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OCTOBER 2023 | FACT SHEET

The Part-Time Worker Bill of Rights Act

SECTION-BY-SECTION SUMMARY H.R.5578 / S.2850

*Part-time workers—who are disproportionately women and people of color—are far more likely than full-time workers to hold jobs with volatile hours, unstable paychecks, and few benefits or opportunities to advance on the job. For millions of people across the country, working part time is not a choice. Many people seek part time work to support their families while caring for loved ones, going to school, or attending to other obligations. The **Part-Time Worker Bill of Rights Act** will help ensure that part-time workers have the pay, hours, and benefits they need to support themselves and their families.*

Section 1. Short Title.

- **SHORT TITLE.** Part-Time Worker Bill of Rights Act.

Section 2. Table of Contents.

TITLE I – EXPANDING ACCESS TO BENEFITS FOR PART-TIME WORKERS

SECTION 101. ELIMINATION OF HOURS OF SERVICE REQUIREMENT FOR FMLA LEAVE.

The Part-Time Worker Bill of Rights eliminates the 12 month and at least 1,250 hours of employment requirement in the Family and Medical Leave Act—and related federal statutes defining eligible employees under FMLA—so an employee could be eligible for family and medical leave if they have been employed by that employer for at least 90 days.

TITLE II – ENSURING FAIR TREATMENT FOR PART-TIME AND TEMPORARY WORKERS.

SECTION 201. DEFINITIONS.

This section defines “employ” and “employee” consistent with the Fair Labor Standards Act. It also defines “employer” under the bill to include any person who employs more than 15 employees, including franchisees.

SECTION 202. ELIMINATION OF DISCRIMINATION ON THE BASIS OF HOURS WORKED.

The Part-Time Worker Bill of Rights prohibits employers from discriminating against employees on the basis of the hours worked per week.

- Part-time and full-time jobs requiring substantially equal skill, effort, responsibility, and duties must be treated similarly with regard to rate of compensation, notice and input into work hours, eligibility to accrue employer provided leave and other benefits (on a pro rata basis), promotion opportunities, or other terms, conditions, or privileges of employment.
- The law does not impact differences in terms, conditions, or privileges of employment based on the date on which employees were hired, a merit system, or another system measuring earnings by quantity per hour or quality of production.

SECTION 203. OFFER OF WORK TO EXISTING EMPLOYEES.

Employers must offer additional available work hours to qualified existing employees before making new hires.

- When a new employee is hired, employers must obtain a written statement of the number of hours the employee would like to work each week and the days and times the employee is able to work. The employee can modify their desired work hours at any time.
- Employers must give employees the number of hours per week as requested in their written statement before hiring any new employees, including using a temp agency, contractor, or subcontractor to fill the hours.
- Employers may hire new employees if no existing employees are available to work the necessary hours, existing employees do not possess (and cannot be trained to obtain) the qualifications necessary for the job, or scheduling existing employees for the hours would require the employer to pay overtime.
- Employees who are not scheduled for their desired number of work hours are entitled to pay for each hour worked by a newly hired employee that the existing employee had indicated they were available to work. This does not apply to work hours where the existing employee lacks, and cannot obtain, the necessary training; scheduling the existing employee would require the employer to pay overtime; the employer made a

reasonable attempt but was unable to reach the existing employee; or the existing employee was no longer available.

SECTION 204. PROHIBITED ACTS.

The bill includes anti-retaliation protections to ensure that employees can exercise the rights provided by the Part-Time Worker Bill of Rights Act without interference or retaliation.

- Employers cannot interfere with, restrain, or deny an employee's exercise or attempt to exercise the rights provided under the Act.
- Employers cannot discharge, threaten to discharge, demote suspend, reduce work hours, or take any other adverse employment action against an employee for exercising their rights under the Act.
- Employers cannot discriminate or retaliate against individuals who file a charge, institute or cause a proceeding to be instituted; give information related to an inquiry or proceeding; or testify in an inquiry or proceeding related to a right provided for by the Act.

SECTION 205. REMEDIES AND ENFORCEMENT.

The Act provides the following remedies and mechanisms for enforcement.

- The Part-Time Worker Bill of Rights will be enforced by the U.S. Secretary of Labor using the same investigative authority and subpoena powers as under the Fair Labor Standards Act. The Secretary may also bring action in court.
- The Board of Directors of the Office of Compliance, the President & Merit Systems Protection Board, and the Comptroller General also have investigative authority with respect to employees under their jurisdictions.
- An employee may bring a private right of action against any employer who violates Sections 202, 203, or 204. The court can award lost pay, interest, compensatory damages, liquidated damages, and equitable relief, including but not limited to employment, reinstatement, and promotion. The court may also award attorneys' fees, reasonable expert witness fees, and costs.
- An employer who willfully and repeatedly interferes with employee rights under the Act will be subject to civil penalties as determined by the Secretary of Labor, but

no less than \$500 or more than \$1,000 per violation. Employers who retaliate against employees for exercising their rights under the Act or interfere with an employee's exercise of their rights under the Act are subject to fines not less than \$1,100 nor greater than \$5,000 per violation. The amount of the fines are indexed to inflation.

- “Willfully” with respect to a violation means that an employer knew the conduct was prohibited or showed reckless disregard for the requirements of the law.

SECTION 206. REGULATIONS

- The Secretary of Labor is directed to issue regulations implementing the Part-Time Worker Bill of Rights Act within 180 days of enactment.
- The Board of Directors of the Office of Congressional Workplace Rights, the President & Merit Systems Protection Board, OPM, and the Comptroller General are directed to issue regulations with respect to employees under their jurisdictions. These entities must consider their existing FMLA enforcement and remedies requirements and that the regulations they issue under this Act be the same as the Department of Labor's, unless there is good cause that a modification would be more effective for implementing the Act's rights and protections.