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House of Representatives
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2019

HB 2227

Introduced by
Representatives Blanc: Andrade, Bolding, Cano, Chávez, Hernandez A,
Hernandez D, Longdon, Meza, Peten, Powers Hannley, Rodriguez, Salman,
Sierra, Terán

AN ACT

AMENDING TITLE 23, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; RELATING
TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 23, Arizona Revised Statutes, is amended by adding chapter 7, to read:

CHAPTER 7
EMPLOYEE SCHEDULING
ARTICLE 1. GENERAL PROVISIONS

23-1201. Definitions
IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "AGGRIEVED PARTY" MEANS AN EMPLOYEE WHO SUFFERS TANGIBLE OR INTANGIBLE HARM DUE TO AN EMPLOYER'S VIOLATION OF THIS CHAPTER.
2. "BONA FIDE BUSINESS REASON" MEANS ANY OF THE FOLLOWING:
   (a) AN ACTION THAT WOULD CAUSE AN EMPLOYER TO VIOLATE A LAW, RULE OR ORDINANCE.
   (b) A SIGNIFICANT AND IDENTIFIABLE BURDEN OF ADDITIONAL COSTS TO AN EMPLOYER.
   (c) A SIGNIFICANT AND IDENTIFIABLE DETRIMENTAL EFFECT ON THE EMPLOYER'S ABILITY TO MEET ORGANIZATIONAL DEMANDS, INCLUDING ANY OF THE FOLLOWING:
      (i) A SIGNIFICANT INABILITY OF THE EMPLOYER, DESPITE THE EMPLOYER'S BEST EFFORTS, TO REORGANIZE WORK AMONG EXISTING EMPLOYEES.
      (ii) A SIGNIFICANT DETRIMENTAL EFFECT ON BUSINESS PERFORMANCE.
      (iii) A SIGNIFICANT INABILITY TO MEET CUSTOMER NEEDS OR DEMANDS.
      (iv) A SIGNIFICANT INSUFFICIENCY OF WORK DURING THE PERIODS AN EMPLOYEE PROPOSES TO WORK.
3. "CAREER-RELATED EDUCATIONAL OR TRAINING PROGRAM" MEANS ANY OF THE FOLLOWING:
   (a) AN EDUCATIONAL OR TRAINING PROGRAM THAT RELATES TO AN EMPLOYEE'S EMPLOYMENT.
   (b) A PREAPPRENTICESHIP OR APPRENTICESHIP PROGRAM.
   (c) A PROGRAM OF STUDY OFFERED BY A PUBLIC, PRIVATE OR NONPROFIT CAREER AND TECHNICAL EDUCATION SCHOOL, AN INSTITUTION OF HIGHER EDUCATION OR OTHER ENTITY THAT PROVIDES ACADEMIC EDUCATION, CAREER AND TECHNICAL EDUCATION OR TRAINING, INCLUDING REMEDIAL EDUCATION OR ENGLISH AS A SECOND LANGUAGE.
4. "CAREGIVING RESPONSIBILITIES" MEANS THE RESPONSIBILITY OF PROVIDING EITHER:
   (a) ONGOING CARE OR EDUCATION, INCLUDING THE RESPONSIBILITY FOR SECURING THE ONGOING CARE OF A CHILD.
   (b) ONGOING CARE FOR, INCLUDING THE RESPONSIBILITY FOR SECURING THE ONGOING CARE OF, AN INDIVIDUAL WITH A SERIOUS HEALTH CONDITION WHO IS DEPENDENT ON AN EMPLOYEE FOR SUPPORT AND CARE.
5. "EMPLOYEE":
   (a) MEANS ANY INDIVIDUAL WHO RENDERS PERSONAL SERVICES WHOLLY OR PARTLY IN THIS STATE TO AN EMPLOYER WHO PAYS OR AGREES TO PAY THE INDIVIDUAL AT A FIXED RATE, BASED ON THE TIME SPENT IN THE PERFORMANCE OF...
THOSE SERVICES OR ON THE NUMBER OF OPERATIONS ACCOMPLISHED OR QUANTITY
PRODUCED OR HANDLED.
(b) DOES NOT INCLUDE ANY OF THE FOLLOWING:
(i) AN INDEPENDENT CONTRACTOR, UNLESS THE INDEPENDENT CONTRACTOR IS
A MUSICIAN OR SUPPORTING TECHNICAL PERSON.
(ii) AN INDIVIDUAL WHO RENDERS SERVICES ONLY PARTLY IN THIS STATE,
UNLESS THE CONTRACT OF EMPLOYMENT OF THE EMPLOYEE HAS BEEN ENTERED INTO,
OR PAYMENTS UNDER THE CONTRACT ARE ORDINARILY MADE OR TO BE MADE, WITHIN
THIS STATE.
(iii) AN INDIVIDUAL ENGAGED IN ADMINISTRATIVE, EXECUTIVE OR
PROFESSIONAL WORK WHO PERFORMS PREDOMINANTLY INTELLECTUAL, MANAGERIAL OR
CREATIVE TASKS, EXERCISES DISCRETION AND INDEPENDENT JUDGMENT, EARN A
SALARY AND IS PAID ON A SALARY BASIS.
(iv) A COPARTNER OF THE EMPLOYER.
6. "EMPLOYER":
(a) MEANS ANY PERSON THAT IN THIS STATE, DIRECTLY OR THROUGH AN
AGENT, ENGAGES PERSONAL SERVICES OF ONE OR MORE EMPLOYEES.
(b) INCLUDES ANY OF THE FOLLOWING:
(i) ANY SUCCESSOR TO THE BUSINESS OF ANY EMPLOYER, OR ANY LESSEE OR
PURCHASER OF ANY EMPLOYER’S BUSINESS PROPERTY FOR THE CONTINUANCE OF THE
SAME BUSINESS, SO FAR AS THE EMPLOYER HAS NOT PAID THE EMPLOYEES IN FULL.
(ii) THIS STATE OR ANY COUNTY, CITY, TOWN, DISTRICT, AUTHORITY,
PUBLIC CORPORATION OR ENTITY AND ANY OF THEIR INSTRUMENTALITIES ORGANIZED
AND EXISTING UNDER LAW OR CHARTER.
(c) DOES NOT INCLUDE ANY OF THE FOLLOWING:
(i) THE UNITED STATES.
(ii) TRUSTEES ANDAssignable IN BANKRUPTCY OR INSOLVENCY, AND
receivers, WHETHER APPOINTED BY FEDERAL OR STATE COURTS, AND PERSONS THAT
OTHERWISE FALL UNDER THE DEFINITION OF EMPLOYER SO FAR AS THE TIMES OR
AMOUNTS OF THEIR PAYMENTS TO EMPLOYEES ARE REGULATED BY LAWS OF THE UNITED
STATES, OR REGULATIONS OR ORDERS MADE IN PURSUANCE OF THE LAWS OF THE
UNITED STATES.
7. "FAMILY MEMBER" MEANS ANY OF THE FOLLOWING:
(a) THE SPOUSE OF AN EMPLOYEE.
(b) THE BIOLOGICAL, ADOPTIVE OR FOSTER PARENT OR CHILD OF THE
EMPLOYEE.
(c) THE GRANDPARENT OR GRANDCHILD OF THE EMPLOYEE.
(d) A PARENT-IN-LAW OF THE EMPLOYEE.
(e) A PERSON WITH WHOM THE EMPLOYEE WAS OR IS IN A RELATIONSHIP OF
IN LOCO PARENTIS.
(f) ANY INDIVIDUAL RELATED BY BLOOD OR AFFINITY TO THE EMPLOYEE,
WHOSE CLOSE ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF A FAMILY
RELATIONSHIP.
8. "FOOD SERVICES ESTABLISHMENT" MEANS THE FIXED POINT-OF-SALE LOCATION FOR ESTABLISHMENTS DEFINED UNDER THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM AS FOOD SERVICES AND DRINKING PLACES. 

9. "FRANCHISE" MEANS A CONTRACT OR AGREEMENT, WHETHER ORAL OR WRITTEN, BY WHICH ALL OF THE FOLLOWING OCCUR:
(a) A FRANCHISEE IS GRANTED THE RIGHT TO ENGAGE IN THE BUSINESS OF OFFERING, SELLING OR DISTRIBUTING GOODS OR SERVICES UNDER A MARKETING PLAN OR SYSTEM PRESCRIBED IN SUBSTANTIAL PART BY A FRANCHISOR.
(b) THE OPERATION OF THE FRANCHISEE'S BUSINESS PURSUANT TO SUCH A PLAN OR SYSTEM IS SUBSTANTIALLY ASSOCIATED WITH THE FRANCHISOR'S TRADEMARK, SERVICE MARK, TRADE NAME, LOGOTYPE, ADVERTISING OR OTHER COMMERCIAL SYMBOL DESIGNATING THE FRANCHISOR OF THE PLAN OR SYSTEM.
(c) THE FRANCHISEE IS REQUIRED TO GIVE TO THE FRANCHISOR VALUABLE CONSIDERATION FOR THE RIGHT TO TRANSACT BUSINESS PURSUANT TO THE PLAN OR SYSTEM. PAYMENT FOR TRADING STAMPS IN ITSELF IS NOT CONSIDERATION FOR THE RIGHT TO TRANSACT BUSINESS PURSUANT TO A PLAN OR SYSTEM.

10. "FRANCHISEE" MEANS A PERSON TO WHOM A FRANCHISE IS SOLD BY A FRANCHISOR.

11. "FRANCHISOR" MEANS A PERSON, INCLUDING A SUBFRANCHISOR, THAT SELLS A FRANCHISE FOR $100 OR MORE TO A FRANCHISEE OR SUBFRANCHISOR.

12. "HOSPITALITY ESTABLISHMENT" HAS THE SAME MEANING PRESCRIBED IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM FOR HOTELS AND MOTELS.

13. "ON-CALL SHIFT" MEANS ANY TIME THAT AN EMPLOYER REQUIRES AN EMPLOYEE TO BE AVAILABLE TO WORK OR TO CONTACT THE EMPLOYER OR WAIT TO BE CONTACTED BY THE EMPLOYER FOR THE PURPOSE OF DETERMINING WHETHER THE EMPLOYEE MUST REPORT TO WORK. DURING THE SHIFT, ON-CALL STATUS APPLIES REGARDLESS OF WHETHER THE EMPLOYEE IS LOCATED ON OR OFF THE EMPLOYER'S PREMISES.

14. "REGULAR RATE OF PAY" MEANS A REGULAR HOURLY RATE AS DEFINED BY THE INDUSTRIAL COMMISSION OF ARIZONA.

15. "RETAIL ESTABLISHMENT" HAS THE SAME MEANING PRESCRIBED IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM FOR RETAIL TRADE.

16. "SEASONAL EMPLOYMENT" MEANS A PERIOD OF EMPLOYMENT THAT IS CYCLICAL IN NATURE, OCCURS AT APPROXIMATELY THE SAME TIME EACH YEAR, OFTEN TO ACCOMMODATE A SEASONAL INCREASE IN BUSINESS, AND LASTS FOR A DURATION OF LESS THAN TWELVE MONTHS DURING ANY YEAR.

17. "SERIOUS HEALTH CONDITION" MEANS ANY OF THE FOLLOWING:
(a) AN ILLNESS, INJURY, IMPAIRMENT OR PHYSICAL OR MENTAL CONDITION THAT REQUIRES INPATIENT CARE IN A HOSPITAL, HOSPICE OR RESIDENTIAL MEDICAL CARE FACILITY.
(b) AN ILLNESS, DISEASE OR CONDITION THAT IN THE MEDICAL JUDGMENT OF THE TREATING HEALTH CARE PROVIDER POSES AN IMMINENT DANGER OF DEATH, IS TERMINAL IN PROGNOSIS WITH A REASONABLE POSSIBILITY OF DEATH IN THE NEAR FUTURE OR REQUIRES CONSTANT CARE.
(c) Any period of disability due to pregnancy or period of absence for prenatal care.

18. "Subfranchisor" means a person to whom an area franchise is sold by a franchisor.

19. "Successor" means an entity that is substantially the same entity as the predecessor as determined by a consideration of the totality of the following circumstances:

   (a) substantial continuity of the same business operations.
   (b) the use of the same plant.
   (c) the continuity of the workforce.
   (d) the similarity of jobs and working conditions.
   (e) the similarity of supervisory personnel.
   (f) the similarity in machinery.
   (g) equipment and production methods.
   (h) the similarity of products or services.
   (i) the ability of the predecessor to provide relief.

20. "Time of Hire" means the period after an offer of employment and acceptance of the offer of employment and on or before the commencement of employment.

21. "Wages" means all compensation for performance of service by an employee for an employer, whether paid by the employer or another person, including the cash value of all compensation paid in a medium other than cash.

22. "Work Schedule" means the hours, days and times, including regular work shifts and on-call shifts, when an employee is required by an employer to perform duties of employment for which the employee will receive compensation.

23. "Work Shift" means the specific and consecutive hours the employer requires the employee to work or to be on call to work.

24. "Workweek" means a fixed period of time established by an employer that reflects a regularly recurring period of one hundred sixty-eight hours or seven consecutive twenty-four-hour periods. A workweek may begin on any day of the week and any hour of the day and is not required to coincide with a calendar week.

25. "Written" or "writing" means a printed or printable communication in physical or electronic format including a communication that is transmitted through e-mail, text message or a computer system or is otherwise sent and stored electronically.

26. "Year" means any fixed, consecutive twelve-month period of time.

23-1202. On-call pay

   A. An employer shall pay an employee for a minimum of four hours or the number of hours in the employee's scheduled work shift, whichever is less, at the employee's regular rate of pay, on any day that the employee either:

   - 4 -
1. IS SCHEDULED OR CALLED TO WORK AND REPORTS FOR DUTY BUT, DUE TO
    THE ACTIONS OF THE EMPLOYER, DOES NOT WORK THE EMPLOYEE’S SCHEDULED SHIFT
    IN ITS ENTIRETY.

2. IS NOTIFIED LESS THAN TWENTY-FOUR HOURS BEFORE A SHIFT THAT THE
    EMPLOYEE DOES NOT NEED TO REPORT TO WORK OR THAT THE HOURS IN THE SHIFT
    HAVE BEEN REDUCED.

B. AN EMPLOYEE WHO INVOKES RIGHTS UNDER THIS SECTION AND SECTION
    23-1256 FOR THE SAME SET OF UNDERLYING FACTS MAY COLLECT THE WAGES
    DESCRIBED UNDER EITHER THIS SECTION OR SECTION 23-1256.

23-1203. Notice and posting requirements

A. THE INDUSTRIAL COMMISSION OF ARIZONA SHALL CREATE AND DISTRIBUTE
    A POSTER GIVING NOTICE OF THE RIGHTS DESCRIBED IN THIS CHAPTER. THE
    COMMISSION SHALL CREATE AND DISTRIBUTE THE POSTER IN ENGLISH, SPANISH AND
    ANY OTHER LANGUAGE THAT IS NECESSARY FOR EMPLOYERS TO COMPLY WITH THIS
    SECTION.

B. AN EMPLOYER SHALL DISPLAY THE POSTER DESCRIBED IN SUBSECTION A
    OF THIS SECTION IN A CONSPICUOUS AND ACCESSIBLE PLACE AT ANY WORKPLACE OR
    JOB SITE WHERE ANY OF THE EMPLOYER’S EMPLOYEES WORK. EMPLOYERS SHALL
    DISPLAY THE POSTER IN ENGLISH AND IN THE PRIMARY LANGUAGE OR LANGUAGES OF
    THE EMPLOYEES AT THE PARTICULAR WORKPLACE. IF DISPLAY OF THE POSTER IS
    NOT FEASIBLE, INCLUDING SITUATIONS WHEN THE EMPLOYEE WORKS REMOTELY OR
    DOES NOT HAVE A REGULAR WORKPLACE OR JOB SITE, THE EMPLOYER MAY PROVIDE
    THE POSTER ON AN INDIVIDUAL BASIS IN AN EMPLOYEE’S PRIMARY LANGUAGE IN A
    PHYSICAL OR ELECTRONIC FORMAT THAT IS REASONABLY CONSPICUOUS AND
    ACCESSIBLE.

23-1204. Employer recordkeeping; presumption

A. AN EMPLOYER SHALL RETAIN RECORDS THAT DOCUMENT THE EMPLOYER’S
    COMPLIANCE WITH THIS CHAPTER, AS APPLICABLE TO THE EMPLOYER.

B. EACH EMPLOYER SHALL RETAIN RECORDS THAT INCLUDE BOTH OF THE
    FOLLOWING:

1. PAYROLL RECORDS, INCLUDING DOCUMENTATION OF ADDITIONAL
   COMPENSATION PAID TO AN EMPLOYEE UNDER SECTION 23-1202.

2. OTHER RECORDS THAT ARE SUBSTANTIALLY RELATED TO COMPLIANCE WITH
   THIS CHAPTER, AS APPLICABLE TO THE EMPLOYER.

C. AN EMPLOYER OTHER THAN AN EMPLOYER DESCRIBED IN SECTION 23-1251
   SHALL RETAIN RECORDS THAT INCLUDE AN EMPLOYEE’S REQUESTED CHANGES TO THE
   EMPLOYEE’S WORK SCHEDULE UNDER SECTION 23-1231.

D. AN EMPLOYER DESCRIBED IN SECTION 23-1251 SHALL RETAIN RECORDS
   THAT INCLUDE ALL OF THE FOLLOWING:

1. GOOD FAITH ESTIMATES OF EMPLOYEE WORK SCHEDULES.

2. THE EMPLOYER’S BONA FIDE BUSINESS REASON FOR DENYING AN
   EMPLOYEE’S REQUEST FOR A LIMIT OR CHANGE IN THE EMPLOYEE’S WORK SCHEDULE
   UNDER SECTION 23-1252.

3. ORIGINAL AND MODIFIED WORK SCHEDULES.
4. PAYROLL RECORDS, INCLUDING DOCUMENTATION OF ADDITIONAL COMPENSATION PAID TO AN EMPLOYEE UNDER SECTION 23-1202, 23-1255 OR 23-1256.

5. MASS COMMUNICATIONS THAT ARE PROVIDED TO EMPLOYEES ABOUT THE AVAILABILITY OF ADDITIONAL HOURS.

6. DOCUMENTATION OF AN INCIDENT LEADING TO EMPLOYEE DISCIPLINE THAT RESULTS IN HOURS SUBTRACTED FROM THE EMPLOYEE'S WORK SCHEDULE.

7. NOTICES FOR ADDITIONAL HOURS OF WORK AVAILABLE FOR EMPLOYEES PURSUANT TO SECTION 23-1258.

8. CONFIRMATION FROM AN EMPLOYEE THAT THE EMPLOYEE IS NOT INTERESTED IN ACCEPTING ADDITIONAL HOURS OF WORK.

E. AN EMPLOYER SHALL RETAIN THE RECORDS PRESCRIBED IN SUBSECTIONS A, B, C AND D OF THIS SECTION, AS APPLICABLE, FOR A PERIOD OF THREE YEARS.

F. AN EMPLOYER'S FAILURE TO RETAIN ADEQUATE RECORDS AS REQUIRED BY THIS SECTION CREATES A REBUTTABLE PRESUMPTION THAT THE EMPLOYER VIOLATED THIS CHAPTER WITH RESPECT TO THE EMPLOYEE FOR WHOM A RECORD WAS NOT RETAINED.

23-1205. Retaliation prohibited
A. IT IS AN UNLAWFUL PRACTICE FOR AN EMPLOYER TO EITHER:

1. INTERFERE WITH, RESTRAIN, DENY OR ATTEMPT TO DENY THE EXERCISE OF ANY RIGHT PROTECTED UNDER THIS CHAPTER.

2. RETALIATE OR IN ANY WAY DISCRIMINATE AGAINST AN INDIVIDUAL WITH RESPECT TO HIRE OR TENURE OR ANY OTHER TERM OR CONDITION OF EMPLOYMENT BECAUSE THE INDIVIDUAL HAS INQUIRED ABOUT THIS CHAPTER.

B. THE PROTECTIONS AFFORDED UNDER THIS SECTION APPLY TO ANY PERSON WHO MISTAKENLY BUT IN GOOD FAITH AND WITH AN OBJECTIVELY REASONABLE BELIEF ASSERTS A RIGHT PROTECTED BY THIS CHAPTER.

23-1206. Enforcement; civil penalty
A. THE INDUSTRIAL COMMISSION OF ARIZONA SHALL IMPLEMENT AND ENFORCE THIS CHAPTER AND ADOPT RULES FOR THESE PURPOSES.

B. AN EMPLOYEE OR OTHER PERSON MAY REPORT TO THE COMMISSION ANY SUSPECTED VIOLATION OF THIS CHAPTER. THE COMMISSION SHALL KEEP CONFIDENTIAL THE NAME AND OTHER IDENTIFYING INFORMATION OF THE EMPLOYEE OR PERSON THAT REPORTS THE VIOLATION, EXCEPT THAT THE COMMISSION MAY DISCLOSE THIS INFORMATION AS AUTHORIZED BY THE EMPLOYEE OR OTHER PERSON AS NECESSARY TO ENFORCE THIS SECTION OR FOR OTHER APPROPRIATE PURPOSES.

C. ANY PERSON THAT IS INJURED BY A VIOLATION OF THIS CHAPTER MAY MAINTAIN A CIVIL ACTION TO ENFORCE THIS CHAPTER IN A COURT OF COMPETENT JURISDICTION AND MAY BE AWARDED REASONABLE ATTORNEY FEES AND COSTS.

D. IN ADDITION TO ANY OTHER DAMAGES PROVIDED BY LAW, THE COMMISSION MAY ASSESS A CIVIL PENALTY AS FOLLOWS:

1. $500 FOR THE FIRST VIOLATION OF THIS CHAPTER.

2. $1,000 FOR ANY SUBSEQUENT VIOLATION OF THIS CHAPTER THAT OCCURS WITHIN TEN YEARS AFTER THE FIRST VIOLATION OF THIS CHAPTER.
E. IF THE COMMISSION DETERMINES THAT THE EMPLOYER PAID THE FULL
REMEDY DUE TO AN AGGRIEVED PARTY WITHIN FOURTEEN DAYS AFTER SERVICE OF AN
ORDER, THE COMMISSION SHALL WAIVE FIFTY PERCENT OF THE AMOUNT OF ANY CIVIL
PENALTY IMPOSED BY AN ORDER UNDER THIS SECTION.

23-1207. Scope

THIS CHAPTER DOES NOT:
1. LIMIT EMPLOYEE RIGHTS OR PROTECTIONS OTHERWISE PROVIDED BY LAW.
2. ESTABLISH A CONTRACTUAL RIGHT FOR AN AT-WILL EMPLOYEE.
3. ESTABLISH AN ADDITIONAL REMEDY FOR AN EMPLOYEE IF A REMEDY EQUAL
   TO OR BETTER THAN A REMEDY IN SECTION 23-1202, 23-1255 OR 23-1256 IS
   REQUIRED BY A COLLECTIVE BARGAINING AGREEMENT OR OTHER CONTRACT.

ARTICLE 2. SMALL EMPLOYERS

23-1231. Employee right to input into work schedule; applicability

A. AT THE TIME OF HIRE AND DURING EMPLOYMENT, AN EMPLOYEE MAY
IDENTIFY ANY LIMIT OR CHANGES IN WORK SCHEDULE AVAILABILITY. THE EMPLOYEE
HAS THE RIGHT TO REQUEST NOT TO BE SCHEDULED FOR WORK SHIFTS DURING
CERTAIN TIMES OR AT CERTAIN LOCATIONS AND THE RIGHT TO IDENTIFY
PREFERENCES FOR ONE OR ANY COMBINATION OF THE FOLLOWING:
1. SPECIFIC HOURS OF WORK.
2. SPECIFIC EMPLOYER LOCATIONS.
3. CHANGES IN DAYS OF WORK OR START OR END TIMES FOR THE WORK DAY
   OR A WORK SHIFT.
4. A STABLE WORK SCHEDULE.
5. PERMISSION TO EXCHANGE WORK SHIFTS WITH OTHER EMPLOYEES.
6. WORKING FROM HOME.
7. TELECOMMUTING OR REMOTE WORK.
8. REDUCTION OR CHANGE IN WORK DUTIES.
9. PART-YEAR EMPLOYMENT.
10. PART-TIME EMPLOYMENT.
11. JOB SHARING ARRANGEMENTS.
12. ADDITIONAL SHIFTS OR HOURS.
B. AN EMPLOYER MAY REQUIRE THE EMPLOYEE TO EXPLAIN THE REASON FOR
THE REQUEST MADE UNDER SUBSECTION A OF THIS SECTION AND PROVIDE REASONABLE
VERIFICATION OF THAT REASON AT THE TIME THE EMPLOYEE SUBMITS THE REQUEST.
C. IF AN EMPLOYER SUSPECTS THAT AN EMPLOYEE IS ABUSING THE RIGHT TO
MAKE A REQUEST UNDER SUBSECTION A OF THIS SECTION, THE EMPLOYER MAY
REQUEST REASONABLE VERIFICATION OF THE NEED FOR ANY REQUEST MADE UNDER
SUBSECTION A OF THIS SECTION AT ANY TIME.
D. THE EMPLOYER SHALL PAY ANY REASONABLE COSTS FOR PROVIDING
VERIFICATION THAT IS MEDICAL VERIFICATION REQUIRED UNDER THIS SECTION,
INCLUDING LOST WAGES, THAT ARE NOT PAID UNDER A HEALTH BENEFIT PLAN IN
WHICH THE EMPLOYEE IS ENROLLED.
E. AN EMPLOYER MAY NOT REQUIRE THAT THE VERIFICATION REQUIRED UNDER
THIS SECTION EXPLAIN THE NATURE OF A HEALTH CONDITION OR ILLNESS OR
DETAILS RELATED TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, HARASSMENT OR STALKING THAT IS THE REASON FOR THE EMPLOYEE'S REQUEST.

F. THIS SECTION DOES NOT APPLY TO EMPLOYEES WHO ARE EMPLOYED BY AN EMPLOYER DESCRIBED IN SECTION 23-1251.

ARTICLE 3. LARGE EMPLOYERS

23-1251. Applicability

A. THIS ARTICLE APPLIES TO AN EMPLOYEE EMPLOYED BY AN EMPLOYER, AND TO AN EMPLOYER, THAT IS ONE OR MORE OF THE FOLLOWING:

1. A RETAIL ESTABLISHMENT THAT EMPLOYS ONE HUNDRED OR MORE EMPLOYEES IN THE UNITED STATES REGARDLESS OF WHERE THOSE EMPLOYEES ARE EMPLOYED AND TWENTY-FIVE OR MORE EMPLOYEES IN THIS STATE, INCLUDING A CHAIN, AN INTEGRATED ENTERPRISE OR A FRANCHISE ASSOCIATED WITH A FRANCHISOR OR NETWORK OF FRANCHISES THAT EMPLOYS MORE THAN ONE HUNDRED EMPLOYEES IN AGGREGATE NATIONWIDE AND TWENTY-FIVE OR MORE EMPLOYEES IN AGGREGATE IN THIS STATE.

2. A HOSPITALITY ESTABLISHMENT THAT EMPLOYS ONE HUNDRED OR MORE EMPLOYEES IN THE UNITED STATES REGARDLESS OF WHERE THOSE EMPLOYEES ARE EMPLOYED AND TWENTY-FIVE OR MORE EMPLOYEES IN THIS STATE, INCLUDING A CHAIN, AN INTEGRATED ENTERPRISE OR A FRANCHISE ASSOCIATED WITH A FRANCHISOR OR NETWORK OF FRANCHISES THAT EMPLOYS MORE THAN ONE HUNDRED EMPLOYEES IN AGGREGATE NATIONWIDE AND TWENTY-FIVE OR MORE EMPLOYEES IN AGGREGATE IN THIS STATE.

3. A FOOD SERVICES ESTABLISHMENT THAT EMPLOYS ONE HUNDRED OR MORE EMPLOYEES IN THE UNITED STATES REGARDLESS OF WHERE THOSE EMPLOYEES ARE EMPLOYED AND TWENTY-FIVE OR MORE EMPLOYEES IN THIS STATE, INCLUDING A CHAIN, AN INTEGRATED ENTERPRISE OR A FRANCHISE ASSOCIATED WITH A FRANCHISOR OR NETWORK OF FRANCHISES THAT EMPLOYS MORE THAN ONE HUNDRED EMPLOYEES IN AGGREGATE NATIONWIDE AND TWENTY-FIVE OR MORE EMPLOYEES IN AGGREGATE IN THIS STATE. IN ADDITION TO EMPLOYING ONE HUNDRED OR MORE EMPLOYEES NATIONWIDE AND TWENTY-FIVE EMPLOYEES IN THIS STATE, A FOOD SERVICE ESTABLISHMENT THAT IS A FULL-SERVICE RESTAURANT ALSO MUST HAVE FORTY OR MORE FULL SERVICE RESTAURANT LOCATIONS NATIONWIDE, INCLUDING LOCATIONS THAT ARE A PART OF A CHAIN, INTEGRATED ENTERPRISE OR FRANCHISE WHERE THE FRANCHISOR OWNS OR OPERATES FORTY OR MORE SUCH ESTABLISHMENTS IN AGGREGATE.

B. TO DETERMINE THE NUMBER OF EMPLOYEES EMPLOYED BY AN EMPLOYER, THE CALCULATION IS BASED ON THE NUMBER OF EMPLOYEES EMPLOYED ON EACH WORKING DAY DURING EACH OF TWENTY OR MORE WORKWEEKS IN THE CURRENT CALENDAR YEAR OR IMMEDIATELY PRECEDING CALENDAR YEAR.

C. SEPARATE ENTITIES THAT FORM AN INTEGRATED ENTERPRISE ARE CONSIDERED A SINGLE EMPLOYER UNDER THIS SECTION. SEPARATE ENTITIES WILL BE CONSIDERED AN INTEGRATED ENTERPRISE AND A SINGLE EMPLOYER UNDER THIS SECTION WHERE A SEPARATE ENTITY CONTROLS THE OPERATION OF ANOTHER ENTITY. THE FACTORS TO CONSIDER IN DETERMINING WHETHER SEPARATE ENTITIES FORM AN INTEGRATED ENTERPRISE INCLUDE ALL OF THE FOLLOWING:
1. THE DEGREE OF INTERRELATION BETWEEN THE OPERATIONS OF MULTIPLE ENTITIES.
2. THE DEGREE TO WHICH THE ENTITIES SHARE COMMON MANAGEMENT.
3. THE DEGREE TO WHICH THE ENTITIES HAVE CENTRALIZED CONTROL OF LABOR RELATIONS.
4. THE DEGREE OF COMMON OWNERSHIP OR FINANCIAL CONTROL OVER THE ENTITIES.

23-1252. Employee right to input into work schedule

A. AT THE TIME OF HIRE AND DURING EMPLOYMENT, AN EMPLOYEE MAY IDENTIFY ANY LIMIT OR CHANGES IN WORK SCHEDULE AVAILABILITY. THE EMPLOYEE HAS THE RIGHT TO REQUEST NOT TO BE SCHEDULED FOR WORK SHIFTS DURING CERTAIN TIMES OR AT CERTAIN LOCATIONS AND THE RIGHT TO IDENTIFY PREFERENCES FOR ONE OR ANY COMBINATION OF THE FOLLOWING:

1. SPECIFIC HOURS OF WORK.
2. SPECIFIC EMPLOYER LOCATIONS.
3. CHANGES IN DAYS OF WORK OR START OR END TIMES FOR THE WORK DAY OR A WORK SHIFT.
4. A STABLE WORK SCHEDULE.
5. PERMISSION TO EXCHANGE WORK SHIFTS WITH OTHER EMPLOYEES.
6. WORKING FROM HOME.
7. TELECOMMUTING OR REMOTE WORK.
8. REDUCTION OR CHANGE IN WORK DUTIES.
9. PART-YEAR EMPLOYMENT.
10. PART-TIME EMPLOYMENT.
11. JOB SHARING ARRANGEMENTS.
12. ADDITIONAL SHIFTS OR HOURS.


C. UNLESS THE EMPLOYER HAS A BONA FIDE BUSINESS REASON NOT TO GRANT AN EMPLOYEE'S REQUEST MADE UNDER SUBSECTION A OF THIS SECTION, THE REQUEST SHALL BE GRANTED IF THE EMPLOYEE MAKES THE REQUEST BASED ON ANY OF THE FOLLOWING:

1. A SERIOUS HEALTH CONDITION OF THE EMPLOYEE.
2. THE EMPLOYEE'S CAREGIVING RESPONSIBILITIES FOR A FAMILY MEMBER.
3. AN ADDITIONAL EMPLOYMENT COMMITMENT OF THE EMPLOYEE.
4. CHANGES IN THE EMPLOYEE'S ACCESS TO THE WORKPLACE DUE TO CHANGES IN THE EMPLOYEE'S TRANSPORTATION OR HOUSING ARRANGEMENTS.
5. THE EMPLOYEE'S PARTICIPATION IN A CAREER-RELATED EDUCATIONAL OR TRAINING PROGRAM.
D. The employee shall make reasonable efforts make a request under Subsection A of this section in writing. The employer shall document all requests made by an employee under Subsection A of this section, regardless of whether the request is oral or written, pursuant to Section 23-1204.

E. If a request made under this section is denied based on a bona fide business reason, the employer shall provide a written response to the request explaining the complete or partial denial of the request and the bona fide business reason for the decision.

F. If a request made under this section is not based on circumstances identified under Subsection C of this section, the employer may grant or deny the request for any reason that is not unlawful.

G. An employer may require the employee to provide reasonable verification of the need for a request described in Subsection C of this section.

H. If an employer suspects that an employee is abusing the right to make a request under Subsection A of this section, the employer may require reasonable verification of the need for any request made under Subsection A of this section.

I. The employer shall pay any reasonable costs for providing medical verification required under this section, including lost wages, that are not paid under a health benefit plan in which the employee is enrolled.

J. An employer may not require that the verification required under this section explain the nature of a health condition or illness or details related to domestic violence, sexual assault, harassment or stalking that is the reason for the employee's request.

23-1253. Good faith estimate of work schedule

A. An employer shall provide a new employee with a written good faith estimate of the employee's work schedule at the time of hire. The good faith estimate shall include the average number of hours the employee can expect to work each workweek and whether the employee can expect to work on-call shifts.

B. The employer shall revise the good faith estimate for an employee both:
   1. Once every year calculated from the point of the last good faith estimate.
   2. If there is a significant change to the employee's work schedule due to changes in the employee's availability or to the employer's business needs.

C. The employer shall initiate an interactive process described in Section 23-1252, Subsection B with the employee to discuss any significant change from the good faith estimate and, if applicable, state a bona fide business reason for the change.
D. THE EMPLOYER SHALL PROVIDE THE GOOD FAITH ESTIMATE IN ENGLISH AND IN THE EMPLOYEE’S PRIMARY LANGUAGE.

23-1254. Advance notice of work schedule

A. AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WITH A WORK SCHEDULE IN WRITING AT LEAST FOURTEEN CALENDAR DAYS BEFORE THE FIRST DAY OF THE WORK SCHEDULE.

B. THE EMPLOYER SHALL POST THE WRITTEN WORK SCHEDULE IN A CONSPICUOUS AND ACCESSIBLE LOCATION, IN ENGLISH AND IN THE PRIMARY LANGUAGE OR LANGUAGES OF THE EMPLOYEES AT THE PARTICULAR WORKPLACE.

C. THE EMPLOYER SHALL PROVIDE A NEW EMPLOYEE AT THE TIME OF HIRE, OR AN EXISTING EMPLOYEE ON RETURNING TO WORK AFTER A LEAVE OF ABSENCE, WITH A WRITTEN WORK SCHEDULE THAT RUNS THROUGH THE LAST DATE OF THE POSTED WORK SCHEDULE THAT IS IN EFFECT AT THE TIME OF HIRE OR DATE OF THE RETURN TO WORK.

D. THE WRITTEN WORK SCHEDULE SHALL INCLUDE ALL REGULAR AND ON-CALL SHIFTS FOR THE WORK PERIOD.

E. IF THE EMPLOYER REQUESTS CHANGES TO THE WRITTEN WORK SCHEDULE AFTER THE ADVANCE NOTICE REQUIRED IN THIS SECTION:

1. THE EMPLOYER SHALL PROVIDE THE EMPLOYEE WITH TIMELY NOTICE OF THE CHANGE BY AN IN-PERSON CONVERSATION, A TELEPHONE CALL, AN E-MAIL, A TEXT MESSAGE OR ANOTHER ACCESSIBLE ELECTRONIC OR WRITTEN FORMAT.

2. THE EMPLOYEE MAY DECLINE TO WORK ANY HOURS NOT INCLUDED IN THE EMPLOYEE’S WRITTEN WORK SCHEDULE.

23-1255. Right to rest between work shifts

A. UNLESS THE EMPLOYEE REQUESTS OR CONSENTS TO WORK THE HOURS, THE EMPLOYER MAY NOT SCHEDULE OR REQUIRE THE EMPLOYEE TO WORK EITHER:

1. LESS THAN TEN HOURS AFTER THE END OF THE PREVIOUS CALENDAR DAY’S WORK SHIFT.

2. LESS THAN TEN HOURS FOLLOWING THE END OF A WORK SHIFT THAT SPANNED TWO CALENDAR DAYS.

B. THE EMPLOYER SHALL COMPENSATE AN EMPLOYEE WHO WORKS HOURS DESCRIBED UNDER SUBSECTION A OF THIS SECTION AT ONE AND ONE-HALF TIMES THE EMPLOYEE’S REGULAR RATE OF PAY FOR THE HOURS WORKED IN A SHIFT THAT BEGAN LESS THAN TEN HOURS AFTER THE PREVIOUS SHIFT ENDED.

C. AN EMPLOYEE COMPENSATED AS DESCRIBED IN SUBSECTION B OF THIS SECTION MAY NOT BE ADDITIONALLY COMPENSATED UNDER SECTION 23-1256 FOR WORK SCHEDULE CHANGES.

23-1256. Compensation for work schedule changes

A. AN EMPLOYER SHALL COMPENSATE AN EMPLOYEE FOR EACH EMPLOYER-REQUESTED CHANGE TO THE EMPLOYEE'S WRITTEN WORK SCHEDULE THAT OCCURS AFTER THE ADVANCE NOTICE REQUIRED PURSUANT TO SECTION 23-1254 AS FOLLOWS:

1. THE EMPLOYER SHALL COMPENSATE THE EMPLOYEE WITH ONE HOUR OF PAY AT THE EMPLOYEE'S REGULAR RATE OF PAY, IN ADDITION TO WAGES EARNED, FOR ANY OF THE FOLLOWING REASONS:
(a) Adding an hour or hours of work to any work shift.

(b) Changing the date or start or end time of a work shift with no loss of hours.

2. The employer shall compensate the employee with not less than one-half times the employee’s regular rate of pay per hour for any scheduled hours the employee does not work for the following reasons:

(a) Subtracting hours from a regular work shift before or after the employee reports for duty.

(b) Changing the date or start or end time of a work shift resulting in a loss of hours.

(c) Canceling a work shift.

(d) Scheduling the employee for an on-call shift if the employee is not asked to perform work.

B. The requirements for additional compensation in this section do not apply in any of the following circumstances:

1. Mutually agreed-on work shift swaps or coverage among employees. The employer may require that work shift swaps or coverage be preapproved by the employer and may assist employees in finding such arrangements. Assistance is limited to helping an employee identify other employees who may be available to provide coverage or shift swap and does not include the employer arranging the shift swap or coverage.

2. Additional hours that the employee volunteers to work in response to a mass communication in writing from the employer about the availability of additional hours, provided that the mass communication both:

(a) Is used only for additional hours that are the result of another employee being unable to work scheduled hours.

(b) Is clear that accepting the additional hours is voluntary and that the employee has the right to decline the hours.

3. Additional hours that an employer requests employees who are working at the time the request is made, through an in-person group communication, to work in order to address present and unanticipated customer needs, if the hours are consecutive to the hours that the employee is already working and the employee consents to take the hours.

4. Additional hours that the employee consents to work as the result of accepting an offer of work pursuant to section 23-1258.

5. Employee-requested changes, including additional or subtracted hours, that the employee voluntarily makes to the employee’s work schedule and that the employee documents in writing.

6. Employee hours that are subtracted for disciplinary reasons for just cause, provided that the employer documents in writing the incident leading to discipline.

7. An employee’s work shift cannot begin or continue due to threats to employees or property or due to the recommendation of a public official.
8. OPERATIONS CANNOT BEGIN OR CONTINUE BECAUSE PUBLIC UTILITIES FAIL TO SUPPLY ELECTRICITY, WATER OR GAS OR THERE IS A FAILURE IN THE PUBLIC UTILITIES OR SEWER SYSTEM.

9. OPERATIONS CANNOT BEGIN OR CONTINUE DUE TO A NATURAL DISASTER OR A SIMILAR CAUSE THAT IS NOT WITHIN THE EMPLOYER'S CONTROL.

23-1257. Pattern or practice of underscheduling

AN EMPLOYER MAY NOT ENGAGE IN A SYSTEMIC PATTERN OR PRACTICE OF SIGNIFICANT UNDERSCHEDULING WHERE THE HOURS THAT EMPLOYEES ACTUALLY WORK ARE SIGNIFICANTLY ABOVE THE HOURS IN THE WRITTEN WORK SCHEDULE REQUIRED BY SECTION 23-1254.

23-1258. Access to hours for existing employees; notice

A. BEFORE HIRING NEW EMPLOYEES FROM AN EXTERNAL APPLICANT POOL OR SUBCONTRACTORS, INCLUDING HIRING THROUGH THE USE OF TEMPORARY SERVICES OR STAFFING AGENCIES, AN EMPLOYER SHALL OFFER ADDITIONAL HOURS OF WORK TO EXISTING EMPLOYEES WHEN THOSE HOURS BECOME AVAILABLE AT THEIR PLACE OF WORK.

B. THE EMPLOYER:

1. SHALL POST A WRITTEN NOTICE OF AVAILABLE HOURS OF WORK THAT CONTAINS ALL OF THE FOLLOWING INFORMATION:
   (a) A DESCRIPTION AND TITLE OF THE POSITION.
   (b) THE REQUIRED QUALIFICATIONS FOR THE POSITION.
   (c) THE TOTAL HOURS OF WORK BEING OFFERED.
   (d) A SCHEDULE OF AVAILABLE WORK SHIFTS.
   (e) WHETHER THE AVAILABLE WORK SHIFTS WILL OCCUR AT THE SAME TIME EACH WEEK.
   (f) THE LENGTH OF TIME THE EMPLOYER ANTICIPATES REQUIRING COVERAGE OF THE ADDITIONAL HOURS.

2. SHALL POST WRITTEN NOTICE OF THE AVAILABLE HOURS OF WORK FOR AT LEAST THREE CONSECUTIVE CALENDAR DAYS.

3. SHALL POST THE NOTICE DESCRIBED IN THIS SUBSECTION IN A CONSPICUOUS AND ACCESSIBLE LOCATION WHERE EMPLOYEE NOTICES ARE CUSTOMARILY POSTED. IF THE EMPLOYER POSTS THE NOTICES IN ELECTRONIC FORMAT, ALL EMPLOYEES IN THE WORKPLACE MUST HAVE ACCESS TO THE NOTICE ON SITE.

4. SHALL POST THE NOTICE DESCRIBED IN THIS SUBSECTION IN ENGLISH AND IN THE PRIMARY LANGUAGE OR LANGUAGES OF THE EMPLOYEES AT THE WORKPLACE.

5. MAY POST THE NOTICE DESCRIBED IN THIS SUBSECTION CONCURRENTLY TO EXTERNAL CANDIDATES.

6. SHALL OFFER ADDITIONAL HOURS OF WORK TO AN EXISTING EMPLOYEE WHO HAS RESPONDED TO THE OFFER OF WORK AND WHO, TO A REASONABLE EMPLOYER ACTING IN GOOD FAITH, IS QUALIFIED WITH THE SKILLS AND EXPERIENCE TO PERFORM THE WORK IN THE FOLLOWING MANNER:
   (a) THE EMPLOYER SHALL GIVE THE EMPLOYEE AT LEAST TWO CONSECUTIVE CALENDAR DAYS, STARTING ON THE DATE OF THE EMPLOYER'S OFFER, TO ACCEPT THE ADDITIONAL HOURS OF WORK.
(b) If more than one qualified employee responds to the offer of additional hours of work, the employer may distribute the hours among interested employees or may offer all of the available hours to one qualified employee. The employer may limit distribution of hours to full work shifts rather than parceling hours among employees. The employer may choose among qualified internal candidates following the employer's usual and customary procedures, provided that the employer's usual and customary procedure is nondiscriminatory and that hours are not distributed in a manner intended to avoid application of the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).

(c) If the employee accepts additional hours of work for seasonal employment, the employer may reasonably delay scheduling the hours and allow new employees to start working for training purposes, if the employer follows the employer's usual and customary practices for training new employees and the employer provides the existing employee with a prospective start date for the additional hours.

(d) The employer is encouraged to make reasonable efforts to offer employees training opportunities to gain the skills and experience to perform work for which the employer typically has additional needs.

C. If no employee responds to the written notice of additional hours of work within three consecutive calendar days after posting or accepts an offer of additional hours within two consecutive calendar days after receiving the offer, the employer may immediately proceed with hiring new employees from an external applicant pool or subcontractors to work the additional hours.

D. This section does not require the employer to offer employees work hours paid at the overtime premium or prohibit the employer from offering work hours paid at the overtime premium.

E. The Industrial Commission of Arizona shall create and distribute a model notice in English, Spanish and other languages that are necessary for an employer to comply with the notice requirements of this section.