

LEGISLATIVE DIGEST

[Police Code - Formula Retail Employee Rights]

Ordinance amending Articles 33F and 33G of the Police Code, which contain the formula retail employee rights ordinances, 1) to change from 20 to 40 the number of retail sales establishments worldwide a business must have to be covered by the ordinances; 2) to allow collective bargaining agreements covering employees of formula retail establishments or employees of property service contractors to waive the protections of Articles 33F and 33G; 3) to provide employees scheduled to work on-call shifts with predictability pay if the employer modifies the scheduling of that shift with less than seven-days' notice; 4) to allow the Office of Labor Standards Enforcement to issue warnings and notices to correct to employers who have violated Articles 33F and 33G; 5) to provide part-time employees with three days to accept any additional hours offered to them by their employers; and 6) to allow employers to notify employees of the offer of additional hours by posting a notice in a conspicuous location in the workplace.

Existing Law

The Board of Supervisors enacted two ordinances on November 25, 2014 that, collectively, have been referred to as the Formula Retail Workers' Bill of Rights (the "underlying ordinances").

One of the ordinances, No. 241-14, is entitled, "Predictable Scheduling and Fair Treatment for Formula Retail Employees Ordinance." It requires formula retail establishments to provide employees with two weeks' notice of work schedules, notice of changes to work schedules, and compensation for schedule changes made on less than seven days' notice and unused on-call shifts. The ordinance also provides part-time employees with the same starting rate of hourly pay, access to time off, and eligibility for promotions, as provided to full-time employees. The other ordinance, No. 236-14, requires formula retail establishments to offer additional hours of work, when available, to current part-time employees. The ordinance also requires successor employers to retain employees for 90 days upon a change in control of the business.

Both ordinances define "formula retail establishment" to mean a business located in San Francisco that falls under the Planning Code's definition of "Formula Retail Use," except that the business must have at least 20 retail sales establishments located worldwide.

Ordinance No. 236-14 requires employers offering additional hours of work to part-time employees to do so in writing. Ordinance No. 236-14 does not specify the time frame within which the employee must accept the offer. Nor does the ordinance specify whether the acceptance must be in writing.

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Ordinance No. 241-14 does not require employers to provide employees scheduled to work on-call shifts with predictability pay so long as the employer provides the employee with 24 hours' or more of notice that the on-call shift has been cancelled or moved to another date or time.

Amendments to Current Law

Amendments To Both Ordinances:

The proposed legislation would change the definition of "formula retail establishment" to mean a business located in San Francisco falls under the Planning Code's definition of "Formula Retail Use," except that the business must have at least 40 retail sales establishments located worldwide.

The proposed legislation would allow unions representing formula retail employees or property service contractors to waive the protections of the underlying ordinances as part of a collective bargaining agreement.

The proposed legislation would require that, during the first three months following the operative date of the ordinances, the Office of Labor Standards and Enforcement could issue only warnings and notices to correct and not any other relief for violations of the ordinances.

Amendments to Ordinance No. 236-14

The proposed legislation would provide that part-time employees who are offered additional hours of work would have 72 hours to accept the offer. The proposed legislation would also require employees wishing to accept the offer to do so in writing.

The proposed legislation would allow employers to notify employees of the offer of additional hours by posting a notice in a conspicuous location in the workplace.

Amendments to Ordinance No. 241-14

The proposed legislation would require employers to provide employees scheduled to work on-call shifts with predictability pay if the employer modifies the scheduling of that shift with less than seven-days' notice.

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