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The Flimsy Facts Behind NYC's 'Fair Workweek' Bills




Michael Saltsman, CONTRIBUTOR

I write about labor costs, labor unions and the restaurant industry. [FULL BIO](#) 

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NEW YORK, NY - SEPTEMBER 8: Lower Manhattan is viewed 

Call it an epidemic of irregular proportions.

New York City's "[retail and restaurant workers suffer from abusive scheduling](#)," argued Councilmember Brad Lander, pointing to [an oft-cited survey on employee scheduling](#) released in December by the Community Service Society of New York (CSS). In response to this supposed crisis, a

employees' schedules with less than two weeks notice.

Before the final vote, council members should read the fine print in the CSS report, which reveals that the "facts" on restaurant industry scheduling are flimsy at best.

The CSS report, titled "Unpredictable," draws its results from a larger annual survey of New York City residents. In March testimony before City Council, a CSS staffer reported that **"more than 80 percent of restaurant workers"** reported receiving less than two weeks notice. This finding was echoed the same week by advocates at the National Employment Law Project and the Center for Popular Democracy, who emphasized that **"nearly 2,000"** city residents were represented in the survey.

Just as it does with mortgages and mobile phone contracts, the fine print matters. **In small font in the CSS report**, the author acknowledges that fewer than 75 city restaurant employees were represented in that 80 percent statistic. Put differently: In a city of **roughly a quarter-million food industry workers**, CSS spoke to 60 (or fewer) who reported receiving their schedule with less than two weeks notice.

This same caveat applies to other eye-catching results in the survey. Readers are told in large, bold font that four in ten restaurant employees in the city have schedules that vary week to week; that low-income parents are more likely than non-



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have lost their job or have trouble paying the rent. The report's author delivered this same message in testimony to the City Council. Yet in small font at the bottom of the page, the CSS report offers the same caveat as before: Fewer than 75 respondents are represented in the results.



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CSS doesn't disclose the exact number of respondents for each question--it could be 50 respondents, and it could be 10. CSS only notes (again, in small font) that the results "should be interpreted cautiously." This caution unfortunately didn't stop CSS from citing these shaky results as fact in public testimony, or the bill's advocates on Council from trumpeting them as fact in public statements.

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Continued from page 1

The CSS report also lacks any context on the preferences of the few restaurant employees who were surveyed. An analysis of Census Bureau data by Dr. Aaron Yelowitz of the University of Kentucky estimates that 90 percent of part-time fast food employees in New York City are working that schedule voluntarily. In other words, most of the employees in question appear to value the part-time hours and schedule flexibility that the job provides. If CSS inquired about whether restaurant employees had voluntarily sought the job because it fit their life needs, it didn't disclose this information in the write-up

This is advocacy, not academic research, and it's perhaps explained by the involvement in the report of the Retail, Wholesale, and

report part of a parochial labor organizing drive with limited impact in the city, it might be worth ignoring; a law that impacts hundreds of thousands of employees in the city shouldn't be based on incomplete remarks from fewer than 75 of them.

That's especially the case given the potential for unintended consequences should the law pass. [The Washington Post reported](#) that a number of San Francisco businesses were struggling with that city's "fair workweek" scheduling restrictions, which hampered their ability to respond to unexpected changes in customer traffic. Employees are also unhappy; the law has limited their ability to pick up extra shifts.

The scheduling bill package is at the top of labor's 2017 priority list in New York City. In an election year, Councilmembers may feel pressure to support it for political reasons. But they shouldn't take cover under the CSS report, which documents a crisis in sample sizes rather than a crisis in restaurant scheduling.

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PAGE 2 / 2

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