5 produce—are also associated with higher rates of
6 turnover, which creates further instability for em-
7 ployers and workers. Workers of color are also more
8 likely than their white counterparts, even compared
9 to white coworkers at the same company, to experi-
10 ence unstable work schedules. For example:

11 (A) Unstable work schedules lead to more
12 household economic strain and time conflicts,
13 and hurt the well-being of parents. While
14 household economic strain, time conflicts, and
15 the well-being of parents may all negatively im-
16 pact the health and behavior of a child, a par-
17 ent's well-being is the most significant factor in
18 determining the behavior and health outcomes
19 of a child. The more severe the work schedule
20 instability, the worse the child's behavior and
21 health outcomes.

22 (B) The exposure of a parent to on-call
23 shifts and last-minute shift changes are associ-
24 ated with more unstable child care arrange-

1 ments and with the use of siblings to provide
2 care.

3 (C) Work schedule instability causes more
4 work-family conflict, which increases the chance
5 that a worker will be forced to leave his or her
6 job. This turnover is associated with downward
7 mobility of the worker's earnings.

8 (D)(i) Relative to white workers, workers
9 of color are more likely to—

10 (I) have cancelled shifts;

11 (II) have on-call shifts;

12 (III) be involuntary part-time work-
13 ers;

14 (IV) have trouble getting time off;

15 and

16 (V) work “clopeneing” shifts, as de-
17 scribed in paragraph (3)(B).

18 (ii) The statistics described in clause (i) re-
19 main true after controlling for demographics,
20 human capital, worker power, firm segregation,
21 and discordance with the race or ethnicity of
22 the worker and the manager. Race gaps in job
23 quality are greater for women of color.

24 (E) Workers who receive shorter advanced
25 notice, those who work on-call shifts, those who

1 experience last minute shift cancellation and
2 timing changes, and those with more volatile
3 work hours are more likely to experience hun-
4 ger, residential hardships, and more overall eco-
5 nomic hardship.

6 (6) Unpredictable and unstable work schedules
7 are common in a wide range of occupations, with
8 evidence of particular concentration in food service,
9 retail, cleaning, hospitality, and warehouse occupa-
10 tions. These occupations are critically important to
11 the United States economy.

12 (7) Employers that have implemented fair work
13 scheduling policies that allow workers to have more
14 control over their work schedules, and provide more
15 predictable and stable schedules, have experienced
16 significant benefits, including reductions in absentee-
17 ism and workforce turnover, and increased worker
18 morale and engagement. For example, when Gap
19 Inc. piloted strategies to make work schedules more
20 stable and predictable for employees, the Gap Inc.
21 stores that implemented these strategies experienced
22 higher productivity, and a 7-percent increase in
23 sales, compared to those Gap Inc. stores that did not
24 implement these strategies.

1 (8) This Act is a first step in responding to the
2 needs of workers for a voice in the timing of their
3 work hours and for more predictable schedules.

4 **SEC. 2. DEFINITIONS.**

5 As used in this Act:

6 (1) BONA FIDE BUSINESS REASON.—The term
7 “bona fide business reason” means—

8 (A) the identifiable burden of additional
9 costs to an employer, including the cost of pro-
10 ductivity loss, retraining or hiring employees, or
11 transferring employees from one facility to an-
12 other facility;

13 (B) a significant detrimental effect on the
14 employer’s ability to meet organizational needs
15 or customer demand;

16 (C) a significant inability of the employer,
17 despite best efforts, to reorganize work among
18 existing (as of the date of the reorganization)
19 staff;

20 (D) a significant detrimental effect on
21 business performance;

22 (E) insufficiency of work during the peri-
23 ods an employee proposes to work;

24 (F) the need to balance competing sched-
25 uling requests when it is not possible to grant

1 all such requests without a significant detri-
2 mental effect on the employer's ability to meet
3 organizational needs; or

4 (G) such other reason as may be specified
5 by the Secretary of Labor (or the corresponding
6 administrative officer specified in section 9).

7 (2) CAREER-RELATED EDUCATIONAL OR TRAIN-
8 ING PROGRAM.—The term “career-related edu-
9 cational or training program” means an educational
10 or training program or program of study offered by
11 a public, private, or nonprofit career and technical
12 education school, institution of higher education, or
13 other entity that provides academic education, career
14 and technical education, or training (including reme-
15 dial education or English as a second language, as
16 appropriate), that is a program that leads to a rec-
17 ognized postsecondary credential (as identified under
18 section 122(d) of the Workforce Innovation and Op-
19 portunity Act (29 U.S.C. 3152(d)), and provides ca-
20 reer awareness information. The term includes a
21 program allowable under the Workforce Innovation
22 and Opportunity Act (29 U.S.C. 3101 et seq.), the
23 Carl D. Perkins Career and Technical Education
24 Act of 2006 (20 U.S.C. 2301 et seq.), or the Higher
25 Education Act of 1965 (20 U.S.C. 1001 et seq.),

1 without regard to whether or not the program is
2 funded under the corresponding Act.

3 (3) CAREGIVER.—The term “caregiver” means
4 an individual with the status of being a significant
5 provider of—

6 (A) ongoing care or education, including
7 responsibility for securing the ongoing care or
8 education, of a child; or

9 (B) ongoing care, including responsibility
10 for securing the ongoing care, of—

11 (i) a person with a serious health con-
12 dition who is in a family relationship with
13 the individual; or

14 (ii) a parent of the individual, who is
15 age 65 or older.

16 (4) CHILD.—The term “child” means a biologi-
17 cal, adopted, or foster child, a stepchild, a legal
18 ward, or a child of a person standing in loco
19 parentis to that child, who is—

20 (A) under age 18; or

21 (B) age 18 or older and incapable of self-
22 care because of a mental or physical disability.

23 (5) COMMERCE TERMS.—The terms “com-
24 merce” and “industry or activity affecting com-
25 merce” have the meanings given the terms in section

1 101 of the Family and Medical Leave Act of 1993
2 (29 U.S.C. 2611).

3 (6) COVERED EMPLOYER.—

4 (A) IN GENERAL.—The term “covered em-
5 ployer” —

6 (i) means any person engaged in com-
7 merce or in any industry or activity affect-
8 ing commerce who employs 15 or more em-
9 ployees (described in paragraph (9)(A));

10 (ii) includes any person who acts, di-
11 rectly or indirectly, in the interest of such
12 an employer to any of the employees (de-
13 scribed in paragraph (9)(A)) of such em-
14 ployer;

15 (iii) includes any successor in interest
16 of such an employer; and

17 (iv) includes an agency described in
18 subparagraph (A)(iii) of section 101(4) of
19 the Family and Medical Leave Act of 1993
20 (29 U.S.C. 2611(4)), to which subpara-
21 graph (B) of such section shall apply.

22 (B) RULE.—For purposes of determining
23 the number of employees who work for a person
24 described in subparagraph (A)(i), all employees
25 (described in paragraph (9)(A)) performing

1 work for compensation on a full-time, part-time,
2 or temporary basis shall be counted, except that
3 if the number of such employees who perform
4 work for such a person for compensation fluctuates,
5 the number may be determined for a
6 calendar year based upon the average number
7 of such employees who performed work for the
8 person for compensation during the preceding
9 calendar year.

10 (C) PERSON.—In this paragraph, the term
11 “person” has the meaning given the term in
12 section 3 of the Fair Labor Standards Act of
13 1938 (29 U.S.C. 203).

14 (7) DOMESTIC PARTNER.—The term “domestic
15 partner” means the individual recognized as being in
16 a relationship with an employee under any domestic
17 partnership, civil union, or similar law of the State
18 or political subdivision of a State in which the em-
19 ployee resides.

20 (8) EMPLOY.—The term “employ” has the
21 meaning given the term in section 3 of the Fair
22 Labor Standards Act of 1938 (29 U.S.C. 203).

23 (9) EMPLOYEE.—The term “employee” means
24 an individual who is—

1 (A) an employee, as defined in section 3(e)
2 of the Fair Labor Standards Act of 1938 (29
3 U.S.C. 203(e)), who is not described in any of
4 subparagraphs (B) through (G);

5 (B) a State employee described in section
6 304(a) of the Government Employee Rights Act
7 of 1991 (42 U.S.C. 2000e-16c(a));

8 (C) a covered employee, as defined in sec-
9 tion 101 of the Congressional Accountability
10 Act of 1995 (2 U.S.C. 1301), other than an ap-
11 plicant for employment;

12 (D) a covered employee, as defined in sec-
13 tion 411(c) of title 3, United States Code;

14 (E) a Federal officer or employee covered
15 under subchapter V of chapter 63 of title 5,
16 United States Code;

17 (F) an employee of the Library of Con-
18 gress; or

19 (G) an employee of the Government Ac-
20 countability Office.

21 (10) EMPLOYER.—The term “employer” means
22 a person—

23 (A) who is—

1 (i) a covered employer, as defined in
2 paragraph (6), who is not described in any
3 of clauses (ii) through (vii);

4 (ii) an entity employing a State em-
5 ployee described in section 304(a) of the
6 Government Employee Rights Act of 1991;

7 (iii) an employing office, as defined in
8 section 101 of the Congressional Account-
9 ability Act of 1995;

10 (iv) an employing office, as defined in
11 section 411(c) of title 3, United States
12 Code;

13 (v) an employing agency covered
14 under subchapter V of chapter 63 of title
15 5, United States Code;

16 (vi) the Librarian of Congress; or

17 (vii) the Comptroller General of the
18 United States; and

19 (B) who is engaged in commerce (including
20 government), in the production of goods for
21 commerce, or in an enterprise engaged in com-
22 merce (including government) or in the produc-
23 tion of goods for commerce.

24 (11) FAMILY RELATIONSHIP.—The term “fam-
25 ily relationship” means a relationship with—

1 (A) a child, spouse, domestic partner, par-
2 ent, grandchild, grandparent, sibling, or parent
3 of a spouse or domestic partner; or

4 (B) any individual related to the employee
5 involved by blood or affinity, whose close asso-
6 ciation with the employee is the equivalent of a
7 family relationship described in subparagraph
8 (A).

9 (12) GRANDCHILD.—The term “grandchild”
10 means the child of a child.

11 (13) GRANDPARENT.—The term “grandparent”
12 means the parent of a parent.

13 (14) MINIMUM NUMBER OF EXPECTED WORK
14 HOURS.—The term “minimum number of expected
15 work hours” means the minimum number of hours
16 an employee will be assigned to work on a weekly or
17 monthly basis.

18 (15) HOSPITALITY ESTABLISHMENT.—The
19 term “hospitality establishment” means a hotel,
20 motel, inn, or similar transient lodging establish-
21 ment.

22 (16) NONEXEMPT EMPLOYEE.—The term “non-
23 exempt employee” means an employee who is not
24 employed in a bona fide executive, administrative, or
25 professional capacity, as defined for purposes of sec-

1 tion 13(a)(1) of the Fair Labor Standards Act of
2 1938 (29 U.S.C. 213(a)(1)).

3 (17) ON-CALL SHIFT.—The term “on-call shift”
4 means any time during which an employer requires
5 an employee to—

6 (A) be available to work; and

7 (B) contact the employer or the designee
8 of the employer, or wait to be contacted by the
9 employer or designee, to determine whether the
10 employee is required to report to work at that
11 time.

12 (18) PARENT.—The term “parent” means a bi-
13 ological or adoptive parent, a stepparent, or a person
14 who stood in a parental relationship to an employee
15 when the employee was a child.

16 (19) PARENTAL RELATIONSHIP.—The term
17 “parental relationship” means a relationship in
18 which a person assumed the obligations incident to
19 parenthood for a child and discharged those obliga-
20 tions before the child reached adulthood.

21 (20) RETAIL, FOOD SERVICE, CLEANING, HOS-
22 PITALITY, OR WAREHOUSE EMPLOYEE.—The term
23 “retail, food service, cleaning, hospitality, or ware-
24 house employee” means a nonexempt employee who
25 is employed in a hospitality establishment, in a

1 warehouse establishment, or in any of the following
2 occupations, as described by the Bureau of Labor
3 Statistics Standard Occupational Classification Sys-
4 tem (as in effect on the day before the date of enact-
5 ment of this Act):

6 (A) Retail sales occupations consisting of
7 occupations described in 41-1010 and 41-
8 2000, and all subdivisions thereof, of such Sys-
9 tem, which includes first-line supervisors of
10 sales workers, cashiers, gambling change per-
11 sons and booth cashiers, counter and rental
12 clerks, parts salespersons, and retail sales-
13 persons.

14 (B) Food preparation and serving related
15 occupations as described in 35-0000, and all
16 subdivisions thereof, of such System, which in-
17 cludes supervisors of food preparation and serv-
18 ing workers, cooks and food preparation work-
19 ers, food and beverage serving workers, and
20 other food preparation and serving related
21 workers.

22 (C) Building cleaning occupations as de-
23 scribed in 37-2011, 37-2012, and 37-2019 of
24 such System, which includes janitors and clean-

1 ers, maids and housekeeping cleaners, and
2 building cleaning workers.

3 (21) SECRETARY.—The term “Secretary”
4 means the Secretary of Labor.

5 (22) SECRETARY’S DESIGNATED EMPLOYEE.—
6 The term “Secretary’s designated employee” means
7 an employee employed in an occupation, other than
8 a retail, food service, cleaning, hospitality, or ware-
9 house occupation, that is designated by the Sec-
10 retary under section 9(a)(2) as appropriate for cov-
11 erage under section 4.

12 (23) SERIOUS HEALTH CONDITION.—The term
13 “serious health condition” has the meaning given
14 the term in section 101 of the Family and Medical
15 Leave Act of 1993 (29 U.S.C. 2611).

16 (24) SIBLING.—The term “sibling” means a
17 brother or sister, whether related by half blood,
18 whole blood, or adoption, or as a stepsibling.

19 (25) SPLIT SHIFT.—The term “split shift”
20 means a schedule of daily hours in which the hours
21 worked are not consecutive, except that—

22 (A) a schedule in which the total time out
23 for meals does not exceed one hour shall not be
24 treated as a split shift; and

1 (B) a schedule in which the break in the
2 employee's work shift is requested by the em-
3 ployee shall not be treated as a split shift.

4 (26) SPOUSE.—

5 (A) IN GENERAL.—The term “spouse”
6 means a person with whom an individual en-
7 tered into—

8 (i) a marriage as defined or recog-
9 nized under State law in the State in
10 which the marriage was entered into; or

11 (ii) in the case of a marriage entered
12 into outside of any State, a marriage that
13 is recognized in the place where entered
14 into and could have been entered into in at
15 least 1 State.

16 (B) SAME-SEX OR COMMON LAW MAR-
17 RIAGE.—Such term includes an individual in a
18 same-sex or common law marriage that meets
19 the requirements of subparagraph (A).

20 (27) STATE.—The term “State” has the mean-
21 ing given the term in section 3 of the Fair Labor
22 Standards Act of 1938 (29 U.S.C. 203).

23 (28) WAREHOUSE ESTABLISHMENT.—The term
24 “warehouse establishment” means any business that
25 engages primarily in the storage of goods, wares, or

1 commodities for hire or compensation, and, in con-
2 nection with such storage, may include the loading,
3 packing, sorting, stacking, wrapping, distribution, or
4 delivery of those goods, wares, or commodities.

5 (29) WORK SCHEDULE.—The term “work
6 schedule” means all of an employee’s regular work
7 shifts and on-call shifts, including specific start and
8 end times for each shift, during a consecutive 7-day
9 period.

10 (30) WORK SCHEDULE CHANGE.—The term
11 “work schedule change” means any modification to
12 an employee’s work schedule, such as an addition or
13 reduction of hours, cancellation of a shift, or a
14 change in the date or time of a work shift, by an
15 employer.

16 (31) WORK SHIFT.—The term “work shift”
17 means the specific hours of the workday during
18 which an employee works.

19 **SEC. 3. RIGHT TO REQUEST AND RECEIVE A FLEXIBLE,**
20 **PREDICTABLE, OR STABLE WORK SCHEDULE.**

21 (a) RIGHT TO REQUEST.—An employee may apply
22 to the employee’s employer to request a change in the
23 terms and conditions of employment as they relate to—

24 (1) the number of hours the employee is re-
25 quired to work or be on call for work;

1 (2) the times when the employee is required to
2 work or be on call for work;

3 (3) the location where the employee is required
4 to work;

5 (4) the amount of notification the employee re-
6 ceives of work schedule assignments; and

7 (5) minimizing fluctuations in the number of
8 hours the employee is scheduled to work on a daily,
9 weekly, or monthly basis.

10 (b) EMPLOYER OBLIGATION TO ENGAGE IN AN
11 INTERACTIVE PROCESS.—

12 (1) IN GENERAL.—If an employee applies to the
13 employee's employer to request a change in the
14 terms and conditions of employment as set forth in
15 subsection (a), the employer shall engage in a time-
16 ly, good faith interactive process with the employee
17 that includes a discussion of potential schedule
18 changes that would meet the employee's needs.

19 (2) RESULT.—Such process shall result in—

20 (A) either granting or denying the request;

21 (B) in the event of a denial, considering al-
22 ternatives to the proposed change that might
23 meet the employee's needs and granting or de-
24 nying a request for an alternative change in the

1 terms and conditions of employment as set
2 forth in subsection (a); and

3 (C) in the event of a denial, stating the
4 reason for denial, including whether any such
5 reason is a bona fide business reason.

6 (3) INFORMATION.—If information provided by
7 the employee making a request under this section re-
8 quires clarification, the employer shall explain what
9 further information is needed and give the employee
10 reasonable time to produce the information.

11 (c) REQUESTS RELATED TO CAREGIVING, ENROLL-
12 MENT IN EDUCATION OR TRAINING, OR A SECOND JOB.—
13 If an employee makes a request for a change in the terms
14 and conditions of employment as set forth in subsection
15 (a) because of a serious health condition of the employee,
16 due to the employee's responsibilities as a caregiver, or
17 due to the employee's enrollment in a career-related edu-
18 cational or training program, or if an employee makes a
19 request for such a change for a reason related to a second
20 job, the employer shall grant the request, unless the em-
21 ployer has a bona fide business reason for denying the re-
22 quest.

23 (d) OTHER REQUESTS.—If an employee makes a re-
24 quest for a change in the terms and conditions of employ-
25 ment as set forth in subsection (a), for a reason other than

1 those reasons set forth in subsection (c), the employer may
2 deny the request for any reason that is not unlawful. If
3 the employer denies such a request, the employer shall
4 provide the employee with the reason for the denial, in-
5 cluding whether any such reason is a bona fide business
6 reason.

7 **SEC. 4. REQUIREMENTS FOR REPORTING TIME PAY, SPLIT**
8 **SHIFT PAY, AND ADVANCE NOTICE OF WORK**
9 **SCHEDULES FOR RETAIL, FOOD SERVICE,**
10 **CLEANING, HOSPITALITY, WAREHOUSE, OR**
11 **SECRETARY'S DESIGNATED EMPLOYEES.**

12 (a) ADVANCE NOTICE REQUIREMENT.—

13 (1) INITIAL SCHEDULE.—On or before the first
14 day of work for a new retail, food service, cleaning,
15 hospitality, or warehouse employee, or Secretary's
16 designated employee, the employer shall inform the
17 employee of the work schedule of the employee and
18 the minimum number of expected work hours the
19 employee will be assigned to work per month.

20 (2) PROVIDING NOTICE OF NEW SCHEDULES.—

21 (A) IN GENERAL.—Except as provided in
22 subsection (b)(2), if the work schedule of a re-
23 tail, food service, cleaning, hospitality, or ware-
24 house employee, or Secretary's designated em-
25 ployee, changes from the work schedule of

1 which the employee was informed pursuant to
2 paragraph (1), the employer shall provide the
3 employee with the new work schedule of the em-
4 ployee not less than 14 days before the first day
5 of the new work schedule. Such a change shall
6 include a change in the number of hours of
7 work for which an employee is assigned.

8 (B) COMPENSATION FOR FAILURE TO PRO-
9 VIDE TIMELY NOTICE.—An employer that vio-
10 lates subparagraph (A) shall compensate each
11 affected employee in the amount of \$75 per day
12 that the new work schedule is not provided.

13 (3) NOTIFICATIONS IN WRITING.—The notifica-
14 tions of the work schedules required under para-
15 graphs (1) and (2) shall be made to the employee in-
16 volved in writing.

17 (4) SCHEDULE POSTING REQUIREMENT.—

18 (A) IN GENERAL.—Every employer em-
19 ploying any retail, food service, cleaning, hospi-
20 tality, or warehouse employee, or Secretary's
21 designated employee, shall post a copy of the
22 work schedule of each such employee and keep
23 it posted in a conspicuous place in every estab-
24 lishment where such employee is employed so as
25 to permit the employee involved to observe read-

1 ily the copy. Availability of that schedule by
2 electronic means accessible to all retail, food
3 service, cleaning, hospitality, or warehouse em-
4 ployees, or Secretary's designated employees, of
5 that employer shall be considered compliance
6 with this subparagraph.

7 (B) RIGHT TO DECLINE.—A retail, food
8 service, cleaning, hospitality, or warehouse em-
9 ployee, or Secretary's designated employee, may
10 decline to work any hours not included in the
11 work schedule posted under subparagraph (A)
12 as work hours for the employee.

13 (C) CONSENT.—If a retail, food service,
14 cleaning, hospitality, or warehouse employee, or
15 Secretary's designated employee, voluntarily
16 consents to work any hours not posted under
17 subparagraph (A), such consent must be re-
18 corded in writing.

19 (5) RULE OF CONSTRUCTION.—Nothing in this
20 subsection shall be construed to prohibit an em-
21 ployer from—

22 (A) providing greater advance notice of the
23 work schedule of a retail, food service, cleaning,
24 hospitality, or warehouse employee, or Sec-

1 retary's designated employee, than is required
2 under this subsection; or

3 (B) using any means, in addition to the
4 written means required under paragraph (3), of
5 notifying a retail, food service, cleaning, hospi-
6 tality, or warehouse employee, or Secretary's
7 designated employee, of the work schedule of
8 the employee.

9 (b) PREDICTABILITY FOR WORK SCHEDULE
10 CHANGES MADE WITH LESS THAN 14 DAYS' NOTICE.—

11 (1) IN GENERAL.—An employer may, subject to
12 subsection (a) and paragraph (2), make changes as
13 needed to the work schedule of a retail, food service,
14 cleaning, hospitality, or warehouse employee, or Sec-
15 retary's designated employee, including by offering
16 additional hours of work in addition to those sched-
17 uled pursuant to the requirements under subsection
18 (a).

19 (2) PREDICTABILITY PAY.—Except as provided
20 in paragraph (3), for each change made by an em-
21 ployer to a work schedule provided to an employee
22 under subsection (a) that occurs less than 14 days
23 prior to the first day on which the change is to take
24 effect, the employer shall be required to provide the
25 affected employee with pay (referred to in this sub-

1 section as “predictability pay”) at the following
2 rates:

3 (A) Not less than 2 times the employee’s
4 regular rate of pay per hour of work such em-
5 ployee performs if such hour is in addition to
6 the hours the employee is scheduled to work
7 under subsection (a) or if the employer changes
8 the date, time, or location of the work shift
9 with no loss of hours.

10 (B) Not less than one-half times the em-
11 ployee’s regular rate of pay per hour for any
12 hour that the employee is scheduled to work
13 under subsection (a) and does not work due to
14 the employer subtracting or canceling such
15 scheduled hours of work.

16 (3) EXCEPTIONS TO PREDICTABILITY PAY.—An
17 employer shall not be required to pay predictability
18 pay under paragraph (2), or to obtain written con-
19 sent pursuant to subsection (a)(5), under any of the
20 following circumstances:

21 (A) A retail, food service, cleaning, hospi-
22 tality, or warehouse employee, or Secretary’s
23 designated employee, requests a shift change in
24 writing, including through the use of sick leave,

1 vacation leave, or any other leave policy offered
2 by the employer.

3 (B) A schedule change is the result of a
4 mutually agreed upon shift trade or coverage
5 arrangement between retail, food service, clean-
6 ing, hospitality, or warehouse employees, or
7 Secretary's designated employees, subject to
8 any policy of the employer regarding required
9 conditions for employees to exchange shifts.

10 (C) The employer's operations cannot
11 begin or continue due to—

12 (i) a threat to the property of an em-
13 ployee or the employer;

14 (ii) the failure of a public utility or
15 the shutdown of public transportation;

16 (iii) a fire, flood, or other natural dis-
17 aster;

18 (iv) a state of emergency declared by
19 the President of the United States or by
20 the governor of the State, or the mayor of
21 the city, in which the operations are lo-
22 cated; or

23 (v) a severe weather condition that
24 poses a threat to employee safety.

1 (c) SPLIT SHIFT PAY REQUIREMENT.—An employer
2 shall pay a retail, food service, cleaning, hospitality, or
3 warehouse employee, or Secretary’s designated employee,
4 for one additional hour at the employee’s regular rate of
5 pay for each day during which the employee works a split
6 shift.

7 (d) PAY STUB TRANSPARENCY.—Any pay provided
8 to an employee pursuant to subsection (a), (b), or (c) (re-
9 ferred to in this subsection as “additional pay”) shall be
10 included in the employee’s regular paycheck. The employer
11 shall identify, in the corresponding written wage statement
12 or pay stub, the total number of hours of additional pay
13 provided for the pay period involved and whether the addi-
14 tional pay was due to the requirements of subsection (a),
15 the requirements of subsection (b), or the requirements
16 of subsection (c).

17 **SEC. 5. RIGHT TO REST BETWEEN WORK SHIFTS.**

18 (a) IN GENERAL.—An employee employed by a cov-
19 ered employer may decline, without penalty, to work any
20 work shift or on-call shift that is scheduled or otherwise
21 occurs—

22 (1) less than 11 hours after the end of the work
23 shift or on-call shift for the previous day; or

24 (2) during the 11 hours following the end of a
25 work shift or on-call shift that spanned 2 days.

1 (b) CONSENT.—An employee employed by a covered
2 employer may—

3 (1) consent to work a shift described in sub-
4 section (a) in writing, either for each such shift or
5 for multiple shifts; and

6 (2) may revoke such consent in writing at any
7 time during employment.

8 (c) COMPENSATION.—For each instance that an em-
9 ployee employed by a covered employer works a shift de-
10 scribed in subsection (a), the covered employer shall com-
11 pensate the employee at one and one-half times the em-
12 ployee’s scheduled rate of pay for the hours worked that
13 are less than 11 hours apart from the hours worked dur-
14 ing the previous shift.

15 **SEC. 6. PROHIBITED ACTS.**

16 (a) INTERFERENCE WITH RIGHTS.—It shall be un-
17 lawful for any employer to interfere with, restrain, or deny
18 the exercise or the attempt to exercise, any right of—

19 (1) an employee as set forth in section 3;

20 (2) a retail, food service, cleaning, hospitality,
21 or warehouse employee, or Secretary’s designated
22 employee, as set forth in section 4; or

23 (3) an employee of a covered employer as set
24 forth in section 5.

1 (b) RETALIATION PROHIBITED.—It shall be unlawful
2 for any employer to discharge, threaten to discharge, de-
3 mote, suspend, reduce work hours of, or take any other
4 adverse employment action against any employee in retal-
5 iation for exercising the rights of an employee under this
6 Act or opposing any practice made unlawful by this Act.
7 For purposes of section 3, such retaliation shall include
8 taking an adverse employment action against any em-
9 ployee on the basis of that employee’s request for a change
10 in work schedule, or because of an employee’s eligibility
11 or perceived eligibility to request or receive a change in
12 the terms and conditions of employment, as described in
13 such section, on the basis of a reason set forth in section
14 3(c).

15 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
16 IES.—It shall be unlawful for any person to discharge or
17 in any other manner discriminate against any individual
18 because such individual—

19 (1) has filed any charge, or has instituted or
20 caused to be instituted any proceeding, under or re-
21 lated to this Act;

22 (2) has given or is about to give, any informa-
23 tion in connection with any inquiry or proceeding re-
24 lating to any right provided under this Act; or

1 (3) has testified, or is about to testify, in any
2 inquiry or proceeding relating to any right provided
3 under this Act.

4 **SEC. 7. REMEDIES AND ENFORCEMENT.**

5 (a) INVESTIGATIVE AUTHORITY.—

6 (1) IN GENERAL.—To ensure compliance with
7 this Act, or any regulation or order issued under
8 this Act, the Secretary shall have, subject to para-
9 graph (3), the investigative authority provided under
10 section 11(a) of the Fair Labor Standards Act of
11 1938 (29 U.S.C. 211(a)).

12 (2) OBLIGATION TO KEEP AND PRESERVE
13 RECORDS.—Each employer shall make, keep, and
14 preserve records pertaining to compliance with this
15 Act in accordance with regulations issued by the
16 Secretary under section 9.

17 (3) REQUIRED SUBMISSIONS GENERALLY LIM-
18 ITED TO AN ANNUAL BASIS.—The Secretary shall
19 not under the authority of this subsection require
20 any employer to submit to the Secretary any books
21 or records more than once during any 12-month pe-
22 riod, unless the Secretary has reasonable cause to
23 believe there may exist a violation of this Act or any
24 regulation or order issued pursuant to this Act, or
25 is investigating a charge pursuant to subsection (c).

1 (4) SUBPOENA POWERS.—For the purposes of
2 any investigation provided for in this section, the
3 Secretary shall have the subpoena authority provided
4 for under section 9 of the Fair Labor Standards Act
5 of 1938 (29 U.S.C. 209).

6 (b) CIVIL ACTION BY EMPLOYEES.—

7 (1) LIABILITY.—Any employer who violates a
8 section 6(a) (with respect to a right set forth in sub-
9 section (a), (b), or (c) of section 4), section 5, or
10 subsection (b) or (c) of section 6 (each such provi-
11 sion referred to in this section as a “covered provi-
12 sion”) shall be liable to any employee affected for—

13 (A) damages equal to the amount of—

14 (i) any wages, salary, employment
15 benefits (as defined in section 101 of the
16 Family and Medical Leave Act of 1993 (29
17 U.S.C. 2611)), or other compensation de-
18 nied, lost, or owed to such employee by
19 reason of the violation; or

20 (ii) in a case in which wages, salary,
21 employment benefits (as so defined), or
22 other compensation have not been denied,
23 lost, or owed to the employee, any actual
24 monetary losses sustained by the employee
25 as a direct result of the violation;

1 (B) interest on the amount described in
2 subparagraph (A) calculated at the prevailing
3 rate;

4 (C) an additional amount as liquidated
5 damages equal to the sum of the amount de-
6 scribed in subparagraph (A) and the interest
7 described in subparagraph (B), except that if
8 an employer who has violated a covered provi-
9 sion proves to the satisfaction of the court that
10 the act or omission which violated the covered
11 provision was in good faith and that the em-
12 ployer had reasonable grounds for believing that
13 the act or omission was not a violation of a cov-
14 ered provision, such court may, in the discretion
15 of the court, reduce the amount of liability to
16 the amount and interest determined under sub-
17 paragraphs (A) and (B), respectively; and

18 (D) such equitable relief as may be appro-
19 priate, including employment, reinstatement,
20 and promotion.

21 (2) RIGHT OF ACTION.—An action to recover
22 the damages or equitable relief set forth in para-
23 graph (1) may be maintained against any employer
24 (including a public agency) in any Federal or State

1 court of competent jurisdiction by any one or more
2 employees for and on behalf of—

3 (A) the employees; or

4 (B) the employees and other employees
5 similarly situated.

6 (3) FEES AND COSTS.—The court in such an
7 action shall, in addition to any judgment awarded to
8 the plaintiff, allow a reasonable attorney's fee, rea-
9 sonable expert witness fees, and other costs of the
10 action to be paid by the defendant.

11 (4) LIMITATIONS.—The right provided by para-
12 graph (2) to bring an action by or on behalf of any
13 employee shall terminate on the filing of a complaint
14 by the Secretary in an action under subsection (c)(4)
15 in which a recovery is sought of the damages de-
16 scribed in paragraph (1)(A) owing to an employee by
17 an employer liable under paragraph (1) unless the
18 action described is dismissed without prejudice on
19 motion of the Secretary.

20 (c) ACTIONS BY THE SECRETARY.—

21 (1) ADMINISTRATIVE ACTION.—The Secretary
22 shall receive, investigate, and attempt to resolve
23 complaints of violations of this Act in the same man-
24 ner that the Secretary receives, investigates, and at-
25 tempts to resolve complaints of violations of sections

1 6 and 7 of the Fair Labor Standards Act of 1938
2 (29 U.S.C. 206 and 207), and may issue an order
3 making determinations, and assessing a civil penalty
4 described in paragraph (3) (in accordance with para-
5 graph (3)), with respect to such an alleged violation.

6 (2) ADMINISTRATIVE REVIEW.—An affected
7 person who takes exception to an order issued under
8 paragraph (1) may request review of and a decision
9 regarding such an order by an administrative law
10 judge. In reviewing the order, the administrative law
11 judge may hold an administrative hearing con-
12 cerning the order, in accordance with the require-
13 ments of sections 554, 556, and 557 of title 5,
14 United States Code. Such hearing shall be conducted
15 expeditiously. If no affected person requests such re-
16 view within 60 days after the order is issued under
17 paragraph (1), the order shall be considered to be a
18 final order that is not subject to judicial review.

19 (3) CIVIL PENALTY.—An employer who willfully
20 and repeatedly violates—

21 (A) section 4 or 5 shall be subject to a civil
22 penalty in an amount to be determined by the
23 Secretary, but not to exceed \$100 per violation;
24 and

1 (B) subsection (b) or (c) of section 6 shall
2 be subject to a civil penalty in an amount to be
3 determined by the Secretary, but not to exceed
4 \$1,100 per violation.

5 (4) CIVIL ACTION.—The Secretary may bring
6 an action in any court of competent jurisdiction on
7 behalf of aggrieved employees to—

8 (A) restrain violations of this Act;

9 (B) award such equitable relief as may be
10 appropriate, including employment, reinstatement,
11 and promotion; and

12 (C) in the case of a violation of a covered
13 provision, recover the damages and interest described
14 in subparagraphs (A) through (C) of
15 subsection (b)(1).

16 (d) LIMITATION.—

17 (1) IN GENERAL.—Except as provided in paragraph
18 (2), an action may be brought under this section
19 not later than 2 years after the date of the last
20 event constituting the alleged violation for which the
21 action is brought.

22 (2) WILLFUL VIOLATION.—In the case of such
23 action brought for a willful violation of section 6,
24 such action may be brought within 3 years of the

1 date of the last event constituting the alleged viola-
2 tion for which such action is brought.

3 (3) COMMENCEMENT.—In determining when an
4 action is commenced by the Secretary under this
5 section for the purposes of this subsection, it shall
6 be considered to be commenced on the date when the
7 complaint is filed.

8 (e) OTHER ADMINISTRATIVE OFFICERS.—

9 (1) BOARD.—In the case of employees described
10 in section 2(9)(C), the authority of the Secretary
11 under this Act shall be exercised by the Board of Di-
12 rectors of the Office of Compliance.

13 (2) PRESIDENT; MERIT SYSTEMS PROTECTION
14 BOARD.—In the case of employees described in sec-
15 tion 2(9)(D), the authority of the Secretary under
16 this Act shall be exercised by the President and the
17 Merit Systems Protection Board.

18 (3) OFFICE OF PERSONNEL MANAGEMENT.—In
19 the case of employees described in section 2(9)(E),
20 the authority of the Secretary under this Act shall
21 be exercised by the Office of Personnel Management.

22 (4) LIBRARIAN OF CONGRESS.—In the case of
23 employees of the Library of Congress, the authority
24 of the Secretary under this Act shall be exercised by
25 the Librarian of Congress.

1 (5) COMPTROLLER GENERAL.—In the case of
2 employees of the Government Accountability Office,
3 the authority of the Secretary under this Act shall
4 be exercised by the Comptroller General of the
5 United States.

6 **SEC. 8. NOTICE AND POSTING.**

7 (a) IN GENERAL.—Each employer shall post and
8 keep posted, in conspicuous places on the premises of the
9 employer where notices to employees and applicants for
10 employment are customarily posted, a notice, to be pre-
11 pared or approved by the Secretary (or the corresponding
12 administrative officer specified in section 9) setting forth
13 excerpts from, or summaries of, the pertinent provisions
14 of this Act and information pertaining to the filing of a
15 complaint under this Act.

16 (b) PENALTY.—Any employer that willfully violates
17 this section may be assessed a civil money penalty not to
18 exceed \$100 for each separate offense.

19 **SEC. 9. REGULATIONS.**

20 (a) SECRETARY OF LABOR.—

21 (1) IN GENERAL.—Except as provided in sub-
22 sections (b) through (f), not later than 180 days
23 after the date of enactment of this Act, the Sec-
24 retary shall issue such regulations as may be nec-
25 essary to implement this Act.

1 (2) REGULATIONS REGARDING ADDITIONAL OC-
2 CUPATIONS TO BE COVERED.—

3 (A) IN GENERAL.—In carrying out para-
4 graph (1), the Secretary shall issue regulations,
5 for purposes of defining Secretary's designated
6 employees under section 2(22), that specify a
7 process the Secretary will follow to identify and
8 designate occupations in addition to retail, food
9 service, cleaning, hospitality, or warehouse oc-
10 cupations that are appropriate for coverage
11 under section 4. Nonexempt employees in occu-
12 pations designated under this subparagraph
13 shall be considered to be Secretary's designated
14 employees for purposes of this Act.

15 (B) CRITERIA.—The regulations shall pro-
16 vide that the Secretary shall so designate an
17 additional occupation—

18 (i) in which not less than 10 percent
19 of workers employed in the occupation gen-
20 erally—

21 (I) receive advance notice of their
22 work schedules less than 14 days be-
23 fore the first day of the work sched-
24 ules; or

1 (II) experience fluctuations in the
2 number of hours the employees are
3 scheduled to work on a daily, weekly,
4 or monthly basis; or
5 (ii) for which the Secretary deter-
6 mines such designation is appropriate.

7 (C) DATA REVIEW.—In issuing the regula-
8 tions, the Secretary shall specify the process by
9 which the Department of Labor will review data
10 from stakeholders, and data collected or gen-
11 erated by the Department, in making those des-
12 ignations.

13 (b) BOARD.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, the Board
16 of Directors of the Office of Compliance shall issue
17 such regulations as may be necessary to implement
18 this Act with respect to employees described in sec-
19 tion 2(9)(C). The procedures applicable to regula-
20 tions of the Board issued for the implementation of
21 the Congressional Accountability Act of 1995 (2
22 U.S.C. 1301 et seq.), prescribed in section 304 of
23 that Act (2 U.S.C. 1384), shall be the procedures
24 applicable to regulations issued under this sub-
25 section.

1 (2) CONSIDERATION.—In prescribing the regu-
2 lations, the Board shall take into consideration the
3 enforcement and remedies provisions concerning the
4 Board, and applicable to rights and protections
5 under the Family and Medical Leave Act of 1993
6 (29 U.S.C. 2611 et seq.), under the Congressional
7 Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

8 (3) MODIFICATIONS.—The regulations issued
9 under paragraph (1) to implement this Act shall be
10 the same as substantive regulations issued by the
11 Secretary to implement this Act, except to the extent
12 that the Board may determine, for good cause
13 shown and stated together with the regulations
14 issued by the Board, that a modification of such
15 substantive regulations would be more effective for
16 the implementation of the rights and protections
17 under this Act.

18 (c) PRESIDENT.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of this Act, the Presi-
21 dent shall issue such regulations as may be nec-
22 essary to implement this Act with respect to employ-
23 ees described in section 2(9)(D).

24 (2) CONSIDERATION.—In prescribing the regu-
25 lations, the President shall take into consideration

1 the enforcement and remedies provisions concerning
2 the President and the Merit Systems Protection
3 Board, and applicable to rights and protections
4 under the Family and Medical Leave Act of 1993,
5 under chapter 5 of title 3, United States Code.

6 (3) MODIFICATIONS.—The regulations issued
7 under paragraph (1) to implement this Act shall be
8 the same as substantive regulations issued by the
9 Secretary to implement this Act, except to the extent
10 that the President may determine, for good cause
11 shown and stated together with the regulations
12 issued by the President, that a modification of such
13 substantive regulations would be more effective for
14 the implementation of the rights and protections
15 under this Act.

16 (d) OFFICE OF PERSONNEL MANAGEMENT.—

17 (1) IN GENERAL.—Not later than 180 days
18 after the date of enactment of this Act, the Office
19 of Personnel Management shall issue such regula-
20 tions as may be necessary to implement this Act
21 with respect to employees described in section
22 2(9)(E).

23 (2) CONSIDERATION.—In prescribing the regu-
24 lations, the Office shall take into consideration the
25 enforcement and remedies provisions concerning the

1 Office under subchapter V of chapter 63 of title 5,
2 United States Code.

3 (3) MODIFICATIONS.—The regulations issued
4 under paragraph (1) to implement this Act shall be
5 the same as substantive regulations issued by the
6 Secretary to implement this Act, except to the extent
7 that the Office may determine, for good cause shown
8 and stated together with the regulations issued by
9 the Office, that a modification of such substantive
10 regulations would be more effective for the imple-
11 mentation of the rights and protections under this
12 Act.

13 (e) LIBRARIAN OF CONGRESS.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, the Librar-
16 ian of Congress shall issue such regulations as may
17 be necessary to implement this Act with respect to
18 employees of the Library of Congress.

19 (2) CONSIDERATION.—In prescribing the regu-
20 lations, the Librarian shall take into consideration
21 the enforcement and remedies provisions concerning
22 the Librarian of Congress under title I of the Fam-
23 ily and Medical Leave Act of 1993 (29 U.S.C. 2611
24 et seq.).

1 (3) MODIFICATIONS.—The regulations issued
2 under paragraph (1) to implement this Act shall be
3 the same as substantive regulations issued by the
4 Secretary to implement this Act, except to the extent
5 that the Librarian may determine, for good cause
6 shown and stated together with the regulations
7 issued by the Librarian, that a modification of such
8 substantive regulations would be more effective for
9 the implementation of the rights and protections
10 under this Act.

11 (f) COMPTROLLER GENERAL.—

12 (1) IN GENERAL.—Not later than 180 days
13 after the date of enactment of this Act, the Comp-
14 troller General shall issue such regulations as may
15 be necessary to implement this Act with respect to
16 employees of the Government Accountability Office.

17 (2) CONSIDERATION.—In prescribing the regu-
18 lations, the Comptroller General shall take into con-
19 sideration the enforcement and remedies provisions
20 concerning the Comptroller General under title I of
21 the Family and Medical Leave Act of 1993.

22 (3) MODIFICATIONS.—The regulations issued
23 under paragraph (1) to implement this Act shall be
24 the same as substantive regulations issued by the
25 Secretary to implement this Act, except to the extent

1 that the Comptroller General may determine, for
2 good cause shown and stated together with the regu-
3 lations issued by the Comptroller General, that a
4 modification of such substantive regulations would
5 be more effective for the implementation of the
6 rights and protections under this Act.

7 **SEC. 10. RESEARCH, EDUCATION, AND TECHNICAL ASSIST-**
8 **ANCE PROGRAM AND SURVEYS.**

9 (a) IN GENERAL.—The Secretary shall provide infor-
10 mation and technical assistance to employers, labor orga-
11 nizations, and the general public concerning compliance
12 with this Act.

13 (b) PROGRAM.—In order to achieve the objectives of
14 this Act—

15 (1) the Secretary, acting through the Adminis-
16 trator of the Wage and Hour Division of the Depart-
17 ment of Labor, shall issue guidance on compliance
18 with this Act regarding providing a flexible, predict-
19 able, or stable work environment through changes in
20 the terms and conditions of employment as provided
21 in section 3(a); and

22 (2) the Secretary shall carry on a continuing
23 program of research, education, and technical assist-
24 ance, including—

1 (A)(i) conducting pilot programs that im-
2 plement fairer work schedules, including by pro-
3 moting cross training, providing 3 weeks or
4 more advance notice of schedules, providing em-
5 ployees with a minimum number of hours of
6 work, and using electronic workforce manage-
7 ment systems to provide more flexible, predict-
8 able, and stable schedules for employees; and

9 (ii) evaluating the results of such pilot pro-
10 grams for employees, employee's families, and
11 employers;

12 (B) publishing and otherwise making avail-
13 able to employers, labor organizations, profes-
14 sional associations, educational institutions, the
15 various communication media, and the general
16 public the findings of studies regarding fair
17 work scheduling policies and other materials for
18 promoting compliance with this Act;

19 (C) sponsoring and assisting State and
20 community informational and educational pro-
21 grams; and

22 (D) providing technical assistance to em-
23 ployers, labor organizations, professional asso-
24 ciations, and other interested persons on means

1 of achieving and maintaining compliance with
2 the provisions of this Act.

3 (c) CURRENT POPULATION SURVEY.—The Secretary,
4 acting through the Commissioner of the Bureau of Labor
5 Statistics, and the Director of the Bureau of the Census
6 shall—

7 (1) include in the Current Population Survey
8 questions on—

9 (A) the magnitude of fluctuation in the
10 number of hours the employee is scheduled to
11 work on a daily, weekly, or monthly basis;

12 (B) the extent of advance notice an em-
13 ployee receives of the employee's work schedule;
14 and

15 (C) the extent to which an employee has
16 input in the employee's work schedule; and

17 (2) conduct at regular intervals the Contingent
18 Worker Supplement, the Work Schedules and Work
19 at Home Supplement, and other relevant supple-
20 ments (as determined by the Secretary), to the Cur-
21 rent Population Survey.

22 **SEC. 11. RIGHTS RETAINED BY EMPLOYEES.**

23 This Act provides minimum requirements and shall
24 not be construed to preempt, limit, or otherwise affect the
25 applicability of any other law, requirement, policy, or

1 standard that provides for greater rights for employees
2 than are required in this Act.

3 **SEC. 12. EXEMPTION.**

4 This Act shall not apply to any employee covered by
5 a valid collective bargaining agreement if—

6 (1) the terms of the collective bargaining agree-
7 ment include terms that govern work scheduling
8 practices; and

9 (2) the provisions of this Act are expressly
10 waived in such collective bargaining agreement.

11 **SEC. 13. EFFECT ON OTHER LAW.**

12 (a) IN GENERAL.—Nothing in this Act shall be con-
13 strued as superseding, or creating or imposing any re-
14 quirement in conflict with, any Federal, State, or local
15 regulation or other law (including the Americans with Dis-
16 abilities Act of 1990 (42 U.S.C. 12101 et seq.), the Fam-
17 ily and Medical Leave Act of 1993 (29 U.S.C. 2611 et
18 seq.), the National Labor Relations Act (29 U.S.C. 151
19 et seq.), the Fair Labor Standards Act of 1938 (29 U.S.C.
20 201 et seq.), and title VII of the Civil Rights Act of 1964
21 (42 U.S.C. 2000e et seq.)).

22 (b) RELATIONSHIP TO COLLECTIVE BARGAINING
23 RIGHTS.—Nothing in this Act (including section 12) shall
24 be construed to diminish or impair the rights of an em-
25 ployee under any valid collective bargaining agreement.