



Dr. Lloyd Corder
CorCom, Inc.
Carnegie Mellon University

Dr. Aaron Yelowitz
University of Kentucky

March 2016

**Employment
Policies**

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FAIRNESS VS. FLEXIBILITY

An Evaluation of the District of Columbia's
Proposed Scheduling Regulations

The Employment Policies Institute (EPI) is a nonprofit research organization dedicated to studying public policy issues surrounding employment growth. In particular, EPI research focuses on issues that affect entry-level employment. Among other issues, EPI research has quantified the impact of new labor costs on job creation, explored the connection between entry-level employment and welfare reform, and analyzed the demographic distribution of mandated benefits. EPI sponsors nonpartisan research that is conducted by independent economists at major universities around the country.

About Dr. Aaron Yelowitz

Dr. Aaron Yelowitz is an Associate Professor in the Department of Economics at University of Kentucky. He also is a joint faculty member in the Martin School of Public Policy and Administration at University of Kentucky, and an adjunct scholar with the Cato Institute. He serves on the editorial board of Journal of Labor Research. Dr. Yelowitz received his Ph.D. from MIT in 1994, and has previously worked at UCLA as an assistant professor. He has published articles in the Journal of Political Economy, Quarterly Journal of Economics, Journal of Health Economics, Journal of Public Economics, Journal of Human Resources, Economic Inquiry, Southern Economic Journal, Health Services Research, Real Estate Economics, Cityscape, Economics Letters, Applied Economics Letters, Economic Development Quarterly and Pediatric Neurology. He has taught graduate classes on public economics and health economics, and undergraduate classes on labor economics, public economics, housing economics and poverty and welfare programs.

About Dr. Lloyd Corder

Lloyd Corder, Ph.D. is a senior marketing strategist and researcher with more than 25 years professional experience, with the past 15 operating CorCom, Inc. He serves on the graduate business school faculty at Tepper School of Business at Carnegie Mellon University, where he teaches marketing research, brand strategy and international marketing. In addition to serving on the Department of Communication faculty at the University of Pittsburgh, he is also a frequent keynote and convention presenter. The results of his studies have been printed in over 200 magazines and newspapers, and he has published over 50 business articles on marketing communication, leadership and measuring marketing return on investment (ROI). His book, *The Snapshot Survey: Quick, Affordable Marketing Research for Every Organization*, is published by Kaplan.

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1090 Vermont Avenue, NW
Suite 800
Washington, DC 20005

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FAIRNESS VS. FLEXIBILITY

An Evaluation of the District of Columbia's Proposed Scheduling Regulations

Executive Summary

The debate over whether to raise the minimum wage has expanded in recent years to encompass demands for additional workplace benefits. These include health care, paid sick leave, and most recently the availability of a “fair” schedule.

The City of San Francisco was the first to enact legislation on this latter point, enacting the Formula Retail Employee Rights Ordinance on July 3, 2015. San Francisco’s law requires most “chain” stores, as well as their contractors, to provide schedules to employees two weeks in advance, establishes a series of financial penalties for schedule changes that occur less than a week before the scheduled work day, and requires additional work to be offered to part-time staffers before additional employees are hired.

Washington, DC, is now considering similar legislation that applies to retailers and chain restaurants in the District. Labor advocates argue that the law is necessary to “[promote] full-time work” at these businesses; in a report supporting their campaign, they argue that these employees “struggle with low wages, too few hours,

and fluctuating hours.” Thus far, the research they’ve provided to document this problem comes mostly from data that labor organizers collected themselves.

To better understand the impact of the proposed ordinance, this study provides two key pieces of data: A profile of the affected part-time workforce in Washington, DC, and direct feedback from 100 businesses that would be affected by the law.

Dr. Aaron Yelowitz of the University of Kentucky used data from the Census Bureau’s American Community Survey and the Current Population Survey to examine part-time workers in the specific industries that would be impacted by DC’s law. He finds the following:

- Just one-in-seven (14 percent) of the affected employees are estimated to be working part-time involuntarily
- 27 percent are currently enrolled in school, compared to nine percent of the entire workforce
- 38 percent have a high school diploma or less, and 80 percent have less than a four-year college degree.

These data cast doubt on the notion that part-time employees at DC's retailers and restaurants are being forced to work that schedule; rather, most are voluntarily working part-time.

Also important for policymakers to understand is how DC businesses will react to new scheduling mandates. Dr. Lloyd Corder and his survey research team at CorCom designed a survey of 100 restaurant and retail businesses in Washington, DC, that would likely be affected by this law.

A majority of businesses say it will be difficult to post employees schedules 21 days in advance of the work week (55%), as the law would require. Even more think the financial penalties will be onerous: For instance, most (71%) say the law's provision that requires four hours of pay for each change that happens less than 24 hours before the scheduled shift would be extremely difficult to comply with. A majority (59%) agreed that providing employees

one hour of pay for each change that happens fewer than 21 days before the scheduled work week would also be extremely difficult to manage and comply with.

If the ordinance passes, businesses are likely to reduce their part-time workforce and implement other restrictions, such as offering employees less flexibility to make schedule changes (73%), offering fewer part-time positions (52%), changing the hiring composition of full versus part-time employees (50%), offering fewer jobs across the board (50%) and scheduling fewer employees per shift (50%). (See table below.)

These consequences—of fewer part-time positions, and of less flexibility in the positions that remain—may be the goal of the law's proponents, but they appear to be at odds with the preferences of the employees who are voluntarily working those jobs.

Likely Impact of Adopting DC Scheduling Ordinance	
	Likely To Take Action (N=100)
Offer employees less flexibility to make schedule changes	73%
Offer fewer part-time positions	52%
Change the hiring composition of full-time vs. part-time employees	50%
Offering fewer jobs across the board	50%
Schedule fewer employees per shift	50%
Reduce customer service	22%

FAIRNESS VS. FLEXIBILITY

An Evaluation of the District of Columbia's Proposed Scheduling Regulations

Characteristics of the Part-Time Retail Workforce in DC

A profile of the part-time workforce in retail and the restaurant industry in Washington, DC was created from the 2014 American Community Survey (ACS), as well as the Current Population Survey. (The full methodology is available in Appendix B.) A principal advantage of the ACS is the sizable samples, as well as the ability to identify those employed within the District.

Of 8,276 respondents in the ACS who reported working in Washington, DC (which, when weighted to reflect the DC population, represents 820,826 workers), 31.8% lived in Washington DC, 38.5% lived in Maryland and 27.9% lived in Virginia. A small number of workers – approximately 15,000 – live elsewhere.

The proposed scheduling law in Washington DC applies to restaurants who are part of a chain with 20+ locations nationwide, and retail businesses with 5+ locations nationwide. All workers in the ACS with a 2-digit North American Industry Classification System code (the standard used by federal statistical agencies) of 44, 45 or 72 were coded as being affected by the law; this likely overstates the impact since some of these workers are not in chain stores. As seen in Table 1, there are roughly

40,000 workers in DC who work in these industries, and 11,500 of them work part-time (defined as less than 35 hours per week.) Other notable characteristics of the part-time workforce include the following:

- Just one in seven (14 percent) of these part-time restaurant and retail employees are estimated to be working that schedule involuntarily;
- The average hourly wage rate for a part-time retail or restaurant worker in DC is \$16.98;
- 38 percent of part-time restaurant and retail workers in DC have a high school degree or less; over 80 percent have less than a four-year college degree;
- 27 percent of these part-time restaurant and retail workers are enrolled in school, compared to just nine percent of the workforce as a whole;
- 85 percent of these part-time workers are unmarried.

Anticipating the Impact of Washington, DC's Proposed Scheduling Ordinance

To gauge the potential impact of Washington, DC's proposed ordinance on businesses and employees, a survey of 100 restaurant and retail franchisees was completed in January 2016. Franchisees were used as a proxy for the chain businesses to which the District's law would apply.

Table 1: Profile of DC's Restaurant and Retail Workforce

	All Firms	Restaurant and Retail	Part-time Restaurant and Retail*
Annual Hours	2133 (596)	1820 (770)	875 (502)
Hourly Wage Rate	\$42.41 (105.15)	\$19.15 (22.07)	\$16.98 (35.57)
Median Wage Rate	\$34.23	\$15.43	\$11.78
Proportion Part-Time	0.084 (0.277)	0.283 (0.45)	1 (0)
Involuntary Part Time	0.009 (0.034)	0.04 (0.068)	0.141 (0.042)
Employer Health Ins.	0.84 (0.366)	0.574 (0.494)	0.429 (0.495)
Age	42.1 (12.5)	37.0 (12.9)	31.1 (12.5)
Non-Citizen	0.099 (0.299)	0.224 (0.417)	0.149 (0.356)
Male	0.512 (0.5)	0.512 (0.5)	0.456 (0.498)
Educ<12	0.029 (0.168)	0.127 (0.333)	0.108 (0.31)
Educ=12	0.107(0.309)	0.28 (0.449)	0.268 (0.443)
12<Educ<16	0.178 (0.383)	0.322 (0.467)	0.417 (0.493)
Educ≥16	0.686 (0.464)	0.27 (0.444)	0.207 (0.405)
Enrolled in school	0.093 (0.291)	0.12 (0.325)	0.274 (0.446)
White	0.508 (0.5)	0.274 (0.446)	0.27 (0.444)
Black	0.296 (0.456)	0.406 (0.491)	0.463 (0.499)
Hispanic	0.089 (0.285)	0.236 (0.424)	0.212 (0.409)
Married	0.515 (0.5)	0.312 (0.463)	0.152 (0.36)
Female with child 0-5	0.041 (0.199)	0.032 (0.176)	0.047 (0.211)
Female with child 6-17	0.075 (0.263)	0.084 (0.278)	0.07 (0.255)
Female with child 0-5 and 6-17	0.021 (0.144)	0.054 (0.225)	0.091 (0.288)
English Difficulty	0.053 (0.224)	0.181(0.385)	0.116 (0.32)
Worker Count	565,398	40,545	11,457

* Less than 35 hours per week.

Standard deviations in parenthesis.

Source: American Community Survey and Current Population Survey. See Appendix B for full methodology.

Contact lists of 1,524 franchises were created from data obtained from FRANData and Reference USA. Franchisees in this survey described themselves as quick service restaurants (42%), retail (40%) or full service restaurants (18%). Half (52%) of franchises reported that half or more of their current staff are part-time employees and 70 percent reported that most of their part-time staff started their jobs exclusively for part-time work.

Businesses were asked to describe the anticipated impact of the proposed Hours and Scheduling Stability Ordinance currently being considered.

Scheduling Ordinance More Difficult than \$11.50 Minimum Wage

Considering all of the current and proposed ordinances in Washington, DC, franchises were asked which was or would be the most difficult for their business to comply with. One-third (30%) said the proposed scheduling ordinance would be the most difficult to accommodate, followed by the proposed 16-week family leave plan funded by employers (27%), minimum wage phasing up

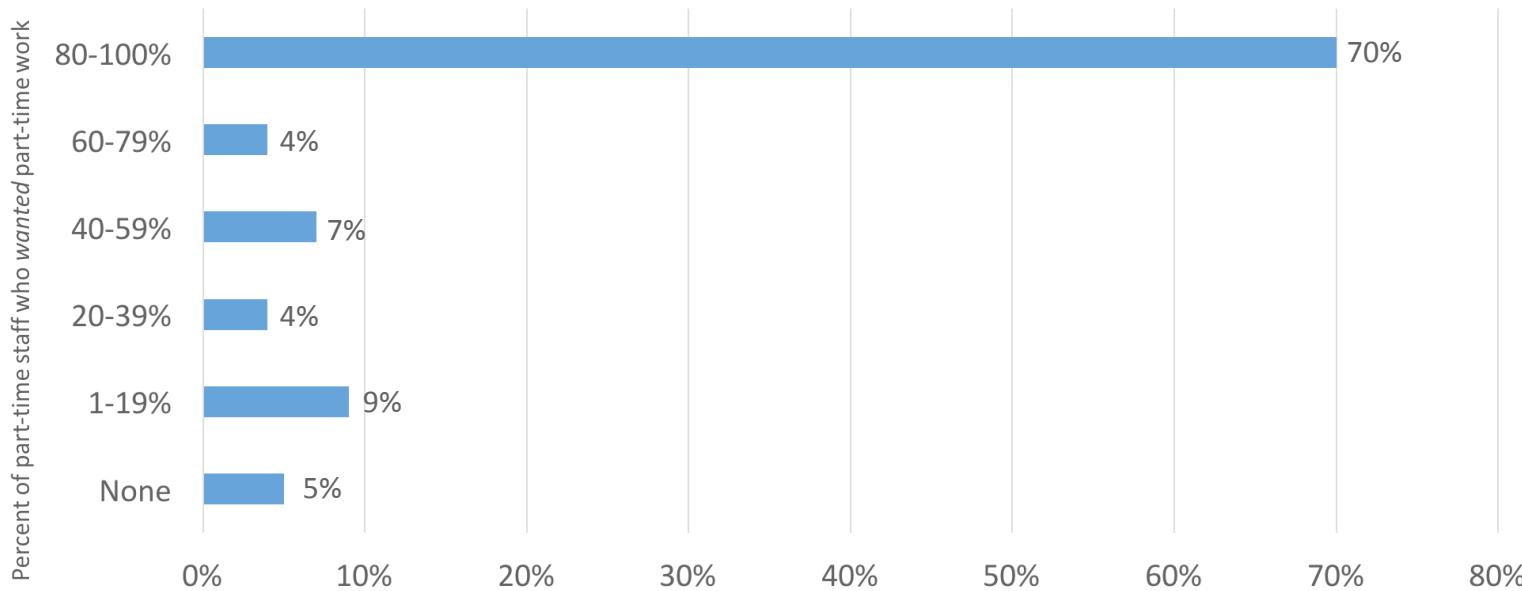
to \$11.50 in July 2016 (17%), paid sick leave requirements (15%) and others (11%). (Figure 1)

Financial Penalties More Difficult than Other Requirements

Businesses were then asked the degree of difficulty that would accompany each of the requirements. Three-fourths (71%) say that it will be somewhat (20%) or very (51%) difficult to provide employees with four hours of pay for each schedule change that happens less than 24 hours before the scheduled shift. Likewise, over half (59%) say that providing employees with one hour of pay for each shift change that happens fewer than 21 days before the scheduled work week will be a challenge and half (55%) think posting employee schedules 21 days in advance of the work week will be onerous. (Table 3)

One-third or less say having to offer current employees more work in writing before hiring new staff (32%), keeping three-year records of daily hours worked by all employees, and all work schedules and revisions (26%) and giving equal treatment (hourly wage, benefits, eligibility of promotion) to both full- and part-time employees (22%) will be difficult.

Table 2. Most Affected Part-Time Employees Are Voluntarily Part-Time
Employer Responses: What Percentage of Your Part-Time Staff Only Wanted Part-Time Work?



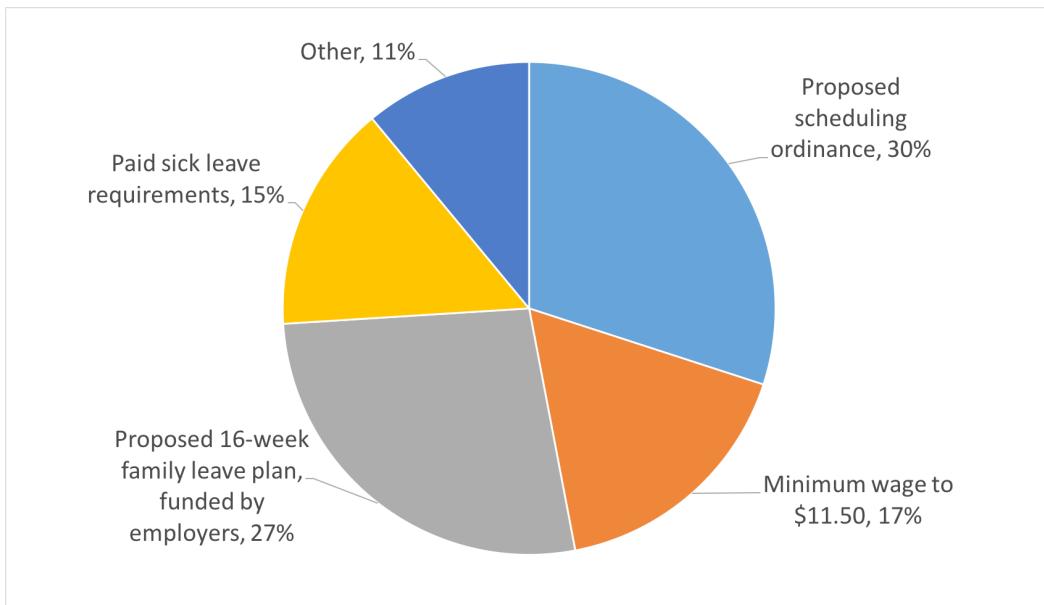


Figure 1. Labor Ordinances Most Difficult to Comply With

When broken down by type of business, full-service restaurants find it more difficult to comply with the majority of the requirements . Three-fourths (73%) say that it will be difficult to post schedules 21 days in advance of the work week. Nearly all (95%) think paying employees four hours of pay for each schedule change within 24 hours of their shift will be burdensome and (78%) think paying one hour for shift changes within 21 days before the work week is onerous.

All business types perceive complying with the remaining requirements to have a similar level of difficulty, except for giving equal treatment to both full- and part-time employees. More full-service restaurants (33%) say this is more difficult than other businesses (22%).

Ordinance Likely to Reduce Part-time Workforce

Retailers were asked what steps, specifically, they would take that would impact employees' scheduling flexibility or job opportunities if the ordinance was enacted.

Detailed Responses to Ordinance Requirements

If the law is enacted, three-fourths (73%) say that they are likely to offer employees less schedule flexibility, while half will offer fewer part-time positions (52%), change hiring composition between full- and part-time employees (50%), offer fewer jobs across the board (50%) and schedule fewer employees per shift (50%). One-third (33%) will pursue automated alternatives and one-in-five say they will reduce customer service (22%). (Table 4)

Almost all full-service restaurants (94%) say they will be less flexible with employees' scheduling (very likely, 72%; somewhat likely, 22%). Likewise, 72% say they are going to offer fewer part-time positions (very likely, 50%; somewhat likely, 22%).

Scheduling Ordinance Likely to Have Adverse Impact on Future Expansions in Washington, DC

While one-third (36%) say that the scheduling ordinance would have no impact on their future expansions plans, one-fifth say that it will have some influence (22%) and (18%) say it will have a significant influence. One-fourth (24%) are unsure.

Table 3: Perceived Difficulty of Complying with Various Components of the Formula Retail Employee Rights

Businesses Responding “Somewhat” or “Very” Difficult

	All Businesses (N=100)	Full-service Restaurants (n=18)	Quick Service Restaurants (n=42)	Retail (n=40)
Providing employees with four hours of pay for each schedule change that happens less than 24 hours before the scheduled shift	71%	95%	76%	55%
Providing employees with one hour of pay for each shift change that happens fewer than 21 days before the scheduled work week	59%	78%	60%	50%
Posting employee schedules 21 days in advance of the work week	55%	73%	57%	45%
Having to offer current employees more work in writing before hiring new staff	32%	39%	38%	23%
Three-year record keeping requirement of daily hours worked by all employees, and all work schedules and revisions	26%	28%	33%	18%
Giving equal treatment (hourly wage, benefits, eligibility of promotion) to both full- and part-time employees	22%	33%	10%	30%

Table 4: Likely Impact of Adopting Formula Retail Employee Rights Ordinance

Businesses Responding “Somewhat” or “Very” Difficult

	Overall (N=100)	Full-service Restaurant (n=18)	Quick-service Restaurant (n=42)	Retail (n=40)
Offer employees less flexibility to make schedule changes	73%	94%	69%	68%
Offer fewer part-time positions	52%	72%	62%	33%
Change the hiring composition of full-time vs. part-time employees	50%	67%	55%	38%
Offering fewer jobs across the board	50%	50%	57%	43%
Schedule fewer employees per shift	50%	56%	64%	33%
Reduce customer service	22%	22%	26%	18%
Pursue automated alternatives	33%	33%	38%	28%

Appendix A: Survey Script

Washington, D.C. Formula Retail Employee Rights Survey

Introduction

We're conducting a confidential, independent study of franchises and businesses that would be affected by a proposed law in Washington, DC, that places limits on how and when employers can schedule their employees. The law would apply to all restaurants in DC, including franchisees that are part of a brand with 20 or more locations nationwide; it would also apply to all retailers in DC with five or more locations nationwide.

Among other things, the bill requires the following: Provide schedules to employees 21 days in advance of the start of each week, and permit employees to decline to work hours not included in this schedule; provide one hour of pay for any schedule change -- including a shortened shift -- made less than 21 days before the start of the work week; provide four hours of pay for any schedule change made less than 24 hours prior to the employee's shift; offer additional hours of work to existing employees before hiring new employees; and provide equal wages and benefits to part-time and full-time employees doing substantially the same work. Employers would be required to keep records for three years of the daily hours worked by all employees, as well as records of initial work schedules and any subsequent revisions.

Do you believe this law would apply to your business?

- Yes
- No
- Unsure

How difficult will it be for your franchise / business to comply with the following requirements of this law?

	1- Not at all difficult	2- Somewhat difficult	3- Very difficult	Unsure or Not Applicable
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Posting employee schedules 21 days in advance of the workweek

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Providing employees with one hour of pay for each shift change that happens fewer than 21 days before the scheduled workweek

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Providing employees with four hours of pay for each schedule change that happens less than 24 hours before the schedule shift

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Having to offer current employees more work in writing before hiring new staff

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Giving equal treatment (hourly wage, benefits, eligibility of promotion) to both full and part time employees

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Three-year record keeping requirement of daily hours worked by all employees, and all work schedules & revisions

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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If this law was enacted, how likely are you to:

	Very Likely	Somewhat Likely	Not Likely
Offer employees less flexibility to make schedule change	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Change the hiring composition of full-time vs. part-time employees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Offer fewer part-time positions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Offering fewer jobs across the board	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Schedule fewer employees per shift	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce customer service	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pursue automated alternatives to reduce staffing needs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Which current or proposed DC labor ordinance in most difficult for your business to accommodate? (Minimum wage, paid sick leave, healthcare, etc.)

- Scheduling requirements described here
- Minimum Wage phasing up to \$11.50 this July
- Proposed 16-Week Paid Family Leave Plan, Funded by Tax on Employers
- Paid Sick Leave requirements
- Other _____

What influence does this scheduling ordinance have on any of your current or future expansion plans in Washington, DC?

- No influence
- Some influence (may hesitate to expand)
- Significant influence (may not expand under current ordinance)
- Unsure

PART-TIME EMPLOYEES

What percentage of your staff is part-time?

- 1-9%
- 10-19%
- 20-29%
- 30-39%
- 40-49%
- 50-59%
- 60-69%
- 70-79%
- 80-89%
- 90-99%
- 100%
- None
- Unsure

What percentage of your part-time employees started their jobs exclusively for part-time work? (i.e. they were not looking for this job to develop into a “full-time” position)

- 1-9%
- 10-19%
- 20-29%
- 30-39%
- 40-49%
- 50-59%
- 60-69%
- 70-79%
- 80-89%
- 90-99%
- 100%
- None
- Unsure

LOCATION & INDUSTRY INFORMATION

Which category best described your industry?

- Retail
- Restaurant, Quick Service
- Restaurant, Full Service
- Other: _____

Appendix B: Methodology

The 2014 American Community Survey (ACS) is a 1% sample of the United States; the 3,132,610 individuals, when weighted, represent the U.S. population of 318,857,056. The ACS asks respondents both about where they live and where they work. A total of 820,826 workers reported employment in Washington D.C.

A number of steps are taken to assign an affected retail designation to workers. First, much like Yelowitz's (2012) analysis, individuals were excluded if relevant demographic or labor market variables contained imputed values. For most variables, imputed values are a small fraction of all observations. Next, for remaining workers in Washington D.C., retail designation was assigned. This presents a challenge with using the ACS, because one key feature of Washington D.C.'s proposed law –the number of chain locations nationwide – is not asked of respondents. The proposed retail law in Washington DC applies to restaurants (who are part of a chain with 20+ locations nationwide) and retail businesses (with 5+ locations nationwide). Instead, all workers in the ACS with a 2-digit NAICS code of 44, 45 or 72 were coded as being affected by the law; this likely overstates the impact of retail since some of these workers are not in chain stores.

The final sample then consists of individuals aged 16 and over, who worked in the past 12 months, where a wage rate could be assigned. Socioeconomic and demographic variables related to age, citizenship, gender, education, school enrollment, race/ethnicity, marital status, military service, migration, children, disability, and difficulty with English were created.

Several variables related to the labor market were used to create an hourly wage rate. First, annual hours of work was

computed using usual hours worked per week and weeks worked per year. Weeks worked in the 2014 ACS falls into six bins: 1-13 weeks, 14-26 weeks, 27-39 weeks, 40-47 weeks, 48-49 weeks, and 50-52 weeks worked during the past 12 months. Using the methodology of Yelowitz (2012), who uses the 2005-2007 ACS (which has actual weeks worked), average weeks were assigned to each bin corresponding to 7.38004 for 1-13 weeks, 21.2193 for 14-26 weeks, 33.058 for 27-39 weeks, 42.3805 for 40-47 weeks, 48.1903 for 48-49 weeks, and 51.8484 for 50-52 weeks. An individual's annual wage and salary income was divided by annual hours worked to assign a wage rate. Additional variables related to health insurance coverage and part-time work were also created.

"Part-time" is denoted as fewer than 35 hours of work in each work week. The ACS does not ask part-time workers their reason for part-time work. In contrast, the March 2015 Current Population Survey ("CPS") does ask these questions. The "detailed reason for part-time work" includes people who usually work full-time but have fewer hours as well as those who usually work part-time. For those who usually work part-time, the reasons include "slack work/business conditions", "could only find part-time work", "seasonal work", "child care problems", "other family/personal obligations", "health/medical limitations", "school/training", "retired/social security limit on earnings", "workweek < 35 hours", and "other reason." Of these reasons, "could only find part-time work" is the principal reason for involuntary part-time work that could possibly be remedied through legislation like Washington DC's. An algorithm was developed to identify involuntary part-time workers in Washington D.C. by merging information from the national CPS (based on 1-digit industry and usual hours of work bins – under 20 hours, 20-24 hours, 25-29 hours, and 30-34 hours) to each worker.

¹ The data is publicly available at <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

² Bollinger and Hirsch (2006) find serious issues with including individuals with imputed values. Marton and Yelowitz (2015) exclude imputed values in their analysis of health insurance coverage take-up.



Employment Policies

I N S T I T U T E

1090 Vermont Avenue, NW
Suite 800
Washington, DC 20005
www.EPlonline.org
Tel: 202.463.7650
Fax: 202.463.7107