Consumer and Worker Protection

Fair Workweek Law in Retail:
Frequently Asked Questions

The Department of Consumer and Worker Protection (DCWP) enforces NYC's Fair Workweek Law. This document answers many common questions about the law and how DCWP enforces it.

I. Overview of Fair Workweek Law: Retail Provisions

a. General

What are the protections available to retail workers?
Under NYC's Fair Workweek Law, retail workers in NYC have a right to predictable work schedules. The law covers:

- **72 Hours' Advance Notice of Work Schedules:** Retail employers must both post at the workplace AND provide workers with a written work schedule at least 72 hours before the first shift on the schedule. If the employer regularly uses electronic means to communicate with employees—for example, text, email, or an app—the employer must provide the work schedule electronically to employees 72 hours before the first shift on the schedule. If the schedule changes, the employer must repost the new schedule and resend it to all affected workers.
- **No On-Call or Call-In Shifts:** Retail employers cannot schedule workers for on-call shifts. Employers also cannot require employees to "check in" within 72 hours of a scheduled shift to find out if they should report for the shift.
- **Additions of Time:** Workers can say no to working additional time less than 72 hours before the start of a shift. If the employee consents, consent must be in writing before the employee works additional time.
- **Shift Shortenings or Cancellations:** Employers generally cannot cancel or reduce the hours in a shift by more than 15 minutes less than 72 hours before the start of a shift, with certain exceptions.

When did retail employers have to start complying with the law?
The law's protections for retail employees took effect on November 26, 2017.

Exception: If a retail worker was covered by a collective bargaining agreement (CBA) that was in effect on November 26, 2017, the worker is covered under NYC's Fair Workweek Law on the day after the CBA expires.

b. Who is Covered?

Which retail employers are required to comply with NYC's Fair Workweek Law?
Retail employers that operate one or more retail businesses in NYC must comply with NYC's Fair Workweek Law.

Retail businesses have 20 or more employees and engage primarily in the sale of consumer goods at one or more stores in NYC.

What are consumer goods?
Consumer goods are goods primarily used for personal, household, or family purposes. Consumer goods include, but are not limited to, appliances, clothing, electronics, groceries, and household items.

How do I determine if a business engages primarily in the sale of consumer goods?
The test is whether more than 50 percent of the business' sales transactions in NYC during the previous 12 months were of consumer goods sold to retail consumers. Fifty (50) percent is calculated based on all sales transactions that occur at stores in NYC that are under common ownership or management.

Is a full-service restaurant a retail business?
Usually not. NYC's Fair Workweek Law covers retail businesses that primarily engage in the sale of consumer goods at one or more stores in NYC. The law's definition of consumer goods does not cover restaurant meals.

Scenario:

Hair Universe sells hair styling tools from around the world and has a very popular hair styling salon in the back of its store in Manhattan. Although 85 percent of the floor space is devoted to hair styling tools, only 30 percent of the company's sales transactions are for hair styling tools. Does Hair Universe primarily sell consumer goods?

No. Less than 50 percent of Hair Universe's sales are of consumer goods. Its hair styling service accounts for more sales.

Scenario:

When the Fabric Company first opened, its only business was selling orders of fabric to clothing manufacturers. In 2019, it began opening smaller shops around NYC where it sells fabric kits and craft supplies directly to the public. Collectively, the shops have 30 employees. For the last 12 months, 70 percent of its total sales were from the original wholesale business. However, 100 percent of sales transactions from its small shops in NYC were consumer goods sold to retail consumers. Does the Fabric Company primarily sell consumer goods?

Yes. The Fabric Company primarily sells consumer goods because more than 50 percent of the sales transactions at its NYC stores in the last 12 months were consumer goods sold to retail consumers.

The Fabric Company is a covered employer under NYC's Fair Workweek Law. The 30 employees at its NYC shops are covered by the retail provisions of the law.

Which employees of a retail business are covered by NYC's Fair Workweek Law?
All employees who work in a retail business' stores in NYC are covered by the law's protections regardless of position or job title. This includes:

- supervisors and managers;
- part-time, temporary, and seasonal workers;
- delivery workers who pick up deliveries of consumer goods from a retail business' stores.

Exceptions: The law does not apply to:

- employees covered by a collective bargaining agreement in which the rights under the law are expressly waived and employee scheduling is addressed;
- employees who work at the corporate office (company headquarters) and not in a retail store.

Are workers who are hired by other companies to perform work at a retail business covered by the law?
Yes. Even if workers are hired by a subcontractor, temp firm, or another third party to work at a retail business, they are covered by the law because they work in or from a retail business store.

Scenario:

Roberto works full time as a janitor at the Doggy Supply Store, which is a retail employer under the law. Roberto was placed at the job by Janitors Daily, but Doggy Supply Store is his employer now. Is Roberto covered by NYC's Fair Workweek Law?

Yes. Roberto is a retail employee because he is employed by Doggy Supply Store, a retail employer, even though Janitors Daily placed him in the job.

Does the 20-employee threshold refer to each store or all stores combined?
To evaluate whether the 20-employee number is met, count all employees at all stores in NYC that are under common ownership or management. Count employees whether they work on a full-time, part-time, or temporary basis.

Do not count employees who do not work in stores in NYC or employees who are not covered by the law.

Scenario:

Tropics Clothing is a chain of stores that primarily sells clothing to consumers for personal use. There are eight stores in Brooklyn, employing between 30-35 workers. There is one Tropics Clothing store location in Staten Island that employs five to seven workers at a time. Are the workers at the Staten Island Tropics Clothing store covered by NYC's Fair Workweek Law?

Yes. The Staten Island store is part of a chain that primarily sells consumer goods (clothing) in NYC and employs more than 20 employees in NYC.

If a retail employer's total number of employees varies—sometimes more than 20 workers and sometimes fewer—is the employer required to follow the law?
A retail employer must follow the scheduling requirements of the law when its total employee count is 20 or more, or if the average number of employees who worked per week during the previous calendar year was more than 20. Employees include part-time, temporary, and seasonal workers.

Does immigration status limit or change a worker's rights under the law?
No. Retail workers have the same rights and protections under NYC's Fair Workweek Law regardless of immigration status. DCWP does not collect any information about a worker's immigration status to pursue a complaint.

Are employees who work in NYC but live outside of NYC covered by the law?
Yes. It does not matter where an employee lives, as long as the employee works at a location in NYC.

c. Additional Employer Information

Does the law apply to employers that are not based in NYC?
Yes.

The retail provisions of the law apply to all employers that fit the definition of a retail employer and that employ workers in NYC. The employer can be based outside of NYC. For example, a national retail chain's establishments in NYC will be covered if they otherwise meet the requirements.

How do employees know who their employer is if more than one company is involved in the management of their job?
Multiple individuals or businesses may be treated as a single employer based on how interrelated the businesses are and how much they share management and control of their workforce. A worker may also be jointly employed by more than one individual or business at the same time.

All employers involved in the management of workers may have obligations to those workers under NYC's Fair Workweek Law.

II. Predicable Scheduling

a. Schedules

When do retail employers need to provide employees with their work schedules?
Retail employers must provide employees with each written work schedule, including dates, times, and locations of all shifts, no later than 72 hours (3 days) before the start of the schedule; schedules should cover at least seven (7) days.

How should retail employers provide schedules to employees?
No later than 72 hours before the first shift on the work schedule, a retail employer must:

- physically post the schedule at the workplace where all workers can see it; and
- transmit the schedule to each employee individually.

The employer must transmit the individual schedule electronically—for example, by text, email, push notification in an app—if that is how the employer usually communicates with workers.

If the employer does not use electronic communication, then the employer must give each employee a paper copy of the schedule.

In the event of updates to the work schedule, the employer must conspicuously post and transmit individually to affected employees the written updated work schedule.

What happens if a retail employer does not give employees their schedule 72 hours before the start of the work schedule?
The employer is violating the law and may be required to pay $300 to all affected workers, as well as any other damages or relief required to remedy the harm to the affected workers. The employer may also be liable for a fine of $500, and possibly more if it is not the first time the employer violated the law.

***Scenario*:**

Tanisha works for a covered retail employer at the employer's one location in NYC. The employer's schedules always cover Monday-Sunday with the first shift in the schedule starting at 1 p.m. on Monday. At 12 p.m. on Friday, while Tanisha is working at the location, Tanisha's manager tells Tanisha that she will be working the 1 p.m. to 7 p.m. shifts the following Tuesday-Thursday. Before Tanisha leaves work on Friday at 1 p.m., she looks to see if the written schedule is posted and sees that it is not. Tanisha normally discusses scheduling with her manager by text, but does not receive any texts about her schedule. Did Tanisha's employer violate NYC's Fair Workweek Law?

Yes. Because the first shift on the new schedule begins on Monday at 1 p.m., Tanisha's employer was required to post the schedule by 1 p.m. on Friday, which the employer failed to do. Although the manager talked to Tanisha about her schedule, Tanisha never received her *written* work schedule. The employer also failed to send the schedule to Tanisha by text, even though the manager regularly communicates with Tanisha about scheduling this way. Tanisha's employer may be required to pay her $300 for the failure to post the schedule and $300 for failing to provide Tanisha with the written schedule directly.

Are retail employers required to give employees copies of previous schedules?
Yes. If a worker requests previous schedules, the employer must provide written work schedules for any week worked within the last three (3) years. The employer must provide the schedules within 14 days of the worker's request.

Are retail employers required to give employees copies of other workers' schedules?
Yes. If a worker requests other workers' schedules, the employer must provide the most current version of the work schedule for all workers at the work location. The employer must provide the schedules within one (1) week of the worker's request.

b. On-call Scheduling

What is an on-call shift?
An **on-call shift** occurs when a worker is required to be ready and available to work at the employer's call for a period of time, regardless of whether the worker actually works or is required to report to a work location.

What is the difference between a regular shift and an on-call shift?
A **regular shift** is a span of consecutive hours at a work location (not including breaks that are less than two hours). Workers are paid to work regular shifts.

In practice, unless workers report to a work location, workers are typically not paid for on-call shifts although they are required to be available to work.

Can retail employers schedule employees for on-call shifts?
No. Under NYC's Fair Workweek Law, retail employers may not schedule workers for any on-call shifts.

What happens if a retail employer schedules on-call shifts?
The retail employer is violating the law and may be required to pay $500 or damages and relief required to remedy the harm to the affected worker, whichever is greater. Employers may also be liable for a fine of $500 for each on-call shift, and more if they violate the law again.

c. Advance Notice

Can a retail employer cancel a worker's shift?
Yes, but only if the employer provides notice of the cancellation at least 72 hours before the start of the shift.

Can shortening or removing hours from a worker's shift count as a cancellation?
Yes. Canceling a shift includes when an employer subtracts more than 15 minutes from a worker's shift without at least 72 hours' notice before the start of the shift.

Can a retail employer require an employee to work extra time with less than 72 hours' notice?
No. A retail employer cannot require an employee to work more than 15 minutes of extra time unless the employee has at least 72 hours' advance notice. Extra time includes adding a new shift or requiring an employee to report to work more than 15 minutes earlier or to end their shift more than 15 minutes after the scheduled end time.

If an employer asks an employee to work extra time, the employer must explain that the employee has a right to say no. The employer cannot impose any negative consequences if the employee declines to work extra time. If the employee agrees to work extra time, the employer must obtain the employee's advance written consent.

Note: A retail employer *may* require an employee to work extra time if the employer gives the employee notice at least 72 hours before the start of the shift.

What does "consent" mean?
"Consent" means an employee's agreement after 1) being given the opportunity to decline and 2) being free from any interference, coercion, or risk of adverse action from the employer.

What must a retail employer do to document an employee's consent to work extra time?
An employer must obtain a written record of an employee's advance written request or consent to work extra time. The written record must:

- contain the date and time the employee gave consent; and
- reference the specific schedule change or shift change. (*Note*: General or ongoing consent to work extra time does not meet this requirement.)

If an employer cannot obtain an employee's written consent before the extra time begins—for example, unscheduled addition of time at the end of a shift—the employer must get the employee's written consent to work the extra time no later than 15 minutes after the employee begins to work the extra time.

Are retail employers required to get a written record of an employee's choice to decline to work extra time?
No.

Are there any circumstances when retail employers do not need to provide 72 hours' notice before making changes to a worker's shift?
Yes. A retail employer may make changes to an employee's schedule less than 72 hours before the start of a shift if:

- the employee requests time off, for example to use sick leave;
- employees trade shifts with one another; or
- the employer closes due to:
    - threats to employee safety or employer property
    - public utility failure
    - shutdown of public transportation

- fire, flood, or other natural disaster
- federal, state, or local state of emergency

What must a retail employer do if the schedule changes?
If the schedule changes, the retail employer must update the posted schedule and transmit the updated schedule to all affected workers directly.

Can retail employers require workers to check in to confirm whether or not they need to report to a shift?
Under the law, an employer cannot require workers to check in within 72 hours of a scheduled shift to find out if they should report for the shift.

Can retail employers allow workers to take time off?
Yes. Employers can grant a worker's request for time off, even if the request occurs within 72 hours of the worker's scheduled shift. Providing time may be required under federal, state, or local law, including under NYC's Paid Safe and Sick Leave Law.

What happens if retail workers trade shifts with one another less than 72 hours before those shifts start?
Retail employers can allow workers to trade shifts with one another, even if they trade less than 72 hours before the start of the affected shift. Since the schedule change is initiated by employees—and not the employer—the employer does not violate the law by permitting the last-minute schedule change. The employer must maintain written records with the names of the employees and the shifts they traded.

What if a retail employer cancels a worker's shift or part of a shift with less than 72 hours' notice?
It is illegal to cancel a shift or part of a shift with less than 72 hours' notice. Employers may be liable for paying damages to the worker and fines to the City.

What if a retail employer cancels or shortens a worker's shift after the employee arrived at work?
Cancelling or cutting a shift after a worker arrives at work is a violation of NYC's Fair Workweek Law. The practice may also be a violation of the "call-in pay" provision of the New York State Labor Law, which requires employers to pay workers a minimum amount of call-in pay. Contact the New York State Department of Labor at labor.ny.gov for more information.

What happens if a retail employer changes a schedule without providing the proper notice?
Retail employers may be held responsible for $500 or damages and relief to remedy the harm to affected workers, whichever is greater. The employer may also be liable for a fine of $500 for each on-call shift, or more if the employer violated the law before.

Scenario:

On Saturday morning, Mohamad contacts his retail employer to say that he cannot work a Sunday shift because he is sick. The manager tells another worker, Ligia, that in the updated schedule she is now assigned to cover Mohamad's Sunday shift the next day. Ligia has to hire a babysitter so she can cover the shift. Did the employer violate NYC's Fair Workweek Law?

Yes. The employer required Ligia to work an additional shift with less than 72 hours' notice and without her written consent. The employer may be required to pay up to $500 to Ligia (unless her babysitting costs and other damages are more than $500) and a fine of $500 (or more if the employer violated the law before).

On the other hand, if Mohamad told his employer on Saturday he couldn't work Wednesday, the employer could assign Ligia to work Wednesday without getting her consent or violating the law.

III. Retaliation

What is retaliation?
Retaliation is any action by an employer—or on an employer's behalf—that could penalize or deter a worker or group of workers from exercising or attempting to exercise any right protected by the law. Retaliation includes:

- threats
- intimidation
- discipline
- discharge
- demotion
- suspension
- harassment
- cutting hours
- informing other employers about a worker's actions under the law
- discrimination
- actions related to immigration status

Retaliation is illegal under the law. Employers may not retaliate against workers exercising their rights under the law, even if workers do not explicitly refer to any specific law.

Retaliation exists when the protected activity was a motivating factor for a retaliatory act, even if other factors also motivated the retaliatory act.

***Scenario*:**

Stanley works for Joe's Shoe Warehouse supervising the frontline sales team. Stanley tells Jack that he must work a 12-hour shift the next day. When Jack refuses, Stanley fires Jack and tells him he better leave before Stanley "clocks him one." Jack's co-workers, Janet and Peggy, witness Jack's firing. Which workers experienced retaliation?

Jack, Peggy, and Janet all have experienced retaliation. Stanley penalized Jack by firing him and threatening him with physical harm. Janet and Peggy could have been reasonably deterred from exercising their rights after witnessing the incident between Stanley and Jack.

What does it mean for retail workers to "exercise their rights"?
Workers may exercise their rights in a variety of ways. This list gives some examples but is not exhaustive:

- Refusing to work a shift that was scheduled in violation of the law, such as:
  - an on-call shift
  - a shift they did not consent to work or for which they were not given 72 hours' advance notice
- Requesting a copy of their schedule or a current version of all workers' schedules at the retail establishment where they work
- Saying NO to a lawful request to pick up a shift with less than 72 hours' notice
- Asking where the current written schedule is posted
- Asking the employer to pay them for all scheduled hours after a shift was shortened or cancelled
- Pointing out that the required notice of rights isn't posted
- Filing a complaint with DCWP for alleged violations of the law
- Communicating with any person, including coworkers, about any violation of the law
- Participating in a court or administrative proceeding about an alleged violation of the law
- Informing another person of that person's potential rights under the law

What should employees do if an employer retaliates or the employee fears retaliation?
Workers should contact DCWP or an attorney if they fear retaliation or have experienced retaliation recently. DCWP takes reports of employer retaliation very seriously. Depending on the circumstances, DCWP's response may include directing an employer to cease retaliatory action, to reinstate a worker, and to comply with the law going forward. Workers may also receive payments of back wages, premium pay, and other relief.

Does the law protect workers from retaliation if they believe they are asserting a protected right but are mistaken?
Yes, as long as workers genuinely believe that the right they are asserting is protected by NYC's Fair Workweek Law.

IV. Notice and Recordkeeping

a. Notice of Rights

How must covered employers inform workers about NYC's Fair Workweek Law?
DCWP created a notice for the retail industry. Employers must post the "YOU HAVE A RIGHT TO A PREDICTABLE WORK SCHEDULE" notice where employees can easily see it at each NYC workplace. The notice is available on the DCWP website at **nyc.gov/workers**. Employers should print the notice on, and scale it to fill, 11" x 17" paper.

In which language must an employer post the notice?
Employers must post the notice in English and in any other language that is the primary language of at least 5 percent of the workers at a workplace (1 out of 20, 5 out of 100, 10 out of 200, etc.), if the notice is available in that other language on the DCWP website.

Scenario:

There are 10 workers at a retail establishment. Four workers speak Spanish primarily, and one worker speaks Polish primarily. All have limited English ability. In which languages must the retail employer post the required notice?

Forty (40) percent of the workers primarily speak Spanish, and 10 percent of the workers primarily speak Polish. Because Spanish and Polish are the primary languages of more than 5 percent of the workers at the worksite, the employer must get the required notice in English, as well as Spanish and Polish (if available), from the DCWP website and post the notice where workers can see it.

Where can covered employers find the required notice of rights?
The notice is available online at **nyc.gov/workers**.

DCWP will update the notice if there are any changes to the law. Monitor the DCWP website for updates.

b. Recordkeeping

What records must employers keep under the law?
Covered employers must retain electronic records documenting their compliance with the requirements of NYC's Fair Workweek Law. Retail employers must retain records that show:

- Employees' dates of employment and contact information, including the last known phone number, email address, and mailing address for each worker
- Employees' **hours worked each week**, including date, time, and location
- **Each work schedule** provided to employees, including the dates, times, and methods by which each work schedule was provided to the employee
- Each **agreement among workers** to trade shifts, including the shifts traded and the names of the employees involved
- **Each written request by a worker for time off**, including the date, time, and method by which the employee transmitted the request or consent to the employer
- Workers' **written consent** to work with fewer than 72 hours' notice
- Any exception to the requirements of NYC's Fair Workweek Law
- Documents reflecting compliance with the notice posting requirement

How long must employers maintain records under the law?
Covered employers must retain records for a period of three (3) years.

Must an employer provide its records to DCWP?
Yes. If DCWP requests records as part of an investigation into compliance with or violations of NYC's Fair Workweek Law, employers must provide the records.

What happens if a covered employer does not maintain records as required by the law?
An employer's failure to maintain or produce records to DCWP may result in a "rebuttable presumption" against the employer in the event of a lawsuit or enforcement action. This means that the burden will be on the employer to show that the employer did not violate the law.

May employers maintain required records electronically?
Yes. Employers may create or maintain any of the required records in a scheduling application or other electronic recordkeeping system. Employers must ensure that:

- electronically stored records are maintained in their original format for three (3) years;
- records can be exported to a non-proprietary, machine-readable data format;
- there are no restrictions in the recordkeeping system that would limit the employer's ability to produce required records to DCWP; and
- the electronic recordkeeping system does not overwrite or destroy any of the records an employer is required by law to maintain.

For example, scheduling applications must be configured so that when an employer makes updates to a work schedule, the system retains and does not overwrite the original version of the work schedule and the date it was provided to employees.

V. Enforcement

Who enforces NYC's Fair Workweek Law?
DCWP enforces the law. Workers can contact DCWP to:

- File a complaint.
- Find out more about NYC's Fair Workweek Law and other workplace laws.
- Get a referral for other resources to protect and enforce their rights under NYC's Fair Workweek Law.

DCWP is committed to maintaining the confidentiality of complainants.

Who can file a complaint about a potential violation of NYC's Fair Workweek Law?
Any person, including retail workers and their representatives, or related organizations, may file a complaint about a possible violation of NYC's Fair Workweek Law.

Where can I file a complaint?
You can file a complaint with DCWP. To reach DCWP:

- Call 311 (212-NEW-YORK outside NYC). Ask for "Fair Workweek Law."
- Email OLPS@dcwp.nyc.gov
- Visit nyc.gov/workers

DCWP can also give complainants information about employee rights or how to bring a private legal action in court against an employer.

How long do I have to file a complaint?
You must file a complaint within two (2) years of when you learned (or should have learned) of the violation of the law.

What happens after I file a complaint?
DCWP investigates the complaint. DCWP may request information or documents from a retail employer under investigation and interview witnesses. If DCWP determines that an employer violated the law, the employer may be responsible for money damages and other forms of relief to affected workers, as well as fines to the City.

Are complainants' identities kept confidential?
DCWP will keep the identity of complainants confidential unless disclosure is required by law. DCWP will notify complainants before disclosing their identity whenever possible and generally attempts to keep identities of workers confidential unless the worker consents.

Does my immigration status affect my ability to file a complaint?
No. All workers have the same rights and protections under NYC's Fair Workweek Law, regardless of immigration status. DCWP does not collect any information about a worker's immigration status to pursue a complaint.

Must DCWP receive a complaint in order to investigate an employer?
No. DCWP can also investigate employers on its own initiative.

What does DCWP do to ensure that employers comply with the law?
DCWP conducts investigations that may include document requests, interviews with witnesses, and visits to worksites. If, as a result of an investigation, DCWP determines that an employer has violated one or more provisions of NYC's Fair Workweek Law, DCWP may seek monetary relief for workers, civil penalties, and/or commitments to future compliance through settlement or through litigation at the Office of Administrative Trials and Hearings (OATH).

DCWP also regularly conducts outreach and education to employers, workers, and the public about NYC's Fair Workweek Law.

What happens if an employer violates the law?
Retail workers may be entitled to monetary relief for an employer's violations. Employees whose hours were cut or who were terminated in retaliation for asserting their protected rights may be entitled to back pay and/or reinstatement. In addition to payments owed to an employee, an employer may be liable for fines payable to the City for violations of the law.

An employer might receive a court order requiring it to comply with the requirements of the law.

What types of fines could covered employers have to pay for violating the law?
Retail employers may also be subject to the following fines:

- $500 for a first violation
- up to $750 for a second violation within a two-year period
- up to $1,000 for subsequent violations within a two-year period

If an employer had a worker sign a document saying that the worker gave up the right to relief under NYC's Fair Workweek Law, can the worker still file a complaint with DCWP against the employer?
Yes. Any agreement to limit retail workers' rights under NYC's Fair Workweek Law is invalid. Also, DCWP might investigate the employer on its own initiative whether or not workers file a complaint.

Exception: The law does not apply to an employee covered by a collective bargaining agreement in which the rights under the law are expressly waived and employee scheduling is addressed.

What if an employer repeatedly violates the law?
When there is reason to believe that an employer is engaged in a pattern or practice of violations, the NYC Law Department may file an action in court against that employer seeking relief for workers, fines (including an additional fine of up to $15,000), and injunctive relief.

Scenario:

In April 2020, DCWP determines that Vitamin Life, a retail employer covered by NYC's Fair Workweek Law, scheduled a worker for an on-call shift on three occasions. Vitamin Life is required to pay $500 for each violation, or a total of $1,500 in fines. In June 2020, Vitamin Life canceled an employee's shift on three hours' notice. How much might Vitamin Life need to pay for that violation?

Vitamin Life may be responsible for a fine of up to $750, in addition to any relief it is required to pay to workers.

VI. Private Right of Action

Can individuals bring their own action in court against an employer?
Yes.

Any person or organization alleging a violation of NYC's Fair Workweek Law may bring a civil action in court to seek damages and other relief.

Individuals must bring an action under NYC's Fair Workweek Law within two (2) years of the date that the individual learned, or should have learned, of the violation.

Can an individual file a complaint with DCWP and bring a civil action at the same time?
No.

If individuals file a complaint with DCWP first, they cannot bring their own lawsuit unless they withdraw the complaint in writing or DCWP dismisses the complaint "without prejudice," generally meaning that the complaint was neither decided nor settled.

If individuals file a civil action in court first, they cannot file a complaint with DCWP unless the civil action is withdrawn or dismissed without prejudice. When a party files suit in court, the party must give notice of the lawsuit to DCWP.

DCWP may still investigate and pursue a case against an employer of its own initiative, even when a worker has a case pending against that employer in court.