

REFERENCE TITLE: employer requirements; work schedules; report

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2766

Introduced by
Representatives Sandoval: Aguilar, Salman

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-207; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, article 1, Arizona Revised
3 Statutes, is amended by adding section 23-207, to read:

4 23-207. Advanced notice of work schedules and changes; work
5 schedules; inspections; complaints; civil penalty;
6 attorney general; annual report

7 A. BEFORE THE START OF A NEW EMPLOYEE'S EMPLOYMENT, AN EMPLOYER
8 SHALL PROVIDE THE EMPLOYEE WITH A GOOD FAITH ESTIMATE IN WRITING OF THE
9 EMPLOYEE'S EXPECTED MINIMUM NUMBER OF SCHEDULED SHIFTS PER MONTH,
10 EXCLUDING ON-CALL SHIFTS, AND THE DAYS AND HOURS OF THOSE SHIFTS. THE NEW
11 EMPLOYEE MAY REQUEST THAT THE EMPLOYER MODIFY THIS ESTIMATED WORK SCHEDULE
12 BEFORE THE START OF EMPLOYMENT. THE EMPLOYER SHALL CONSIDER ANY SUCH
13 REQUEST AND MAY ACCEPT OR REJECT THE REQUEST. THE EMPLOYER SHALL NOTIFY
14 THE EMPLOYEE OF ITS DETERMINATION BEFORE THE START OF EMPLOYMENT. THE
15 ESTIMATE DOES NOT CONSTITUTE A CONTRACTUAL OFFER, AND THE EMPLOYER IS NOT
16 BOUND BY THE ESTIMATE.

17 B. AN EMPLOYER SHALL PROVIDE ITS EMPLOYEES WITH AT LEAST TWO WEEKS'
18 PRIOR NOTICE OF THE EMPLOYEES' WORK SCHEDULES ON A BIWEEKLY BASIS BY
19 EITHER:

20 1. POSTING THE WORK SCHEDULE IN A CONSPICUOUS PLACE THAT IS READILY
21 ACCESSIBLE AND VISIBLE TO ALL EMPLOYEES.

22 2. TRANSMITTING THE WORK SCHEDULE BY ELECTRONIC MEANS.

23 C. AN EMPLOYER SHALL PROVIDE NEWLY HIRED EMPLOYEES AN INITIAL WORK
24 SCHEDULE THAT RUNS THROUGH THE DATE OF THE NEXT BIWEEKLY WORK SCHEDULE ON
25 THE NEWLY HIRED EMPLOYEE'S FIRST DAY OF EMPLOYMENT. THE WORK SCHEDULE
26 SHALL INCLUDE ON-CALL SHIFTS, AS APPLICABLE. AN EMPLOYER SHALL NOTIFY ITS
27 EMPLOYEES OF ANY CHANGES TO THE WORK SCHEDULE AFTER IT IS POSTED OR
28 TRANSMITTED, AND THOSE CHANGES ARE SUBJECT TO NOTICE AND COMPENSATION
29 REQUIREMENTS AS SET FORTH IN SUBSECTIONS D AND E OF THIS SECTION.

30 D. AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WITH NOTICE OF ANY CHANGE
31 TO THE EMPLOYEE'S WORK SCHEDULE, EITHER IN PERSON OR BY TELEPHONE, AND
32 SUBMIT THE CHANGE IN WRITING THROUGH EMAIL, TEXT MESSAGING OR OTHER
33 ELECTRONIC COMMUNICATION. THIS NOTICE REQUIREMENT DOES NOT APPLY TO ANY
34 SCHEDULE CHANGES THAT THE EMPLOYEE REQUESTS, INCLUDING SICK LEAVE, ANNUAL
35 LEAVE, TIME OFF, SHIFT TRADES OR OTHER REQUESTS.

36 E. SUBJECT TO THE EXCEPTIONS IN SUBSECTION F OF THIS SECTION, AN
37 EMPLOYER SHALL PROVIDE AN EMPLOYEE WITH THE FOLLOWING COMPENSATION PER
38 SHIFT FOR EACH PREVIOUSLY SCHEDULED SHIFT THAT THE EMPLOYER CHANGES TO
39 ANOTHER DATE OR TIME OR CANCELS AND EACH PREVIOUSLY UNSCHEDULED SHIFT THAT
40 THE EMPLOYER ADDS TO THE EMPLOYEE'S WORK SCHEDULE. WHEN THE EMPLOYEE IS
41 REQUIRED TO COME TO WORK, THE COMPENSATION MANDATED IN THIS SUBSECTION IS
42 IN ADDITION TO THE EMPLOYEE'S REGULAR PAY FOR WORKING THAT SHIFT. THIS
43 SUBSECTION DOES NOT APPLY TO ON-CALL SHIFTS. AN EMPLOYER SHALL COMPENSATE
44 AN EMPLOYEE FOR:

1 1. ONE HOUR OF PAY AT THE EMPLOYEE'S REGULAR HOURLY RATE IF THE
2 EMPLOYER PROVIDES LESS THAN SEVEN DAYS' NOTICE BUT AT LEAST TWENTY-FOUR
3 HOURS' NOTICE TO THE EMPLOYEE.

4 2. TWO HOURS OF PAY AT THE EMPLOYEE'S REGULAR HOURLY RATE FOR EACH
5 SHIFT OF FOUR HOURS OR LESS IF THE EMPLOYER PROVIDES LESS THAN TWENTY-FOUR
6 HOURS' NOTICE TO THE EMPLOYEE.

7 3. FOUR HOURS OF PAY AT THE EMPLOYEE'S REGULAR HOURLY RATE FOR EACH
8 SHIFT OF MORE THAN FOUR HOURS IF THE EMPLOYER PROVIDES LESS THAN
9 TWENTY-FOUR HOURS' NOTICE TO THE EMPLOYEE.

10 F. SUBSECTIONS D AND E OF THIS SECTION DO NOT APPLY IF:

11 1. OPERATIONS CANNOT BEGIN OR CONTINUE DUE TO THREATS TO EMPLOYEES
12 OR PROPERTY OR CIVIL AUTHORITIES RECOMMEND THAT WORK NOT BEGIN OR
13 CONTINUE.

14 2. OPERATIONS CANNOT BEGIN OR CONTINUE BECAUSE UTILITIES FAIL TO
15 SUPPLY ELECTRICITY, WATER OR GAS OR THERE IS A FAILURE IN THE UTILITIES OR
16 SEWER SYSTEM.

17 3. OPERATIONS CANNOT BEGIN OR CONTINUE DUE TO AN ACT OF GOD OR
18 OTHER CAUSE NOT WITHIN THE EMPLOYER'S CONTROL, SUCH AS A STATE OF
19 EMERGENCY DECLARED BY THE GOVERNOR.

20 4. OPERATIONS CANNOT BEGIN OR CONTINUE DUE TO A GOVERNMENT
21 SHUTDOWN.

22 5. THE EMPLOYER REQUIRES THE EMPLOYEE TO WORK OVERTIME IN
23 CONJUNCTION WITH A PREVIOUSLY SCHEDULED SHIFT.

24 6. THE EMPLOYEE TRADES SHIFTS WITH ANOTHER EMPLOYEE OR REQUESTS
25 FROM THE EMPLOYER A CHANGE IN SHIFT OR SHIFTS, HOURS OR WORK SCHEDULE.

26 G. THIS SECTION DOES NOT PROHIBIT AN EMPLOYER FROM PROVIDING
27 GREATER ADVANCE NOTICE OF EMPLOYEES' WORK SCHEDULES OR CHANGES THAN
28 PRESCRIBED IN THIS SECTION.

29 H. THE DEPARTMENT SHALL PUBLISH AND MAKE AVAILABLE TO EMPLOYERS A
30 NOTICE SUITABLE FOR POSTING BY EMPLOYERS IN THE WORKPLACE THAT INFORMS
31 APPLICANTS AND EMPLOYEES OF THEIR RIGHTS UNDER THIS SECTION. THE NOTICE
32 SHALL BE AVAILABLE IN ENGLISH, SPANISH, FRENCH AND ANY OTHER LANGUAGE
33 SPOKEN BY MORE THAN FIVE PERCENT OF THE WORKFORCE IN THIS STATE. THE
34 DEPARTMENT SHALL UPDATE THIS NOTICE ON DECEMBER 1 OF ANY YEAR IN WHICH
35 THERE IS A CHANGE IN THE LANGUAGES SPOKEN BY MORE THAN FIVE PERCENT OF THE
36 WORKFORCE IN THIS STATE.

37 I. AN EMPLOYER SHALL POST THE NOTICE DESCRIBED IN SUBSECTION H OF
38 THIS SECTION IN A CONSPICUOUS PLACE AT EVERY WORKPLACE, JOB SITE OR OTHER
39 LOCATION UNDER THE EMPLOYER'S CONTROL THAT IS FREQUENTLY VISITED BY
40 EMPLOYEES. THE EMPLOYER SHALL POST THE WORK SCHEDULE IN ENGLISH, SPANISH,
41 FRENCH AND ANY OTHER LANGUAGE SPOKEN BY AT LEAST FIVE PERCENT OF THE
42 EMPLOYEES AT THE WORKPLACE.

43 J. AN EMPLOYER SHALL RETAIN WORK SCHEDULE AND PAYROLL RECORDS
44 PERTAINING TO EMPLOYEES FOR THREE YEARS AND ALLOW THE DEPARTMENT ACCESS TO
45 THE RECORDS, WITH APPROPRIATE NOTICE AND DURING BUSINESS HOURS, TO MONITOR

1 COMPLIANCE WITH THIS SECTION. THE DEPARTMENT MUST HAVE ACCESS TO ALL
2 PLACES OF LABOR SUBJECT TO THIS SECTION DURING BUSINESS HOURS TO INSPECT
3 BOOKS AND RECORDS, INTERVIEW EMPLOYEES AND INVESTIGATE MATTERS NECESSARY
4 OR APPROPRIATE TO DETERMINE WHETHER AN EMPLOYER HAS VIOLATED THIS
5 SECTION. IF AN EMPLOYER DOES NOT MAINTAIN OR RETAIN ADEQUATE RECORDS
6 DOCUMENTING COMPLIANCE WITH THIS SECTION OR DOES NOT ALLOW THE DEPARTMENT
7 REASONABLE ACCESS TO THE RECORDS, IT IS PRESUMED THAT THE EMPLOYER DID NOT
8 COMPLY WITH THIS SECTION, ABSENT CLEAR AND CONVINCING EVIDENCE TO THE
9 CONTRARY.

10 K. AN EMPLOYEE MAY FILE A COMPLAINT WITH THE DEPARTMENT FOR ANY
11 VIOLATION OF THIS SECTION AND REQUEST AN ADMINISTRATIVE HEARING PURSUANT
12 TO TITLE 41, CHAPTER 6, ARTICLE 6.

13 L. THE DEPARTMENT MAY ASSESS CIVIL PENALTIES, INCLUDING A CIVIL
14 PENALTY OF NOT MORE THAN \$50 PER DAY, FOR EACH DAY OR PORTION OF A DAY
15 THAT A VIOLATION OCCURRED OR CONTINUED TO OCCUR, AS DETERMINED BY THE
16 DEPARTMENT.

17 M. THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN VIOLATIONS OF
18 THIS SECTION AND FOR ANY OTHER AVAILABLE REMEDY, INCLUDING THE PAYMENT OF
19 LOST WAGES OR LIQUIDATED DAMAGES IN AN AMOUNT OF NOT MORE THAN LOST WAGES,
20 REINSTATEMENT AND REASONABLE ATTORNEY FEES AND COSTS.

21 N. THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT THIS SECTION.

22 O. ON JANUARY 1, 2024 AND EVERY YEAR THEREAFTER, THE DEPARTMENT
23 SHALL PROVIDE A REPORT ON THE IMPLEMENTATION OF THIS SECTION AND ANY CIVIL
24 PENALTIES ASSESSED TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
25 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THIS
26 REPORT TO THE SECRETARY OF STATE'S OFFICE.