

# Assessing the Initial Impacts of the First Statewide Scheduling Law

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**Oregon Senate Bill 828:** In 2017 Oregon passed the first statewide legislation to regulate unpredictable scheduling practices. Below, we provide a summary of findings from interviews with workers and managers in businesses affected by the law.

## Findings:

Workers are experiencing some improvements in scheduling due to the law:

- **Right to Rest Between Shifts**, which requires employers to schedule workers with at least 10 hours between their shifts, to avoid ‘clopening’ shifts that prevent workers from getting adequate rest, has been implemented across industries.
- **Input into Work Schedule (Right to Request)** allows workers to identify limitations or changes in work schedule availability without retaliation. Though we found workers generally have the right to request, many workers maintain open availability to the extent possible because they need more hours.
- **Advance Notice of Work Schedules**, which requires employers to provide written work schedules 7 calendar days before the first day of the work schedule, has been implemented fairly consistently. Effective July 1, 2020, 14 days advance notice will be required.

## Continued scheduling challenges:

- **Frequent Last Minute Schedule Changes:** Workers reported receiving changes in their schedules within the 7 day window, ranging from a couple of times each month to every day. Predictability pay was designed in part to discourage such last minute changes, or to compensate workers when such changes are necessary, but this appears compromised by the exceptions that allow schedule changes without such compensation.

One respondent who has scheduling responsibilities and processes the exceptions to predictability pay for a retail store told us that every week there are 250 waivers for predictability pay per week, while last week “**I paid one hour of [predictability pay] time.**”

- **Avoiding Paying Workers Predictability Pay:** Though the law requires that workers be compensated for last minute schedule changes, companies strongly discourage managers from paying predictability pay and use a variety of mechanisms to avoid it. These include:
  - **Voluntary Standby List:** SB 828 includes a provision that allows employers to ask workers to sign a voluntary standby list indicating their willingness to work additional hours. Workers who sign this list are not entitled to be compensated for last minute work schedule changes. Managers told us that they were instructed to encourage workers to sign on to the voluntary standby list to avoid predictability pay and other requirements of the law.

One manager shared their experience of being instructed by their company's human resources about how to *“combat the whole thing [the requirements of the law]...The standby list was the biggest thing they were offering. So we can have people that want more hours or want to be on call when there's other hours that are there, they can be on that standby list. So that was a large part of kind of getting around the new system.”*

- **One-Off Waivers of Predictability Pay for Each Schedule Change:** Many workers reported being asked to sign a form stating that they voluntarily changed their schedule, waiving predictability pay each time their schedule was changed. Several workers reported that they felt they had no choice but to sign the waivers because they needed the hours.
- **Requesting Workers ‘Volunteer’ for Schedule Changes:** Many workers and managers shared that their managers request that workers ‘volunteer’ to accept employer-initiated last minute schedule changes to stay late, come in early, or leave earlier than they had originally been scheduled to work.

A worker in hospitality said these practices are common in his workplace: *“On the phone they’ll ask them, ‘Is that cool, if you come in a couple of hours later?’ As an employee, they’re like—yeah, sure; I’ll come in later...[and] so they’re on the clock for less hours. Getting paid less. And because they said, “Sure” on the phone, now they’re into the voluntary. They come in, and they’ll sign the voluntary shift change when, in reality, it’s the manager that asked them to come in.”*

As long as the requests are framed as the employee's choice and used the words ‘volunteer’ or ‘voluntarily,’ then managers shared that they believed that meant the employer is exempt from predictability pay.

### **Finally, we found some particular circumstances that the law did not address, which led to challenges for workers:**

- **Inadequacy of Hours:** Companies consistently schedule workers for fewer hours than they need, which increases the pressure workers feel to accept last minute schedule changes. A manager of one retail store shared that they believe that most of their workers are on the voluntary standby list *“because they’re hungry for the hours.”* Without adequate hours, many workers said their priority was getting more hours rather than receiving compensation for last minute changes.
- **Lack of Knowledge about and Challenges with Enforcement of the Law:** We found that understandings and interpretations of the law varied widely--for both workers and managers--particularly with respect to predictability pay and the voluntary standby list. We found that the primary way that workers hear about the law is from their managers, but many managers do not know details about the law and numerous workers had not heard about several provisions of the law. Workers who had tried to advocate for enforcement had difficulty getting a response from the state enforcement agency, which lacks adequate resources for comprehensive, proactive enforcement.