



ISSUE BRIEF

HB23-1118, Fair Workweek Employment Standards, would eliminate scheduling flexibility for thousands of Colorado businesses and workers and impose punitive new fines

Overview

HB23-1118 requires that employers in food and beverage, retail, franchises, and other businesses:

- Give employees an average number of hours they'd work in a week and pay them a minimum of 15% of those hours, regardless of whether they work the hours.
- Post schedules two weeks in advance. Deviations would require employers to pay "predictability pay," "rest shortfall pay," and other fines.
- Changes in scheduling would require written employee consent.
- The bill bars employers from hiring additional staff until existing employees are scheduled for their desired number of weekly work hours, up to 40 hours a week or 12 hours a day, by penalty of six months of required retention pay to the existing employee.

Why we oppose HB23-1118

- Many businesses require flexibility to meet fluctuating customer demands. The bill fails to recognize the operational realities of many industries and the need to respond to emergencies, weather, manufacturing line slow-downs and more, and attempts to legislate certainty in industries where it cannot exist.
- The flexibility to add, reduce, or change working hours, sometimes on short notice, is why many employees choose jobs in these industries. Flexibility allows them to make extra income when they need it, or to quickly change shifts to respond to personal circumstances like college workload or family care needs.
- This bill will hamstring restaurants, which are still recovering from the pandemic, and average razor-thin profit margins of 3-5%. They simply cannot afford the fees laid out in the bill, and rapidly-changing customer demands mean that they need to retain the ability to quickly adapt staffing in response.
- The hospitality industry continues to face worker shortages, and this bill makes it harder to hire by restricting their ability to hire new employees.
- The fee structure in the bill is punitive and expensive.
- Research has shown that penalizing employers for making schedule adjustments less than two weeks in advance incentivizes them to schedule fewer workers to avoid potential penalties.
- The bill's requirements are far more prescriptive and expensive than recently-adopted scheduling policies adopted in a few cities and in Oregon.
- The bill will lead to costly lawsuits.
- Coming out of the pandemic, employees overwhelmingly say they want more flexibility, not less. Employers have responded by widely adopting remote-work and flex-hour policies where feasible.

This bill is opposed by more than 50 Colorado organizations, including the Colorado Restaurant Association and the Colorado Retail Council. Please urge your legislators to vote no on this heavy-handed and counterproductive bill.