

## City of San Francisco – Overview of Formula Retail Employees Rights Ordinances (FRERO)

- **The San Francisco Board of Supervisors passed two ordinances addressing scheduling, hours and retention at formula retail establishments on November 25, 2014. The operative date for both ordinances was October 3, 2015.**
- **Covered Employers:** The laws apply to “Formula Retail Establishments” (or chain stores) with at least 40 formula retail establishments worldwide and 20 or more employees in San Francisco as well as their janitorial and security contractors. See Police Code Sections [3300F.2](#) and [3300G.3](#).
- **Offering Additional Work to Part-time Employees:** Covered employers must offer any extra work hours to current qualified part-time employees in writing before hiring new employees or using contractors or staffing agencies to perform additional work. See Police Code Section [3300F.3](#).
- **Employee Retention:** If a covered Formula Retail Establishment is sold, the Successor Employer must retain, for 90 days, eligible employees who worked for the former employer for at least six months prior to the sale. The employer must post a notice of the "change in control" and provide employees with a notice about their rights. See Police Code Sections [3300F.4-3300F.7](#).
- **Scheduling:**
  - **Initial Estimate of Work Schedule** - Covered employers are required to provide new employees with a good faith written estimate of the employee’s expected minimum number of scheduled shifts per month and the days and hours of those shifts. See Police Code Subsection [3300G.4\(a\)](#).
  - **Two Week’s Notice of Work Schedules** - Employers must provide employees with their schedules two weeks in advance. Schedules may be posted in the workplace or provided electronically, so long as employees are given access to the electronic schedules at work. See Police Code Subsection [3300G.4\(c\)](#).
  - **Predictability Pay for Schedule Changes** - If changes are made to an employee’s schedule with less than seven days’ notice, the employer must pay the employee a premium of 1 to 4 hours of pay at the employee’s regular hourly rate (depending on the amount of notice and the length of the shift. See Police Code Subsection [3300G.4\(c\)](#) .
  - **Pay for on Call Shifts** - If an employee is required to be “on-call,” but is not called in to work the employer must pay the employee a premium of 2 to 4 hours of pay at the employee’s regular hourly rate (depending on the amount of notice and the length of the shift. See Police Code Subsection [3300G.4\(d\)](#).
  - **Exceptions** - Employers do not have to provide “predictability pay” or payment for on-call shifts if any of the following conditions apply:
    - Operations cannot begin or continue due to threats to Employees or property;
    - Operations cannot begin or continue because public utilities fail;
    - Operations cannot begin or continue due to an Act of God or other cause not within the Employer’s control (such as an earthquake);
    - Another Employee previously scheduled to work that shift is unable to work and did not provide at least seven days’ notice;
    - Another Employee failed to report to work or was sent home;
    - The Employer requires the Employee to work overtime ; or
    - The Employee trades shifts with another Employee or requests a change in shifts.

See Police Code Subsection [3300G.4\(e\)](#).

- **Equal Treatment for Part-time Employees:** Employers must provide equal treatment to part-time employees, as compared to full-time employees at their same level, with respect to (1) starting hourly wage, (2) access to employer-provided paid time off and unpaid time off; and (3) eligibility for promotions. Hourly wage differentials are permissible if they are based on reasons other than part-time status, such as seniority or merit systems. Further, employees’ time off allotments may be prorated based on hours worked. See Police Code Section [3300G.5](#).
- **Janitorial and Security Contractors:** Janitorial and security contractors of Formula Retail Establishments covered by these Ordinances must comply with most of the provisions of Police Code Articles 33 F and G,

and Formula Retail Establishments must notify their contractors of these requirements. See Police Code Sections [3300F.20](#) and [3300F.19](#).

- **Employer Notice:** Covered Formula Retail Establishments are required to post a notice at the workplace informing covered employees of their rights under these laws. See Police Code Sections [3300F.7](#) and [3300G.6](#).
- **Retaliation Prohibited:** It is illegal for an employer to take adverse action against any person in retaliation for exercising his or her rights under the Ordinances. See Police Code Sections [3300F.9](#) and [3300G.9](#).

<http://sfgov.org/olse/formula-retail-employee-rights-ordinances>