

# 'Clopening' Schedules Generally OK for California Workers

By Ellen Savage - April 14, 2023



*Is there a minimum amount of time required between an employee's shifts? Can an employee be required to work a late shift one night and then be scheduled again early the next morning?*

In general, there is no minimum time required between shifts under California or federal law. There are some exceptions for certain safety-sensitive jobs as well as a few local ordinances in California that might place some limits on how close together two shifts can be.

## 'Clopening' Schedules

When an employee works a closing shift one day and an opening shift the next day without much time in between, this sometimes is referred to as "clopening" — combining the words closing and opening.

Cloping schedules generally are legal, since in most cases there is no minimum number of hours required between shifts. When scheduling cloping shifts, employers should of course consider whether it is reasonable for an employee to get enough sleep between shifts to perform well and safely on the job.

Minimum times are required between shifts for certain safety-sensitive jobs, such as bus and truck drivers, as well as railroad workers and airline pilots. Health care employees working on alternative workweek schedules also may need to be given a minimum of 8 hours between certain very long shifts.

## Predictive Scheduling Ordinances

A few local jurisdictions have passed ordinances that may require a certain amount of time between shifts:

### Los Angeles City Fair Work Week Ordinance

Effective April 1, 2023, this Los Angeles city ordinance applies to certain large retail businesses. Covered employers cannot schedule an employee to work a shift that starts less than 10 hours from the end of the employee's last shift without the employee's written consent.

Even with that written consent, the employee is entitled to premium pay of time-and-a-half for all hours worked in the second shift, except for any hours that already require overtime pay.

## Emeryville Fair Workweek Ordinance

Applying to certain retail and fast food businesses with 56 or more employees, the Emeryville ordinance gives employees the right to decline work hours that occur:

- less than 11 hours after the end of the previous day's shift; or
- during the 11 hours following the end of a shift that spanned over two days.

Note that both the Los Angeles city and Emeryville ordinances contain additional provisions relating to scheduling predictability.

## Berkeley Fair Workweek Ordinance

This ordinance will not take effect until November 2023, and will apply to certain building services, health care, restaurant, hotel, manufacturing, retail and warehouse employers.

An employee covered under this ordinance may decline a shift that starts less than 11 hours after the end of the previous shift. If the employee waives this right, the employer must pay 1.5 times the regular rate of pay for any hours in the second shift that are worked less than 11 hours following the end of the first shift.

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*Column based on questions asked by callers on the Labor Law Helpline, a service to California Chamber of Commerce preferred members and above. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at [www.hrcalifornia.com](http://www.hrcalifornia.com).*