



San Francisco's Formula Retail Employee Rights Ordinances

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City and County of San Francisco

Important Dates

November 25, 2014: BOS passed Police Code 33F/33G

January 4, 2015: Effective Date

July 3, 2015: Operative date

July 7, 2015: Amendments passed by BOS

October 3, 2015: End of 90 day grace period

Covered Employers

Planning Code Section 303.1

Formula Retail Uses

- bar
- drive-up facility
- eating and drinking use
- liquor store
- restaurant, large fast-food
- restaurant, small self-service
- restaurant, full-service
- sales and service
- tobacco paraphernalia establishment
- massage establishment
- other retail
- sales and service, retail,
- movie theatre
- video store
- amusement and game arcade
- take-out food
- specialty food, self-service
- fringe financial service
- limited financial service
- personal service

Covered Employers

- Planning Code Section 303.1 defines *Formula Retail Establishment* as a retail or service business with any 2 of the following:
 1. a standardized array of merchandise;
 2. a standardized façade;
 3. a standardized décor and color scheme;
 4. uniform apparel;
 5. standardized signage; or
 6. a trademark or servicemark*and 11 or more locations worldwide.*
- Covered Employers are *Formula Retail Establishments* with:
 - **40 or more locations worldwide; and**
 - **20 or more employees in San Francisco**

Property Services Contractors

- Janitorial Services and Security Services contractors of covered Formula Retail Establishments are covered by most provisions in 33F and 33G.
- Contracts must include:
 1. A provision requiring the contractor to comply with these laws; and
 2. A copy of these laws

Additional Work for Part-Time Employees

[1 of 2]

- Before hiring new EEs / contractors / temp agency:
 - Offer additional work to current part-time EEs
 - If employee is “qualified”; and
 - Work is the same or similar to work EE has performed

Additional Work for Part-Time Employees

[continued]

- Only required to offer hours up to 35 hrs/week
- Offer must be in writing
- Records must be retained for 3 years

Employee Retention

If covered Establishment is sold, Incumbent Employer must:

- Provide Successor with a Retention List on date of execution of transfer document
- Post notice of change within 24 hrs of transfer



Employee Retention [continued]

- If covered Establishment is sold, Successor must:
 - Retain EEs (who worked at least 6 mos.) for 90 days. (Does not apply to supervisors or managers.)
 - Retain employees by seniority if fewer employees are needed
 - Provide written notice to retained employees about their rights

Scheduling Requirements

- Before employment, employers must provide an estimate of:
 - Minimum number of shifts/month; and
 - Days and hours of shifts (excludes on-call shifts).
- Employer must consider an employee's request to modify schedule
 - Employer has sole discretion
 - Employer must notify employee of decision

Scheduling Requirements [continued]

- Provide notice of schedules two weeks in advance
 - Post at workplace or transmit electronically
- Keep work schedules & payroll records for 3 yrs.

Predictability Pay

- If schedule is changed with < 7 days notice:
 - **1 hour of pay** for each shift change.
- If schedule is changed with < 24 hrs notice:
 - **2 hours of pay** if the shift is four hours or less; or
 - **4 hours of pay** if the shift is longer than four hours.

Pay for On-Call Schedules

- If an employee is on-call, but is not called in:
 - 2 hours pay if the on-call shift is 4 hours or less,
 - 4 hours pay if the shift exceeded four hours.

On-Call & Predictability Pay Exceptions

No predictability pay is required in these cases:

- Threats to employees or property safety;
- Public utilities failures;
- Operations cannot begin or continue due to an Act of God or other cause not within the Employer's control
- Another Employee cannot work; did not give 7 days' notice;
- Another EE failed to report to work or was sent home;
- Employer requires EE to work overtime; or
- The EE requests a change in shifts or trades shifts.

Equal Treatment for Part-Time EEs

Equal treatment required for part-time EEs, compared to full-time EEs at the same level

1. Starting hourly wage
2. Access to PTO and unpaid time off; and
3. Eligibility for promotions (w/ qualifications)

Workplace Posting

- Covered Employers are required to post the OLSE's multilingual Notice informing employees of their rights.

Retaliation Prohibited

- It is illegal for an employer to take adverse action against any person in retaliation for exercising their rights under the Ordinance.

Enforcement

- OLSE enforces the laws
- Any appropriate relief, including but not limited to:
 - payment of lost wages, reinstatement
 - payment of penalties to EEs and the City
- 33F includes:
 - Joint / several liability
 - \$500 Admin Fines
- Appeal procedure
- City Attorney may file civil action



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