



# JOINT ECONOMIC COMMITTEE DEMOCRATS

jec.senate.gov

U.S. Senator Martin Heinrich • Ranking Member

## On-Call, Without Pay

As we prepare to celebrate Labor Day, it is an appropriate time to focus on the millions of workers who start each week not knowing when they will work or how much they will earn. About one in six workers have irregular work schedules, working split or rotating shifts, or shifts assigned on an on-call basis.<sup>1</sup> Unpredictable schedules keep employees in the dark about their job and income security.

On-call scheduling also makes it more difficult to plan for child care, elder care, transportation and other arrangements that would allow employees to go to work while balancing their other responsibilities. Being required to call in an hour before their shift to see if they are needed prevents workers from doing anything else with their day, including furthering their education or seeking wages elsewhere.

### Workers across Income Level, Industry and Age Face Unpredictable Schedules

#### Income

While workers in jobs earning the lowest wages are most likely to face irregular schedules, higher earning workers are not immune.<sup>2</sup> Sixteen percent of workers earning more than \$60,000 annually are subjected to irregular schedules or split shifts compared to 20 percent for those workers earning less than \$22,500.<sup>3</sup>

#### Industry

Irregular and unpredictable schedules are common in the retail and food services industries where employers adapt in real time to labor demand conditions to minimize labor costs and maximize profits. Close to 16 million people work in retail, including nearly 3 million cashiers and more than 4 million retail salespeople.<sup>4</sup> More than 11 million work in food services and bars.<sup>5</sup> These are industries where workers often have little leverage in setting the terms of their work with employers and where unionization rates are well below the private sector average.<sup>6</sup>

#### Age

Workers in the early stages of their careers face especially unpredictable work schedules. Nearly four in ten workers age 26-32 know their schedule a week or less in advance.<sup>7</sup> Among retail workers in this age group, half receive one week or less advance notice of their schedule.<sup>8</sup> But prime-age workers also contend with unpredictable schedule changes. For example, more than one in five non-college graduates ages 35-49 face frequent changes in their work schedule and these changes are made with little or no advance notice more than half the time.<sup>9</sup>

	Retail Trade			Food Services and Bars		
	Employment (Thousands)	Share of Workforce	Average Annual Pay	Employment (Thousands)	Share of Workforce	Average Annual Pay
Alabama	233	15%	\$26,968	162	10%	\$15,141
Alaska	37	15%	\$30,699	22	9%	\$21,652
Arizona	326	14%	\$31,275	221	10%	\$17,898
Arkansas	142	14%	\$26,104	93	9%	\$14,721
California	1,668	12%	\$34,516	1,366	10%	\$21,188
Colorado	269	13%	\$30,619	225	10%	\$19,312
Connecticut	185	13%	\$33,225	115	8%	\$20,522
Delaware	54	14%	\$28,451	36	10%	\$18,067
District of Columbia	23	4%	\$35,851	51	10%	\$27,311
Florida	1,102	15%	\$29,779	768	11%	\$19,331
Georgia	490	14%	\$29,495	371	10%	\$16,752
Hawaii	71	13%	\$31,290	66	13%	\$22,167
Idaho	84	15%	\$29,587	52	9%	\$14,620
Illinois	618	12%	\$29,427	456	9%	\$18,674
Indiana	332	13%	\$26,562	243	9%	\$14,887
Iowa	183	14%	\$25,809	101	8%	\$14,084
Kansas	150	13%	\$26,271	100	9%	\$15,022
Kentucky	214	14%	\$26,673	157	10%	\$15,573
Louisiana	235	15%	\$26,962	168	11%	\$16,346
Maine	82	16%	\$26,882	45	9%	\$18,371
Maryland	291	14%	\$30,781	203	9%	\$19,220
Massachusetts	355	12%	\$32,318	267	9%	\$21,639
Michigan	472	13%	\$29,209	331	9%	\$16,078
Minnesota	298	12%	\$28,796	195	8%	\$17,389
Mississippi	141	16%	\$24,956	94	11%	\$13,926
Missouri	316	13%	\$27,147	226	10%	\$15,899
Montana	59	16%	\$28,303	40	11%	\$15,517
Nebraska	110	14%	\$26,355	68	8%	\$15,107
Nevada	144	13%	\$30,447	123	11%	\$21,570
New Hampshire	96	17%	\$30,980	49	9%	\$19,378
New Jersey	459	14%	\$33,238	255	8%	\$19,702
New Mexico	93	15%	\$28,001	71	11%	\$16,317
New York	936	12%	\$33,929	650	8%	\$23,694
North Carolina	496	14%	\$27,237	368	10%	\$15,968
North Dakota	49	14%	\$30,272	28	8%	\$16,665
Ohio	575	12%	\$27,122	436	9%	\$15,485
Oklahoma	184	15%	\$27,373	134	11%	\$15,415
Oregon	205	13%	\$29,680	150	10%	\$18,697
Pennsylvania	633	13%	\$27,777	402	8%	\$16,415
Rhode Island	48	12%	\$30,340	44	11%	\$18,815
South Carolina	247	15%	\$26,718	187	11%	\$16,253
South Dakota	54	15%	\$27,337	31	9%	\$14,963
Tennessee	334	13%	\$29,957	248	10%	\$16,858
Texas	1,322	13%	\$30,876	1,033	10%	\$18,142
Utah	165	14%	\$31,195	96	8%	\$15,570
Vermont	38	15%	\$29,645	20	8%	\$18,738
Virginia	417	13%	\$28,167	295	10%	\$17,463
Washington	363	14%	\$45,922	234	9%	\$20,412
West Virginia	87	16%	\$26,038	54	10%	\$15,054
Wisconsin	308	13%	\$25,965	205	8%	\$14,002
Wyoming	31	15%	\$27,608	21	10%	\$16,162

Source: Bureau of Labor Statistics Quarterly Census of Employment and Wages.

Note: Figures are 2016 averages. Share of workforce is share of private industry employment.

## Impacts of On-Call Scheduling on Workers, Families and the Economy

On-call scheduling negatively affects individual workers and the broader economy in a number of ways:

**Unpredictable employee schedules create income uncertainty for affected workers, which constrains their spending.** Hours and incomes can vary greatly from week to week or month to month, making it very difficult to plan or budget. This could lead to lower levels of overall consumer spending, which accounts for more than two-thirds of GDP.<sup>10</sup>

**Irregular schedules are associated with more work-family conflict.**<sup>11</sup> This is true for both salaried and hourly workers. Not knowing if you are going to work makes workers' daily lives unpredictable and stressful, complicating planning for child care and other responsibilities, and imposing financial and emotional costs on family members. Irregular schedules makes parenting harder and can affect the education of workers' children.<sup>12</sup>

**Irregular work schedules can harm worker health, with a multitude of negative health impacts including ulcers and cardiovascular disease.**<sup>13</sup> Recent research shows that health impacts of unpredictable work schedules extend to reduced cognitive performance.<sup>14</sup>

**Fluctuating and reduced work hours can jeopardize child care subsidies, which are often tied to number of hours worked.** Similarly, many cities require one or more adults working a fixed number of hours to receive housing assistance. Not knowing if the hours will be there from one week to the next can put these vital supports at risk.<sup>15</sup> These benefits are especially important to low-wage workers who are balancing their work and caregiving responsibilities.

## Changes in On-Call Practices

There have been several efforts at the municipal and state levels to reduce unpredictability in workers' schedules. In April 2016, nine state attorneys general notified 15 national retailers that they were beginning an inquiry into on-call scheduling, a practice widely used among retailers.<sup>16</sup> By the end of the year, all 15 had announced that they did not use on-call scheduling, were phasing it out, or had ended the practice.<sup>17</sup> Six other retailers, including Abercrombie & Fitch, Gap and J. Crew, promised to end the practice in 2015, after an inquiry from the New York Attorney General.<sup>18</sup>

In August, Oregon became the first state to require more predictable schedules for workers. The legislation, signed into law last month by Democratic Governor Kate Brown, requires retailers, food companies, and hotels with more than 500 employees to provide workers with one week

advance notice of their schedules starting in July 2018. Two weeks of notice will be required by July 2020. Workers must also be given the option to have 10 hours off between shifts or be eligible for time-and-a-half pay.<sup>19</sup>

Several large cities have also taken actions to protect workers from unpredictable and on-call schedules. In San Francisco, a retail worker's bill of rights requires large retailers to post their employees' schedules at least two weeks in advance and pay workers if their shifts are suddenly canceled.<sup>20</sup> New York City recently passed legislation slated to take effect at the end of the year that will require fast food employers to provide two weeks written notice of employee schedules. The city passed similar legislation prohibiting retailers with 20 or more employees from scheduling their employees for on-call shifts.<sup>21</sup>

Federal legislation has been introduced this Congress, modeled on successful "right to request" laws in the United Kingdom, Germany and the Netherlands, that would enable workers to ask their employer, without retaliation, for changes to the required number of hours of work, times, and location, as well as notification of schedule assignments.<sup>22</sup> There is also legislation that would require employers to provide employee schedules two weeks in advance and pay some compensation when an employee's schedule is changed abruptly or he or she is scheduled to a call-in or split shift.<sup>23</sup>

## Conclusion

While some cities and states have taken action to curtail or end on-call scheduling, millions of workers still are subjected to unpredictable schedules that make it hard to plan their lives and budget for their living expenses. On-call scheduling leaves workers not knowing what their income will be during any given period. That makes planning hard, puts strains on workers and their families, and ultimately can limit consumer spending.

---

<sup>1</sup> <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>

<sup>2</sup> <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>

<sup>3</sup> <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>

<sup>4</sup> <https://www.bls.gov/iag/tgs/iag44-45.htm>

<sup>5</sup> [https://www.bls.gov/oes/current/naics3\\_722000.htm](https://www.bls.gov/oes/current/naics3_722000.htm)

<sup>6</sup> <https://www.bls.gov/news.release/union2.t03.htm>

<sup>7</sup> [https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly\\_precarious\\_work\\_schedules.august2014\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly_precarious_work_schedules.august2014_0.pdf)

<sup>8</sup> [https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly\\_precarious\\_work\\_schedules.august2014\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly_precarious_work_schedules.august2014_0.pdf)

<sup>9</sup> [https://www.rand.org/pubs/research\\_reports/RR2014.html](https://www.rand.org/pubs/research_reports/RR2014.html)

<sup>10</sup> <https://fred.stlouisfed.org/graph/?g=hh3>

<sup>11</sup> [https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/industrial\\_labor\\_relations\\_review-2014-henly-986-1016\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/industrial_labor_relations_review-2014-henly-986-1016_0.pdf) and <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>

<sup>12</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3207253/>

<sup>13</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3430894/> and <https://www.ncbi.nlm.nih.gov/pubmed/10360463>

<sup>14</sup> <http://oem.bmj.com/content/72/4/258>

<sup>15</sup> [https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert\\_and\\_henly\\_scheduling\\_policy\\_brief\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert_and_henly_scheduling_policy_brief_0.pdf)

<sup>16</sup> <http://www.chicagotribune.com/business/ct-attorney-general-on-call-scheduling-0414-biz-20160413-story.html>

---

<sup>17</sup> <http://www.mass.gov/ago/news-and-updates/press-releases/2016/2016-12-20-on-call-scheduling.html>

<sup>18</sup> <https://www.forbes.com/sites/marciaturner/2016/12/31/is-on-call-scheduling-in-retail-coming-to-an-end/#33be0de7c0aa>

<sup>19</sup> [http://www.oregonlive.com/politics/index.ssf/2017/06/oregon\\_on\\_way\\_to\\_become\\_first.html](http://www.oregonlive.com/politics/index.ssf/2017/06/oregon_on_way_to_become_first.html) and [https://www.washingtonpost.com/news/wonk/wp/2017/06/30/fast-food-workers-learn-their-hours-on-the-fly-oregon-wants-to-change-that/?utm\\_term=.1af6c02c1131](https://www.washingtonpost.com/news/wonk/wp/2017/06/30/fast-food-workers-learn-their-hours-on-the-fly-oregon-wants-to-change-that/?utm_term=.1af6c02c1131)

<sup>20</sup> <http://sfgov.org/olse/formula-retail-employee-rights-ordinances>

<sup>21</sup> <http://www1.nyc.gov/office-of-the-mayor/news/372-17/mayor-de-blasio-speaker-mark-viverito-that-new-york-city-the-largest-city-end#/0>

<sup>22</sup> <https://maloney.house.gov/media-center/press-releases/maloney-casey-working-families-have-right-to-negotiate-flexible-work>

<sup>23</sup> <https://delauro.house.gov/media-center/press-releases/delauro-and-warren-lead-members-reintroducing-schedules-work-act>