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H. R. 5004

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 HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2019

Ms. DELAURO (for herself, Mr. LOWENTHAL, Mrs. NAPOLITANO, Mr. LEVIN of Michigan, Mr. PASCRELL, Mrs. DINGELL, Ms. NORTON, Mr. POCAN, Mr. SERRANO, Mr. CICILLINE, Mr. AGUILAR, Mr. GRIJALVA, Ms. OMAR, Mr. KILDEE, Ms. ESHOO, Ms. LEE of California, Ms. SCHAKOWSKY, Mr. ESPAILLAT, Mr. HASTINGS, Mr. KHANNA, Mr. LARSON of Connecticut, Mr. RYAN, Mrs. TORRES of California, Mr. DANNY K. DAVIS of Illinois, Mrs. WATSON COLEMAN, Mr. SMITH of Washington, Mrs. CAROLYN B. MALONEY of New York, Mrs. BEATTY, Mr. DESAULNIER, Ms. BONAMICI, Ms. JAYAPAL, Miss RICE of New York, Mr. MCGOVERN, Mr. GARCÍA of Illinois, Mr. PALLONE, Ms. MCCOLLUM, Mr. TONKO, Mr. KENNEDY, Mr. LANGEVIN, Ms. PINGREE, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on House Administration, Oversight and Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 em-

ployees 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,*

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

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

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

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

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

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

1 lies' income, compared to less than one-third of their
2 counterparts in the highest-income quintile.

3 (B) At the same time, low-wage workers have
4 the least control over their work schedules and the
5 most unpredictable schedules. Across industries,
6 more than half (55 percent) of low-paid hourly work-
7 ers report that they receive a week or less of notice
8 of their work schedules, and nearly two-thirds (65
9 percent) report that their employer controls the tim-
10 ing of their work hours. In some industries, “just-
11 in-time” scheduling practices, which base workers’
12 schedules on perceived consumer demand to mini-
13 mize labor costs, are particularly common. Employ-
14 ers using these practices often post work schedules
15 with little notice, vary work hours widely from week
16 to week, cancel shifts at the last minute, and sched-
17 ule employees for “on call” shifts (requiring an em-
18 ployee to call in to work to find out whether the em-
19 ployee will have to work later that day) or
20 “clopening” shifts (requiring an employee to work a
21 closing shift at night followed by an opening shift a
22 few hours later). For example, surveys of nearly
23 30,000 hourly workers employed by the 80 largest
24 retail and food service chains in the United States
25 show that—

1 (i) about two-thirds of hourly retail and
2 food service workers receive their work sched-
3 ules with less than 2 weeks' advance notice;

4 (ii) more than one in 4 hourly retail and
5 food service workers have been scheduled for
6 on-call shifts, and half have worked "clopening"
7 shifts; and

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

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

13 (A) provide necessary care for children and
14 other family members, including securing and
15 maintaining stable child care;

16 (B) access and receive needed care for the
17 workers' own serious health conditions;

18 (C) pursue workforce training;

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

21 (E) plan for and access transportation to
22 reach worksites; and

23 (F) qualify for and maintain eligibility for
24 needed public benefits and work supports, such
25 as child care subsidies and benefits under the

1 supplemental nutrition assistance program, due
2 to fluctuations in income and work hours.

3 (5) A growing body of research demonstrates
4 that unstable and unpredictable work schedules have
5 significant detrimental impacts on sleep quality,
6 mental health, and happiness, and are associated
7 with unstable child care arrangements and negative
8 health and behavioral outcomes for children. These
9 work schedules—and the work-family conflict they
10 produce—are also associated with higher rates of
11 turnover, which creates further instability for em-
12 ployers and workers. Workers of color are also more
13 likely than their White counterparts, even compared
14 to White coworkers at the same company, to experi-
15 ence unstable work schedules. For example:

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

1 instability, the worse the child’s behavior and
2 health outcomes.

3 (B) The exposure of a parent to on-call
4 shifts and last-minute shift changes are associ-
5 ated with more unstable child care arrange-
6 ments and with the use of siblings to provide
7 care.

8 (C) Work schedule instability causes more
9 work-family conflict, which increases the chance
10 that a worker will be forced to leave his or her
11 job. This turnover is associated with downward
12 mobility of the worker’s earnings.

13 (D)(i) Relative to White workers, workers
14 of color are more likely to—

15 (I) have cancelled shifts;

16 (II) have on-call shifts;

17 (III) be involuntary part-time work-
18 ers;

19 (IV) have trouble getting time off;

20 and

21 (V) work “clopensing” shifts, as de-
22 scribed in paragraph (3)(B).

23 (ii) The statistics described in clause (i) re-
24 main true after controlling for demographics,
25 human capital, worker power, firm segregation,

1 and discordance with the race or ethnicity of
2 the worker and the manager. Race gaps in job
3 quality are greater for women of color.

4 (E) Workers who receive shorter advanced
5 notice, those who work on-call shifts, those who
6 experience last minute shift cancellation and
7 timing changes, and those with more volatile
8 work hours are more likely to experience hun-
9 ger, residential hardships, and more overall eco-
10 nomic hardship.

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

17 (7) Employers that have implemented fair work
18 scheduling policies that allow workers to have more
19 control over their work schedules, and provide more
20 predictable and stable schedules, have experienced
21 significant benefits, including reductions in absentee-
22 ism and workforce turnover, and increased worker
23 morale and engagement. For example, when Gap
24 Inc. piloted strategies to make work schedules more
25 stable and predictable for employees, the Gap Inc.

1 stores that implemented these strategies experienced
2 higher productivity, and a 7-percent increase in
3 sales, compared to those Gap Inc. stores that did not
4 implement these strategies.

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

8 **SEC. 2. DEFINITIONS.**

9 As used in this Act:

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

12 (A) the identifiable burden of additional
13 costs to an employer, including the cost of pro-
14 ductivity loss, retraining or hiring employees, or
15 transferring employees from one facility to an-
16 other facility;

17 (B) a significant detrimental effect on the
18 employer’s ability to meet organizational needs
19 or customer demand;

20 (C) a significant inability of the employer,
21 despite best efforts, to reorganize work among
22 existing (as of the date of the reorganization)
23 staff;

24 (D) a significant detrimental effect on
25 business performance;

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

3 (F) the need to balance competing sched-
4 uling requests when it is not possible to grant
5 all such requests without a significant detri-
6 mental effect on the employer's ability to meet
7 organizational needs; or

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

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

1 and Opportunity Act (29 U.S.C. 3101 et seq.), the
2 Carl D. Perkins Career and Technical Education
3 Act of 2006 (20 U.S.C. 2301 et seq.), or the Higher
4 Education Act of 1965 (20 U.S.C. 1001 et seq.),
5 without regard to whether or not the program is
6 funded under the corresponding Act.

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

10 (A) ongoing care or education, including
11 responsibility for securing the ongoing care or
12 education, of a child; or

13 (B) ongoing care, including responsibility
14 for securing the ongoing care, of—

15 (i) a person with a serious health con-
16 dition who is in a family relationship with
17 the individual; or

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

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

24 (A) under age 18; or

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

3 (5) COMMERCE TERMS.—The terms “com-
4 merce” and “industry or activity affecting com-
5 merce” have the meanings given the terms in section
6 101 of the Family and Medical Leave Act of 1993
7 (29 U.S.C. 2611).

8 (6) COVERED EMPLOYER.—

9 (A) IN GENERAL.—The term “covered em-
10 ployer”—

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

15 (ii) includes any person who acts, di-
16 rectly or indirectly, in the interest of such
17 an employer to any of the employees (de-
18 scribed in paragraph (9)(A)) of such em-
19 ployer;

20 (iii) includes any successor in interest
21 of such an employer; and

22 (iv) includes an agency described in
23 subparagraph (A)(iii) of section 101(4) of
24 the Family and Medical Leave Act of 1993

1 (29 U.S.C. 2611(4)), to which subpara-
2 graph (B) of such section shall apply.

3 (B) RULE.—For purposes of determining
4 the number of employees who work for a person
5 described in subparagraph (A)(i), all employees
6 (described in paragraph (9)(A)) performing
7 work for compensation on a full-time, part-time,
8 or temporary basis shall be counted, except that
9 if the number of such employees who perform
10 work for such a person for compensation fluctu-
11 ates, the number may be determined for a
12 calendar year based upon the average number
13 of such employees who performed work for the
14 person for compensation during the preceding
15 calendar year.

16 (C) PERSON.—In this paragraph, the term
17 “person” has the meaning given the term in
18 section 3 of the Fair Labor Standards Act of
19 1938 (29 U.S.C. 203).

20 (7) DOMESTIC PARTNER.—The term “domestic
21 partner” means the individual recognized as being in
22 a relationship with an employee under any domestic
23 partnership, civil union, or similar law of the State
24 or political subdivision of a State in which the em-
25 ployee resides.

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

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

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

10 (B) a State employee described in section
11 304(a) of the Government Employee Rights Act
12 of 1991 (42 U.S.C. 2000e–16c(a));

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

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

19 (E) a Federal officer or employee covered
20 under subchapter V of chapter 63 of title 5,
21 United States Code;

22 (F) an employee of the Library of Con-
23 gress; or

24 (G) an employee of the Government Ac-
25 countability Office.

1 (10) EMPLOYER.—The term “employer” means
2 a person—

3 (A) who is—

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

7 (ii) an entity employing a State em-
8 ployee described in section 304(a) of the
9 Government Employee Rights Act of 1991;

10 (iii) an employing office, as defined in
11 section 101 of the Congressional Account-
12 ability Act of 1995;

13 (iv) an employing office, as defined in
14 section 411(c) of title 3, United States
15 Code;

16 (v) an employing agency covered
17 under subchapter V of chapter 63 of title
18 5, United States Code;

19 (vi) the Librarian of Congress; or

20 (vii) the Comptroller General of the
21 United States; and

22 (B) who is engaged in commerce (including
23 government), in the production of goods for
24 commerce, or in an enterprise engaged in com-

1 merce (including government) or in the produc-
2 tion of goods for commerce.

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

5 (A) a child, spouse, domestic partner, par-
6 ent, grandchild, grandparent, sibling, or parent
7 of a spouse or domestic partner; or

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

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

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

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

22 (15) HOSPITALITY ESTABLISHMENT.—The
23 term “hospitality establishment” means a hotel,
24 motel, inn, or similar transient lodging establish-
25 ment.

1 (16) NONEXEMPT EMPLOYEE.—The term “non-
2 exempt employee” means an employee who is not
3 employed in a bona fide executive, administrative, or
4 professional capacity, as defined for purposes of sec-
5 tion 13(a)(1) of the Fair Labor Standards Act of
6 1938 (29 U.S.C. 213(a)(1)).

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

10 (A) be available to work; and

11 (B) contact the employer or the designee
12 of the employer, or wait to be contacted by the
13 employer or designee, to determine whether the
14 employee is required to report to work at that
15 time.

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

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

1 (20) RETAIL, FOOD SERVICE, CLEANING, HOS-
2 PITALITY, OR WAREHOUSE EMPLOYEE.—The term
3 “retail, food service, cleaning, hospitality, or ware-
4 house employee” means a nonexempt employee who
5 is employed in a hospitality establishment, in a
6 warehouse establishment, or in any of the following
7 occupations, as described by the Bureau of Labor
8 Statistics Standard Occupational Classification Sys-
9 tem (as in effect on the day before the date of enact-
10 ment of this Act):

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

19 (B) Food preparation and serving related
20 occupations as described in 35–0000, and all
21 subdivisions thereof, of such System, which in-
22 cludes supervisors of food preparation and serv-
23 ing workers, cooks and food preparation work-
24 ers, food and beverage serving workers, and

1 other food preparation and serving related
2 workers.

3 (C) Building cleaning occupations as de-
4 scribed in 37–2011, 37–2012, and 37–2019 of
5 such System, which includes janitors and clean-
6 ers, maids and housekeeping cleaners, and
7 building cleaning workers.

8 (21) SECRETARY.—The term “Secretary”
9 means the Secretary of Labor.

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

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

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

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

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

7 (B) a schedule in which the break in the
8 employee’s work shift is requested by the em-
9 ployee shall not be treated as a split shift.

10 (26) SPOUSE.—

11 (A) IN GENERAL.—The term “spouse”
12 means a person with whom an individual en-
13 tered into—

14 (i) a marriage as defined or recog-
15 nized under State law in the State in
16 which the marriage was entered into; or

17 (ii) in the case of a marriage entered
18 into outside of any State, a marriage that
19 is recognized in the place where entered
20 into and could have been entered into in at
21 least 1 State.

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

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

4 (28) WAREHOUSE ESTABLISHMENT.—The term
5 “warehouse establishment” means any business that
6 engages primarily in the storage of goods, wares, or
7 commodities for hire or compensation, and, in con-
8 nection with such storage, may include the loading,
9 packing, sorting, stacking, wrapping, distribution, or
10 delivery of those goods, wares, or commodities.

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

16 (30) WORK SCHEDULE CHANGE.—The term
17 “work schedule change” means any modification to
18 an employee’s work schedule, such as an addition or
19 reduction of hours, cancellation of a shift, or a
20 change in the date or time of a work shift, by an
21 employer.

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

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

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

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

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

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

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

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

17 (b) **EMPLOYER OBLIGATION TO ENGAGE IN AN**
18 **INTERACTIVE PROCESS.**—

19 (1) **IN GENERAL.**—If an employee applies to the
20 employee’s employer to request a change in the
21 terms and conditions of employment as set forth in
22 subsection (a), the employer shall engage in a time-
23 ly, good faith interactive process with the employee
24 that includes a discussion of potential schedule
25 changes that would meet the employee’s needs.

26 (2) **RESULT.**—Such process shall result in—

1 (A) either granting or denying the request;

2 (B) in the event of a denial, considering al-
3 ternatives to the proposed change that might
4 meet the employee's needs and granting or de-
5 nying a request for an alternative change in the
6 terms and conditions of employment as set
7 forth in subsection (a); and

8 (C) in the event of a denial, stating the
9 reason for denial, including whether any such
10 reason is a bona fide business reason.

11 (3) INFORMATION.—If information provided by
12 the employee making a request under this section re-
13 quires clarification, the employer shall explain what
14 further information is needed and give the employee
15 reasonable time to produce the information.

16 (c) REQUESTS RELATED TO CAREGIVING, ENROLL-
17 MENT IN EDUCATION OR TRAINING, OR A SECOND JOB.—

18 If an employee makes a request for a change in the terms
19 and conditions of employment as set forth in subsection
20 (a) because of a serious health condition of the employee,
21 due to the employee's responsibilities as a caregiver, or
22 due to the employee's enrollment in a career-related edu-
23 cational or training program, or if an employee makes a
24 request for such a change for a reason related to a second
25 job, the employer shall grant the request, unless the em-

1 ployer has a bona fide business reason for denying the re-
 2 quest.

3 (d) OTHER REQUESTS.—If an employee makes a re-
 4 quest for a change in the terms and conditions of employ-
 5 ment as set forth in subsection (a), for a reason other than
 6 those reasons set forth in subsection (c), the employer may
 7 deny the request for any reason that is not unlawful. If
 8 the employer denies such a request, the employer shall
 9 provide the employee with the reason for the denial, in-
 10 cluding whether any such reason is a bona fide business
 11 reason.

12 **SEC. 4. REQUIREMENTS FOR PREDICTABILITY PAY, SPLIT**
 13 **SHIFT PAY, AND ADVANCE NOTICE OF WORK**
 14 **SCHEDULES FOR RETAIL, FOOD SERVICE,**
 15 **CLEANING, HOSPITALITY, WAREHOUSE, OR**
 16 **SECRETARY'S DESIGNATED EMPLOYEES.**

17 (a) ADVANCE NOTICE REQUIREMENT.—

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

25 (2) PROVIDING NOTICE OF NEW SCHEDULES.—

1 (A) IN GENERAL.—Except as provided in
2 subsection (b)(2), if the work schedule of a re-
3 tail, food service, cleaning, hospitality, or ware-
4 house employee, or Secretary’s designated em-
5 ployee, changes from the work schedule of
6 which the employee was informed pursuant to
7 paragraph (1), the employer shall provide the
8 employee with the new work schedule of the em-
9 ployee not less than 14 days before the first day
10 of the new work schedule. Such a change shall
11 include a change in the number of hours of
12 work for which an employee is assigned.

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

18 (3) NOTIFICATIONS IN WRITING.—The notifica-
19 tions of the work schedules required under para-
20 graphs (1) and (2) shall be made to the employee in-
21 volved in writing.

22 (4) SCHEDULE POSTING REQUIREMENT.—

23 (A) IN GENERAL.—Every employer em-
24 ploying any retail, food service, cleaning, hospi-
25 tality, or warehouse employee, or Secretary’s

1 designated employee, shall post a copy of the
2 work schedule of each such employee and keep
3 it posted in a conspicuous place in every estab-
4 lishment where such employee is employed so as
5 to permit the employee involved to observe read-
6 ily the copy. Availability of that schedule by
7 electronic means accessible to all retail, food
8 service, cleaning, hospitality, or warehouse em-
9 ployees, or Secretary's designated employees, of
10 that employer shall be considered compliance
11 with this subparagraph.

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

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

1 (5) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed to prohibit an em-
3 ployer from—

4 (A) providing greater advance notice of the
5 work schedule of a retail, food service, cleaning,
6 hospitality, or warehouse employee, or Sec-
7 retary’s designated employee, than is required
8 under this subsection; or

9 (B) using any means, in addition to the
10 written means required under paragraph (3), of
11 notifying a retail, food service, cleaning, hospi-
12 tality, or warehouse employee, or Secretary’s
13 designated employee, of the work schedule of
14 the employee.

15 (b) PREDICTABILITY FOR WORK SCHEDULE
16 CHANGES MADE WITH LESS THAN 14 DAYS’ NOTICE.—

17 (1) IN GENERAL.—An employer may, subject to
18 subsection (a) and paragraph (2), make changes as
19 needed to the work schedule of a retail, food service,
20 cleaning, hospitality, or warehouse employee, or Sec-
21 retary’s designated employee, including by offering
22 additional hours of work in addition to those sched-
23 uled pursuant to the requirements under subsection
24 (a).

1 (2) PREDICTABILITY PAY.—Except as provided
2 in paragraph (3), for each employer-initiated change
3 to a work schedule provided to an employee under
4 subsection (a) that occurs less than 14 days prior to
5 the first day on which the change is to take effect,
6 the employer shall be required to provide the af-
7 fected employee with pay (referred to in this sub-
8 section as “predictability pay”) at the following
9 rates:

10 (A) One hour at the employee’s regular
11 rate of pay if such change is an addition to the
12 hours the employee is scheduled to work under
13 subsection (a) or if the employer changes the
14 date, time, or location of the work shift with no
15 loss of hours.

16 (B) Not less than one-half times the em-
17 ployee’s regular rate of pay per hour for any
18 hour that the employee is scheduled to work
19 under subsection (a) and does not work due to
20 the employer subtracting or canceling such
21 scheduled hours of work.

22 (3) EXCEPTIONS TO PREDICTABILITY PAY.—An
23 employer shall not be required to pay predictability
24 pay under paragraph (2), or to obtain written con-

1 sent pursuant to subsection (a)(5), under any of the
2 following circumstances:

3 (A) A retail, food service, cleaning, hospi-
4 tality, or warehouse employee, or Secretary's
5 designated employee, requests a shift change in
6 writing, including through the use of sick leave,
7 vacation leave, or any other leave policy offered
8 by the employer.

9 (B) A schedule change is the result of a
10 mutually agreed upon shift trade or coverage
11 arrangement between retail, food service, clean-
12 ing, hospitality, or warehouse employees, or
13 Secretary's designated employees, subject to
14 any policy of the employer regarding required
15 conditions for employees to exchange shifts.

16 (C) The employer's operations cannot
17 begin or continue due to—

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

20 (ii) the failure of a public utility or
21 the shutdown of public transportation;

22 (iii) a fire, flood, or other natural dis-
23 aster;

24 (iv) a state of emergency declared by
25 the President of the United States or by

1 the governor of the State, or the mayor of
2 the city, in which the operations are lo-
3 cated; or

4 (v) a severe weather condition that
5 poses a threat to employee safety.

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

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

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

23 (a) IN GENERAL.—An employee employed by a cov-
24 ered employer may decline, without penalty, to work any

1 work shift or on-call shift that is scheduled or otherwise
2 occurs—

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

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

7 (b) CONSENT.—An employee employed by a covered
8 employer may—

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

12 (2) may revoke such consent in writing at any
13 time during employment.

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

21 **SEC. 6. PROHIBITED ACTS.**

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

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

1 (2) a retail, food service, cleaning, hospitality,
2 or warehouse employee, or Secretary's designated
3 employee, as set forth in section 4; or

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

6 (b) RETALIATION PROHIBITED.—It shall be unlawful
7 for any employer to discharge, threaten to discharge, de-
8 mote, suspend, reduce work hours of, or take any other
9 adverse employment action against any employee in retal-
10 iation for exercising the rights of an employee under this
11 Act or opposing any practice made unlawful by this Act.
12 For purposes of section 3, such retaliation shall include
13 taking an adverse employment action against any em-
14 ployee on the basis of that employee's request for a change
15 in work schedule, or because of an employee's eligibility
16 or perceived eligibility to request or receive a change in
17 the terms and conditions of employment, as described in
18 such section, on the basis of a reason set forth in section
19 3(c).

20 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
21 IES.—It shall be unlawful for any person to discharge or
22 in any other manner discriminate against any individual
23 because such individual—

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

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

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

10 **SEC. 7. REMEDIES AND ENFORCEMENT.**

11 (a) INVESTIGATIVE AUTHORITY.—

12 (1) IN GENERAL.—To ensure compliance with
13 this Act, or any regulation or order issued under
14 this Act, the Secretary shall have, subject to para-
15 graph (3), the investigative authority provided under
16 section 11(a) of the Fair Labor Standards Act of
17 1938 (29 U.S.C. 211(a)).

18 (2) OBLIGATION TO KEEP AND PRESERVE
19 RECORDS.—Each employer shall make, keep, and
20 preserve records pertaining to compliance with this
21 Act in accordance with regulations issued by the
22 Secretary under section 9.

23 (3) REQUIRED SUBMISSIONS GENERALLY LIM-
24 ITED TO AN ANNUAL BASIS.—The Secretary shall
25 not under the authority of this subsection require

1 any employer to submit to the Secretary any books
2 or records more than once during any 12-month pe-
3 riod, unless the Secretary has reasonable cause to
4 believe there may exist a violation of this Act or any
5 regulation or order issued pursuant to this Act, or
6 is investigating a charge pursuant to subsection (c).

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

12 (b) CIVIL ACTION BY EMPLOYEES.—

13 (1) LIABILITY.—Any employer who violates a
14 section 6(a) (with respect to a right set forth in sub-
15 section (a), (b), or (c) of section 4), section 5, or
16 subsection (b) or (c) of section 6 (each such provi-
17 sion referred to in this section as a “covered provi-
18 sion”) shall be liable to any employee affected for—

19 (A) damages equal to the amount of—

20 (i) any wages, salary, employment
21 benefits (as defined in section 101 of the
22 Family and Medical Leave Act of 1993 (29
23 U.S.C. 2611)), or other compensation de-
24 nied, lost, or owed to such employee by
25 reason of the violation; or

1 (ii) in a case in which wages, salary,
2 employment benefits (as so defined), or
3 other compensation have not been denied,
4 lost, or owed to the employee, any actual
5 monetary losses sustained by the employee
6 as a direct result of the violation;

7 (B) interest on the amount described in
8 subparagraph (A) calculated at the prevailing
9 rate;

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

1 (D) such equitable relief as may be appro-
2 priate, including employment, reinstatement,
3 and promotion.

4 (2) RIGHT OF ACTION.—An action to recover
5 the damages or equitable relief set forth in para-
6 graph (1) may be maintained against any employer
7 (including a public agency) in any Federal or State
8 court of competent jurisdiction by any one or more
9 employees for and on behalf of—

10 (A) the employees; or

11 (B) the employees and other employees
12 similarly situated.

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

18 (4) LIMITATIONS.—The right provided by para-
19 graph (2) to bring an action by or on behalf of any
20 employee shall terminate on the filing of a complaint
21 by the Secretary in an action under subsection (c)(4)
22 in which a recovery is sought of the damages de-
23 scribed in paragraph (1)(A) owing to an employee by
24 an employer liable under paragraph (1) unless the

1 action described is dismissed without prejudice on
2 motion of the Secretary.

3 (c) ACTIONS BY THE SECRETARY.—

4 (1) ADMINISTRATIVE ACTION.—The Secretary
5 shall receive, investigate, and attempt to resolve
6 complaints of violations of this Act in the same man-
7 ner that the Secretary receives, investigates, and at-
8 tempts to resolve complaints of violations of sections
9 6 and 7 of the Fair Labor Standards Act of 1938
10 (29 U.S.C. 206 and 207), and may issue an order
11 making determinations, and assessing a civil penalty
12 described in paragraph (3) (in accordance with para-
13 graph (3)), with respect to such an alleged violation.

14 (2) ADMINISTRATIVE REVIEW.—An affected
15 person who takes exception to an order issued under
16 paragraph (1) may request review of and a decision
17 regarding such an order by an administrative law
18 judge. In reviewing the order, the administrative law
19 judge may hold an administrative hearing con-
20 cerning the order, in accordance with the require-
21 ments of sections 554, 556, and 557 of title 5,
22 United States Code. Such hearing shall be conducted
23 expeditiously. If no affected person requests such re-
24 view within 60 days after the order is issued under

1 paragraph (1), the order shall be considered to be a
2 final order that is not subject to judicial review.

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

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

9 (B) subsection (b) or (c) of section 6 shall
10 be subject to a civil penalty in an amount to be
11 determined by the Secretary, but not to exceed
12 \$1,100 per violation.

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

16 (A) restrain violations of this Act;

17 (B) award such equitable relief as may be
18 appropriate, including employment, reinstatement,
19 and promotion; and

20 (C) in the case of a violation of a covered
21 provision, recover the damages and interest described
22 in subparagraphs (A) through (C) of
23 subsection (b)(1).

24 (d) LIMITATION.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), an action may be brought under this sec-
3 tion not later than 2 years after the date of the last
4 event constituting the alleged violation for which the
5 action is brought.

6 (2) WILLFUL VIOLATION.—In the case of such
7 action brought for a willful violation of section 6,
8 such action may be brought within 3 years of the
9 date of the last event constituting the alleged viola-
10 tion for which such action is brought.

11 (3) COMMENCEMENT.—In determining when an
12 action is commenced by the Secretary under this
13 section for the purposes of this subsection, it shall
14 be considered to be commenced on the date when the
15 complaint is filed.

16 (e) OTHER ADMINISTRATIVE OFFICERS.—

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

21 (2) PRESIDENT; MERIT SYSTEMS PROTECTION
22 BOARD.—In the case of employees described in sec-
23 tion 2(9)(D), the authority of the Secretary under
24 this Act shall be exercised by the President and the
25 Merit Systems Protection Board.

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

5 (4) LIBRARIAN OF CONGRESS.—In the case of
6 employees of the Library of Congress, the authority
7 of the Secretary under this Act shall be exercised by
8 the Librarian of Congress.

9 (5) COMPTROLLER GENERAL.—In the case of
10 employees of the Government Accountability Office,
11 the authority of the Secretary under this Act shall
12 be exercised by the Comptroller General of the
13 United States.

14 **SEC. 8. NOTICE AND POSTING.**

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

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

4 **SEC. 9. REGULATIONS.**

5 (a) SECRETARY OF LABOR.—

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

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

13 (A) IN GENERAL.—In carrying out para-
14 graph (1), the Secretary shall issue regulations,
15 for purposes of defining Secretary’s designated
16 employees under section 2(22), that specify a
17 process the Secretary will follow to identify and
18 designate occupations in addition to retail, food
19 service, cleaning, hospitality, or warehouse oc-
20 cupations that are appropriate for coverage
21 under section 4. Nonexempt employees in occu-
22 pations designated under this subparagraph
23 shall be considered to be Secretary’s designated
24 employees for purposes of this Act.

1 (B) CRITERIA.—The regulations shall pro-
2 vide that the Secretary shall so designate an
3 additional occupation—

4 (i) in which not less than 10 percent
5 of workers employed in the occupation gen-
6 erally—

7 (I) receive advance notice of their
8 work schedules less than 14 days be-
9 fore the first day of the work sched-
10 ules; or

11 (II) experience fluctuations in the
12 number of hours the employees are
13 scheduled to work on a daily, weekly,
14 or monthly basis; or

15 (ii) for which the Secretary deter-
16 mines such designation is appropriate.

17 (C) DATA REVIEW.—In issuing the regula-
18 tions, the Secretary shall specify the process by
19 which the Department of Labor will review data
20 from stakeholders, and data collected or gen-
21 erated by the Department, in making those des-
22 ignations.

23 (b) BOARD.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of enactment of this Act, the Board

1 of Directors of the Office of Compliance shall issue
2 such regulations as may be necessary to implement
3 this Act with respect to employees described in sec-
4 tion 2(9)(C). The procedures applicable to regula-
5 tions of the Board issued for the implementation of
6 the Congressional Accountability Act of 1995 (2
7 U.S.C. 1301 et seq.), prescribed in section 304 of
8 that Act (2 U.S.C. 1384), shall be the procedures
9 applicable to regulations issued under this sub-
10 section.

11 (2) CONSIDERATION.—In prescribing the regu-
12 lations, the Board shall take into consideration the
13 enforcement and remedies provisions concerning the
14 Board, and applicable to rights and protections
15 under the Family and Medical Leave Act of 1993
16 (29 U.S.C. 2611 et seq.), under the Congressional
17 Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

18 (3) MODIFICATIONS.—The regulations issued
19 under paragraph (1) to implement this Act shall be
20 the same as substantive regulations issued by the
21 Secretary to implement this Act, except to the extent
22 that the Board may determine, for good cause
23 shown and stated together with the regulations
24 issued by the Board, that a modification of such
25 substantive regulations would be more effective for

1 the implementation of the rights and protections
2 under this Act.

3 (c) PRESIDENT.—

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

9 (2) CONSIDERATION.—In prescribing the regu-
10 lations, the President shall take into consideration
11 the enforcement and remedies provisions concerning
12 the President and the Merit Systems Protection
13 Board, and applicable to rights and protections
14 under the Family and Medical Leave Act of 1993,
15 under chapter 5 of title 3, United States Code.

16 (3) MODIFICATIONS.—The regulations issued
17 under paragraph (1) to implement this Act shall be
18 the same as substantive regulations issued by the
19 Secretary to implement this Act, except to the extent
20 that the President may determine, for good cause
21 shown and stated together with the regulations
22 issued by the President, that a modification of such
23 substantive regulations would be more effective for
24 the implementation of the rights and protections
25 under this Act.

1 (d) OFFICE OF PERSONNEL MANAGEMENT.—

2 (1) IN GENERAL.—Not later than 180 days
3 after the date of enactment of this Act, the Office
4 of Personnel Management shall issue such regula-
5 tions as may be necessary to implement this Act
6 with respect to employees described in section
7 2(9)(E).

8 (2) CONSIDERATION.—In prescribing the regu-
9 lations, the Office shall take into consideration the
10 enforcement and remedies provisions concerning the
11 Office under subchapter V of chapter 63 of title 5,
12 United States Code.

13 (3) MODIFICATIONS.—The regulations issued
14 under paragraph (1) to implement this Act shall be
15 the same as substantive regulations issued by the
16 Secretary to implement this Act, except to the extent
17 that the Office may determine, for good cause shown
18 and stated together with the regulations issued by
19 the Office, that a modification of such substantive
20 regulations would be more effective for the imple-
21 mentation of the rights and protections under this
22 Act.

23 (e) LIBRARIAN OF CONGRESS.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of enactment of this Act, the Librar-

1 ian of Congress shall issue such regulations as may
2 be necessary to implement this Act with respect to
3 employees of the Library of Congress.

4 (2) CONSIDERATION.—In prescribing the regu-
5 lations, the Librarian shall take into consideration
6 the enforcement and remedies provisions concerning
7 the Librarian of Congress under title I of the Fam-
8 ily and Medical Leave Act of 1993 (29 U.S.C. 2611
9 et seq.).

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

20 (f) COMPTROLLER GENERAL.—

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

1 (2) CONSIDERATION.—In prescribing the regu-
2 lations, the Comptroller General shall take into con-
3 sideration the enforcement and remedies provisions
4 concerning the Comptroller General under title I of
5 the Family and Medical Leave Act of 1993.

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 Comptroller General may determine, for
11 good cause shown and stated together with the regu-
12 lations issued by the Comptroller General, that a
13 modification of such substantive regulations would
14 be more effective for the implementation of the
15 rights and protections under this Act.

16 **SEC. 10. RESEARCH, EDUCATION, AND TECHNICAL ASSIST-**
17 **ANCE PROGRAM AND SURVEYS.**

18 (a) IN GENERAL.—The Secretary shall provide infor-
19 mation and technical assistance to employers, labor orga-
20 nizations, and the general public concerning compliance
21 with this Act.

22 (b) PROGRAM.—In order to achieve the objectives of
23 this Act—

24 (1) the Secretary, acting through the Adminis-
25 trator of the Wage and Hour Division of the Depart-

1 ment of Labor, shall issue guidance on compliance
2 with this Act regarding providing a flexible, predict-
3 able, or stable work environment through changes in
4 the terms and conditions of employment as provided
5 in section 3(a); and

6 (2) the Secretary shall carry on a continuing
7 program of research, education, and technical assist-
8 ance, including—

9 (A)(i) conducting pilot programs that im-
10 plement fairer work schedules, including by pro-
11 moting cross training, providing 3 weeks or
12 more advance notice of schedules, providing em-
13 ployees with a minimum number of hours of
14 work, and using electronic workforce manage-
15 ment systems to provide more flexible, predict-
16 able, and stable schedules for employees; and

17 (ii) evaluating the results of such pilot pro-
18 grams for employees, employee’s families, and
19 employers;

20 (B) publishing and otherwise making avail-
21 able to employers, labor organizations, profes-
22 sional associations, educational institutions, the
23 various communication media, and the general
24 public the findings of studies regarding fair

1 work scheduling policies and other materials for
2 promoting compliance with this Act;

3 (C) sponsoring and assisting State and
4 community informational and educational pro-
5 grams; and

6 (D) providing technical assistance to em-
7 ployers, labor organizations, professional asso-
8 ciations, and other interested persons on means
9 of achieving and maintaining compliance with
10 the provisions of this Act.

11 (c) CURRENT POPULATION SURVEY.—The Secretary,
12 acting through the Commissioner of the Bureau of Labor
13 Statistics, and the Director of the Bureau of the Census
14 shall—

15 (1) include in the Current Population Survey
16 questions on—

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

20 (B) the extent of advance notice an em-
21 ployee receives of the employee's work schedule;
22 and

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

1 (2) conduct at regular intervals the Contingent
2 Worker Supplement, the Work Schedules and Work
3 at Home Supplement, and other relevant supple-
4 ments (as determined by the Secretary), to the Cur-
5 rent Population Survey.

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

7 This Act provides minimum requirements and shall
8 not be construed to preempt, limit, or otherwise affect the
9 applicability of any other law, requirement, policy, or
10 standard that provides for greater rights for employees
11 than are required in this Act.

12 **SEC. 12. EXEMPTION.**

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

15 (1) the terms of the collective bargaining agree-
16 ment include terms that govern work scheduling
17 practices; and

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

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

21 (a) IN GENERAL.—Nothing in this Act shall be con-
22 strued as superseding, or creating or imposing any re-
23 quirement in conflict with, any Federal, State, or local
24 regulation or other law (including the Americans with Dis-
25 abilities Act of 1990 (42 U.S.C. 12101 et seq.), the Fam-

1 ily and Medical Leave Act of 1993 (29 U.S.C. 2611 et
2 seq.), the National Labor Relations Act (29 U.S.C. 151
3 et seq.), the Fair Labor Standards Act of 1938 (29 U.S.C.
4 201 et seq.), and title VII of the Civil Rights Act of 1964
5 (42 U.S.C. 2000e et seq.)).

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

○