

1 [Police Code - Formula Retail Employee Rights]

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3 **Ordinance amending Articles 33F and 33G of the Police Code, which contain the**
4 **formula retail employee rights ordinances, to change from 20 to 40 the number of retail**
5 **~~sales establishments worldwide a business must have to be covered by the ordinances~~**
6 **employees in San Francisco required for a formula retail establishment to be covered**
7 **by the ordinances; and to allow collective bargaining agreements covering employees**
8 **of formula retail establishments to waive the protections of Articles 33F and 33G.**

9
10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Background.

19 Ordinance No. 236-14, which created Article 33F of the Police Code, requires formula
20 retail establishments to offer additional hours of work, when available, to current part-time
21 employees. It also requires successor employers to retain employees for 90 days upon a
22 change in control of the business. Ordinance No. 241-14, which created Article 33G of the
23 Police Code, requires formula retail establishments to provide employees with two weeks'
24 notice of work schedules, notice of changes to work schedules, and compensation for
25 schedule changes made on less than seven days' notice and unused on-call shifts. It also

1 provides part-time employees with the same starting rate of hourly pay, access to time off,
2 and eligibility for promotions, as provided to full-time employees.

3
4 Section 2. Article 33F of the Police Code is hereby amended by revising Section
5 3300F.2 and adding Section 3300F.19 to read as follows:

6 **SEC. 3300F.2. DEFINITIONS.**

7 For purposes of this Article 33F, the following definitions apply:

8 * * * *

9 “Employer” shall mean any Person that owns or operates a Formula Retail
10 Establishment with ~~20~~ 40 20 or more Employees in the City, including corporate officers or
11 executives, who directly or indirectly or through an agent or any other person, including
12 through the services of a temporary services or staffing agency or similar entity, employs or
13 exercises control over the wages, hours or working conditions of any individual. For the
14 purpose of calculating the ~~20~~ 40 20 -employee threshold referenced herein, Employees
15 performing work in other Formula Retail Establishments in the City that are owned or operated
16 under the same trade name by the same Employer shall be counted. Notwithstanding the
17 foregoing definition, “Employer” does not include a Nonprofit Corporation or governmental
18 entity.

19 * * * *

20 “Formula Retail Establishment” shall mean a business located in San Francisco that
21 falls under the Planning Code's definition of “Formula Retail Use,” as amended from time to
22 time, except that the business must have at least ~~20~~ 40 retail sales establishments located
23 worldwide.

24 * * * *

25 **SEC. 3300F.19. WAIVER UNDER COLLECTIVE BARGAINING AGREEMENT.**

1 For Employees of Formula Retail Establishments covered by a bona fide collective bargaining
2 agreement, all or any portion of the applicable requirements of this Article 33F shall not apply to the
3 extent that such requirements are expressly waived in the collective bargaining agreement in clear and
4 unambiguous terms.

5
6 Section 3. Article 33G of the Police Code is hereby amended by revising Section
7 3300G.3 and adding Section 3300G.18 to read as follows:

8 **SEC. 3300G.3. DEFINITIONS.**

9 For purposes of this Article 33G, the following definitions apply:

10 * * * *

11 “Employer” shall mean any Person that owns or operates a Formula Retail
12 Establishment with ~~20~~ 40 20 or more Employees in the City, including corporate officers or
13 executives, who directly or indirectly or through an agent or any other person, including
14 through the services of a temporary services or staffing agency or similar entity, employs or
15 exercises control over the wages, hours, or working conditions of any individual. For the
16 purpose of calculating the ~~20~~ 40 20 -employee threshold referenced herein, Employees
17 performing work in other Formula Retail Establishments in the City that are owned or operated
18 under the same trade name by the same Employer shall be counted. Notwithstanding the
19 foregoing definition, “Employer” does not include a Nonprofit Corporation or governmental
20 entity.

21 * * * *

22 “Formula Retail Establishment” shall mean a business located in San Francisco that
23 falls under the Planning Code's definition of “Formula Retail Use,” as amended from time to
24 time, except that the business must have at least ~~20~~ 40 retail sales establishments located
25 worldwide.

1
2 **SEC. 3300G.18. WAIVER UNDER COLLECTIVE BARGAINING AGREEMENT.**

3 For Employees of Formula Retail Establishments covered by a bona fide collective bargaining
4 agreement, all or any portion of the applicable requirements of this Article 33G shall not apply to the
5 extent that such requirements are expressly waived in the collective bargaining agreement in clear and
6 unambiguous terms.

7
8 Section 4. Effective Date.

9 This ordinance shall become effective 30 days after enactment. Enactment occurs
10 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
11 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
12 Mayor's veto of the ordinance.

13
14 Section 5. In enacting this ordinance, the Board intends to amend only those words,
15 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,
16 or any other constituent part of the Police Code that are explicitly shown in this ordinance as
17 additions, deletions, Board amendment additions, and Board amendment deletions in
18 accordance with the "Note" that appears under the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 JOSHUA WHITE
24 Deputy City Attorney

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