



**FAIR WORK WEEK ACT  
NEW YORK CITY ALERT**  
*Enacted November 26, 2017*

Retail clients of LOVE LAW FIRM are advised to become familiar with the new Fair Work Week Act which went into effect on November 26, 2017. It's important that as an employer you are aware of what this new law requires with respect to your employees.

***Who is Covered?***

The Fair Workweek Law defines a “retail employer” as any employer that employs a retail employee at a retail business, with “retail business” defined as any entity with twenty or more employees that is engaged primarily in the sale of consumer goods at one or more stores within New York City limits. Finally, “consumer goods” means products that are primarily for personal, household, or family purposes, including, but not limited to, appliances, clothing, electronics, groceries, and household items.

***What Must An Employer Do?***

**1. 72 Hours’ Advance Notice of Work Schedule**

You must give workers their written work schedule **at least 72 hours** before the start of the scheduled work week, in the way that you usually contact your employees. (This may include text, email, or online posting.) In addition, you must post the schedule in a location that is conspicuous for all of your employees. The schedule must include dates, shift start and end times, and the location (if applicable) of all shifts in the work schedule. If the schedule is changed, you **must update and repost** the schedule and contact all affected workers. Schedules should cover seven days.

*Note:* if you have an employee that has privacy concerns as a victim of domestic abuse or other such status, the employee may request an accommodation to not have his or her schedule made public.

**2. No On-call Shifts**

You may not require workers to be ready and available to work at any time. Nor may an employer require an employee to “check in” within 72 hours of a scheduled shift to find out if they should report for the shift.



### **3. No Shift Additions with Less than 72 Hours' Notice**

If you want to add time or shifts to a schedule less than 72 hours before the change, workers have the right to accept or decline the change. If workers accept an additional shift, they must do so in writing. This writing may include email or text messages, but you need to preserve evidence of the agreement and keep in the employee's timekeeping file.

### **4. No Shift Cancellations with Less than 72 Hours' Notice**

You may not cancel a shift less than 72 hours before the start of the shift except under the following circumstances: threats to worker safety or employer property, public utility failure, shutdown of public transportation, fire, flood, or other natural disaster, or a government-declared state of emergency.

However, workers may trade shifts voluntarily, and should do so in writing and provide you a copy. Again, this can be in a text, message or email, and the approval needs to be kept in the employees' files. In addition, you must update and repost the schedule and contact all affected employees.

### **5. Records of Schedules Must Be Kept**

You must keep a record of each employee's hours for the week, as well as each employee's shift date, time, and location. You must also keep any written consent to schedule changes provided by your employees, and a copy of every schedule provided to your employees. Records must be retained for **three years**.

### **6. You Must Provide A Copy Of Schedules When Requested**

If requested by an employee, you must provide a copy of the employee's work week schedules within fourteen days of the request.

*Note:* employees may request the current schedules of other employees, not just their own. Employers must provide a copy within seven days of request.

### **7. You Must Post A Notice of the Fair Work Week Act Rights**

As with all of your other required posters, you need to include the Fair Work Week Act poster in your employee break room or other area where you have required postings. The posting must be in English and, if more than 5% of your employees share a common native language, you need to post a notice in that language as well.



### ***What Happens If You Don't Do These Things?***

If an employer doesn't maintain the records as required under the Act, the employer will have to prove it complied, rather than have the presumption that it did comply.

In addition, if the Court finds that you did not comply with the requirements, penalties may be assessed, including, but not limited to:

*Fines to the City* - \$500 for the first offense; \$750 for the second offense within two years, and \$1,000 per offense thereafter

*Fines to the Employee* - \$500 per On Call Shift, \$500 per shift on less than 72-hours notice, \$500+ for any act of retaliation, \$2,500+ for retaliatory termination

### ***Next Steps***

If you need assistance implementing and complying with the requirements of the Fair Work Week Act, contact LOVE LAW FIRM and we'll be glad to help.

*This article is for general information purposes and is not intended to be and should not be taken as legal advice. To learn more about LOVE LAW FIRM please see our website, [www.lovelawfirmpllc.com](http://www.lovelawfirmpllc.com), or call us at 516-697-4828.*