A bit of what we know about scheduling practices and legislation

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Overview

1. Common provisions in current scheduling laws
2. Some evidence that employers have the capacity to improve scheduling practices (in retail jobs)
Multiple dimensions of work schedules

- Predictability
  - Ability to anticipate when you’ll work or not

- Stability
  - Consistency of number and timing of hours

- Adequacy
  - Enough hours to earn a living

- Control/input
  - Having a say in when and how much you work

- Timing (standard v. nonstandard)
  - Daytime, weekday vs. evenings, weekends
What we know?

- All dimensions are consequential for workers and families
- Potentially problematic dimensions are widespread in the labor market
  - With brown and black workers and part-time employees at particularly high risk of unpredictable and unstable work schedules.

- *It’s the combination of dimensions that matters.*
Comprehensive Work Schedule Legislation

- **Formula Retail Employee Rights Ordinances** (San Francisco)
  - Retail (40 stores worldwide and 20 or more EEs in SF, as well as janitorial and security contractors)
  - July 2015

- **Secure Scheduling Ordinance** (Seattle)
  - Retail, fast food, and full-service restaurants (500 EEs WW)
  - July 2017

- **Fair Workweek Ordinance** (Emeryville, CA)
  - Retail and fast food (>55 EEs)
  - July 2017

- **Fair Workweek Laws** (New York City)
  - Fast food and retail (all non-exempt retail (20 EEs in NYC) and chain fast food)
  - November 2017

- **Predictable Scheduling Law** (Oregon)
  - Retail, hospitality, and food service (500 EEs WW)
  - July 2018
Common provisions address multiple dimensions

1. **Advance notice** *(predictability)*
   - Number of days in advance the ER must provide a schedule
   - Good faith estimate of what hours EEs can expect

2. **Schedule change premium** *(“predictability pay”)* for **employer-driven** schedule changes. Extra compensation to EE when manager:
   - Asks EE to work additional hours
   - Cancels or reduces shift
   - Tells worker not to come in for an on-call shift

3. **Right to decline additional hours** *(control/input)*

4. **Right to request an accommodation to one’s usual schedule without retaliation** *(control/input)*
   - ER must provide written explanation if deny request for adjustment for qualified reason, e.g., caregiving, school.

5. **Access to hours** *(adequacy)*
   - ER must offer hours to current employees before hiring

6. **Right to rest** *(timing)*
   - Can refuse closely-spaced shifts &
A few highlights to think about

- Focus is on improving **predictability** of work hours, **not stability**
  - No restrictions on, or incentive in the law for, scheduling EEs for the same shifts week to week
  - Can update good-faith notice anytime
- Except for requirements of advance notice, **the laws do not mandate employers’ scheduling practices**
  - For example, they do not ban employers from reducing EEs work hours, though ERs have to pay EEs for part of the time they would have worked
- **Laws assume it is possible to differentiate employee- and employer- driven schedule changes**
  - For employer-driven changes, to further differentiate what is a **voluntary versus involuntary** employee response
Devils in the Details: Coverage and administrative rules vary by place (examples)

- **Amount of advance notice**
  - 14 days common; 7 days in Oregon until 2020; 72 hours retail in NYC (14 days fast food in NYC)

- **Conditions under which premium pay is NOT required when change results in add’l hours**
  - If change is *employee-driven*, e.g., San Francisco
  - If change is employee-driven AND additional hours offered to multiple workers, e.g., Seattle
  - If on standby list of employees who say willing to work extra hours (though EE must still “be free to decline offers of additional hours”), e.g., Oregon

- *Of course, the administrative rules matter enormously for ease of implementation and enforcement.*
Laws address multiple dimensions of work schedules (choose your ending...)

- which research suggests is important to effectiveness.
- which results in complex laws with implementation challenges.
Is it feasible for employers to provide more stable, predictable, and adequate hours? Or is there just too much instability and unpredictability in demand?

- Research suggests there’s more *stability* that could be passed onto workers
  - Only 30% of variation in staffing explained by variation in store traffic – Stable Scheduling Study (Gap, Inc.)

- and more *predictability*:
  - >90% match between initial hour allocations from labor forecasts and actual deployment of hours – Work Scheduling Study
Increasing schedule stability and predictability can be good for business.

Randomized experiment of a scheduling intervention at the Gap, Inc. increased:

- sales by 7%
- labor productivity by 5%

But how likely is it that frontline managers will change their scheduling practices when required to do so by law?

- How far of a distance needs to be bridged between current scheduling practices in low-paid, hourly jobs and the legal requirements in scheduling legislation?

And what are the ramifications for workers and families of not changing employers’ scheduling practices and the ramifications of changing them?