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From the Albany Business Review:

<https://www.bizjournals.com/albany/news/2018/01/04/proposed-scheduling-regulations-could-be-a-job.html>

Proposed scheduling regulations could be a 'job killer,' car wash owner says

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A snowstorm, like the one hitting New York today, could be costly for car wash owners if the state changes the way employee shifts must be scheduled.

Under the proposed rules, if a car wash needed to send workers home before their shifts end because business is slow, it would owe them four hours' extra pay. And if the car wash ends up having to call in additional workers, it would owe them all an additional two hours' pay under the proposed rules.

Jeff Gold, who runs Buckmans Car Wash with five locations in western New York, would be one of the business owners affected.

"We are very, very weather dependent, more so than most businesses," Gold said. "If it's a nice day but cloudy out, we won't be busy. The sun comes out, all of a sudden, we have to call people in because the cars start lining up ... It can happen that fast, because you can have sunshine, and then especially at a couple of my locations that aren't that far from Lake Ontario, we get lake effect snow."

Those changes could also cost Tom Hoffman Jr., who owns the Hoffman Car Wash chain, headquartered in Albany.



LIZ YOUNG

At a Hoffman Car Wash location in Latham, New York, snowy weather meant there were less employees working Thursday.

"We see it costing up to an additional \$1.5 million a year," Hoffman said.

The regulations, proposed by Gov. Andrew Cuomo and the state Department of Labor, would require employers to schedule 14 days in advance. If the business no longer needs a worker on a certain shift, it must notify the worker at least 72 hours in advance, or it will have to add on four hours' pay. If the business calls a worker in less than 72 hours in advance, it must compensate the worker for an extra two hours' pay.

Exceptions are made for "acts of God or other cause not within the employer's control," which allow the employer a 24-hour window instead. Owners of weather-dependent businesses, like car washes, said that still isn't enough time.

When it's a busy day at Hoffman Car Wash, there might be 40 people scheduled to work, many of them high school and college students. If it gets busier, managers will call more part-time workers to see if they want to come in.

"We'll call our list of young people to see if they'd like some extra time, and these new regulations are going to be requiring us to schedule two weeks ahead of time or pay the penalty," Hoffman said. "If we allow somebody to come in an hour early to earn an extra hour's pay, we'll have to pay them two hours."

Hoffman said the change is making him think about ways to incorporate more automation into the car washes.

"So many businesses have weather-related events that occur that this is really turning into a job killer," Hoffman said, "because all I'm thinking about when I'm driving around our locations is, how can we automate our car washing process?"

His business has 21 locations, from Kingston up to Queensbury, as well as car washes in Amsterdam and Binghamton. It also runs nine Jiffy Lube franchises. Hoffman's brings in about \$42 million a year. About 60 percent of its 725 employees are part-time.

It's working on building robotic equipment to keep its costs down amid New York's regulatory environment.

"It's just so difficult to manage a big car wash with lots of employees because of the regulations and just the pressure and the expense of doing business in New York state," Hoffman said.

Gold, of Buckmans, has about 110 part-time workers. He might have to hire less high school and college students if the change happens, as well as looking at more automation like Hoffman.

He estimates the change would cost probably \$225,000 a year, just looking at hourly wages.

Many of Gold's employees, especially the students, who have extracurriculars and like to travel in the summers, prefer the flexibility of the hours.

"They basically require some kind of scheduling flexibility," Gold said. "We have other people that use us as basically additional income or second jobs, they have full time jobs elsewhere ... They want that flexibility."

Hoffman is worried about resulting reporting requirements.

"During a Department of Labor audit, we will have to document every nuance of every employee's day if there's a change in their schedule," Hoffman said.

Say an employee's sports team makes it into a tournament and he suddenly can't work.

"They might ask us to change their schedule, they can't work today because they have a game. So we're going to have to document that for little Johnny basically, because a year from now when we get audited, there's piles of paper that we have to document on running our business everyday," Hoffman said.

Hoffman is among the business owners who are testifying on the proposed regulations on Thursday in Albany.

Six state senators signed onto a letter to labor commissioner Roberta Reardon, opposing the regulation.

"As elected officials, we understand and support reasonable regulations aimed at protecting the rights and safety of working men and women. We oppose however, regulations that appear to be gratuitous attacks on businesses large and small with little to no data showing the regulation will have the desired impact and even less public outreach," the letter said.

Sens. Rich Funke and Robert Ortt of western New York; Fred Akshar of the Southern Tier; John DeFrancisco of central New York; Phil Boyle of Long Island; and James Tedisco of the Capital Region signed the letter.

The scheduling rule was proposed as business owners are responding to a minimum wage increase, and are preparing for employees to take advantage of the state's new paid family leave mandate.

"It's constantly new regulations that incentivize us to reduce employment in our businesses," Hoffman said. "We have the family medical leave act we have to deal with now, we have minimum wage regulations."

Stephen Weekes operates Spritz Car Wash, based in Clifton Park, which has been in business about 10 years and has six locations. About a dozen of its employees would be affected.

He said his employees don't see a problem with the current system.

"Between the governor and the Department of Labor, they're making a lot of rule changes and new rules for problems that don't exist. When I speak to my hourly people and tell them about this, they tell me, where's the problem?" Weekes said. "They really are hurting a small business like mine."

Liz Young

Reporter

Albany Business Review

