January 12, 2016

Chairman Vincent Orange
Council Committee on Business, Consumer, and Regulatory Affairs
1350 Pennsylvania Avenue NW
Washington, DC 20004

Dear Chairman Orange,

The National Retail Federation respectfully submits a statement for the record in opposition to Bill 21-512, "The Hours and Scheduling Stability Act of 2015." On behalf of the nearly 7,000 retail establishments in the District, I appreciate the opportunity to provide a retail perspective on this legislation and the harm it would inflict upon our industry. NRF strongly believes that restrictive scheduling legislation is a solution in search of a problem that will drive a wedge between management and employees and upend tried and true systems.

NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs – 42 million working Americans. Contributing $2.6 trillion to annual GDP, retail is a daily barometer for the nation's economy. The impact of the retail sector on the District is profound – more than 93,400 jobs are supported by retail in the city and the industry accounts for $6.7 billion in total GDP. Retailers are driving economic growth throughout our nation's capital, investing in the community and their employees, and improving the quality of life for residents and visitors alike.

Bill 21-512 would present serious challenges and unintended consequences for the employers and employees who comprise D.C.'s retail economy. Every retailer has a unique business process and customer base, and every employee has unique needs. In order to retain and recruit talent, many retailers already set their schedules a specific number of days in advance. For example, one local retailer explained that at her four stores in the metro area schedules are posted 10 days in advance for the month based on employees' requests. Each retailer has a unique system that works for both their business and employees, which leads to happy, engaged, and fulfilled employees. The scheduling of employees is a process that is best left to employers and employees.

This legislation would require retailers and restaurants to post rigid schedules 21 days in advance with steep penalties attached to any changes made thereafter. Government intervention through a one-size-fits-all approach ties the hands of employers and takes away the flexibility and opportunities that many D.C. residents seek in a retail job. The local retail industry is competitive and fast-paced and revolves around a number of variables. Currently, if an employee calls in sick, wants to attend an event at their child's school, needs extra time for a school paper, or any other host of circumstances, retailers are able to accommodate those often last minute requests by offering those shifts to other employees without incurring a government penalty. Similarly, if a delivery truck is delayed because of bad weather or if unexpectedly warm December weather increases foot traffic, retailers are able to adapt to ensure proper

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staffing levels and great customer service. These circumstances cannot be predicted 21 days in advance and an employer should not be punished with a fine for accommodating an employee's schedule change or other circumstances beyond their control.

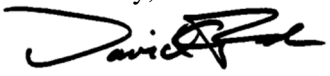
Bill 21-512 also unfairly punishes retail employees. Retail employees value the flexibility that retail jobs provide, whether it's the ability to modify their schedules to fit their needs or pick up extra shifts that become available. While 21 days' notice is burdensome for employers, many employees are simply unable to predict their scheduling needs that far in advance. One small D.C. retailer explained that her employees would universally oppose the notice requirements contained in this bill because rigid scheduling mandates take away employees' ability to set schedules that accurately reflect their needs. This bill would also eliminate retail employees' current ability to pick up extra hours as they please that may be offered due to an unexpected circumstance such as unseasonably warm weather. Under this proposal, retailers may be unlikely to fill those shifts due to the penalties imposed by the bill. The result will be fewer opportunities for employees to access additional hours, a decline in customer service, and overworked employees due to understaffing.

The District's unique geographic location makes it extremely vulnerable to competition from surrounding jurisdictions that are not subject to the same laws. Retailers and restaurants across the District have expressed concern that proposals like the one before this Committee create a major disincentive to operate in the District and to expand. A Georgetown retailer with stores in Virginia and Bethesda cautioned that if this ordinance were to become law, she would have to seriously consider closing her District store to avoid subjecting all of her stores to these restrictive scheduling requirements. Furthermore, the bill's requirement that retailers first offer additional hours to their current part-time employees for seven days before hiring any new employees will have significant unintended consequences on job growth in the District and serve as a barrier to entry for employees seeking to join the retail workforce.

We also encourage members of the Committee to look to San Francisco as a cautionary tale since the city has experienced numerous challenges in attempting to implement a restrictive scheduling ordinance. In fact, ambiguities contained in San Francisco's law and the extent of government overreach embodied by the proposal have made the policy virtually impossible to implement. As regulators and retailers in San Francisco have tried to grapple with the requirements and the resulting lack of flexibility, both the employer and employee have suffered. Yet, instead of heeding the warning signs in San Francisco and the reluctance of other cities to move forward with their own similar proposals, this Committee is pursuing an even more expansive bill.

Scheduling mandates are restrictive for all parties involved and have sweeping unintended consequences. The Council should proceed with caution when considering measures that place D.C. businesses and employment opportunities for our residents at a competitive disadvantage. For these reasons, I respectfully urge you not to proceed with Bill 21-512. Thank you once more for the opportunity to submit comments for the record.

Sincerely,



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