

Appendix A: Proposed Amendments to Emeryville's Draft Fair Workweek Ordinance

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Distributed at October 18, 2016 City Council Meeting

Amendment 1: Section 5-39.04, Notice, Right to Decline, and Compensation for Schedule Changes

(b) Subject to the exceptions in subsection (d) of this Section, an Employee has the right to decline ~~any modification of a previously scheduled Shift for which the Covered Employer adds or subtracts hours, moves to another date or time, or cancels, or~~ any previously unscheduled hours Shift that the Covered Employer adds to the Employee's schedule ~~requires the Employee to work~~, and for which the Employee has been provided advance notice of less than seven 14 days ~~but 24 hours or more~~.

(c) Subject to the exceptions in subsection (d) of this Section, a Covered Employer shall provide an Employee with the following compensation per Shift for each previously scheduled Shift that the Covered Employer adds or subtracts hours, moves to another date or time, cancels, or each previously unscheduled Shift that the Covered Employer adds to the Employee's schedule: (1) With less than 14 days' notice, but 24 hours or more notice to the Employee: one hour of Predictability Pay; (2) With less than 24 hours' notice to the Employee, (i) four hours or the number of hours in the employee's scheduled shift, whichever is less, when hours are canceled or reduced; (ii) one hour of Predictability pay for all other changes. two hours of Predictability Pay. The compensation required by this subsection (b) shall be in addition to the Employee's regular pay for working that Shift.

Amendment 2: Section 5-39.06, Right to Rest

(a) An Employee has the right to decline work hours that occur: (1) Less than 11 hours after the end of the previous day's Shift, or (2) During the 11 hours following the end of a Shift that spanned two days.

(b) An employee who agrees in writing to work hours described in this section shall be compensated at one-and-a-half times the employee's regular rate of pay for any hours worked less than 11 hours following the end of a previous shift.

Amendment 3: Section 5-30.02, Covered Employees

~~(b) Fair Workweek Certified Business. A Covered Employer that is certified under a "Fair Workweek Business Certification Program" adopted by the City Council is deemed to be in compliance with the requirements of this Chapter.~~

Amendment 4: Section 5-39.05, Offer of Work to Existing Employees

Section 5-39.05, Offer of Work to Existing Employees

(a) Subject to the limitations herein, before hiring new Employees or contract employees, including hiring through the use of temporary services or staffing agencies, a Covered Employer shall first offer the additional hours of work existing Part-time Employee(s) if: (1) the Part-time Employee(s) are qualified to do the additional work, as reasonably and in good faith determined by the Covered Employer, ~~and (2) the additional work is the same or similar to work the Employee(s) have performed for the Covered Employer.~~ This Section requires Covered Employers to offer to Part-time Employees only up to the number of hours required to give the Employee 35 hours of work in a Calendar Week.

(b) A Covered Employer has discretion to divide the additional work hours among Part-time Employees consistent with this Section provided that: (1) the employer's system for distribution of hours must not discriminate on the basis of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital or familial status, nor on the basis of family caregiving responsibilities or status as a student; (2) the employer may not distribute hours in a manner intended to avoid application of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001.

Section 5-39.01(l), Definitions

~~"Part time" shall mean fewer than 35 hours of work in each Calendar Week.~~