



Retail workers likely to see longer hours in 2013, but not necessarily more pay (take our poll)



By [Janet H. Cho, The Plain Dealer](#)

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CLEVELAND, Ohio -- The extra-long 2012 holiday shopping season will end up extending the hours retail employees work this year and beyond.

That's because stores not only kept their doors open [longer than ever before](#), they also drew more customers and raked in more sales than last year.

[ShopperTrak](#), the Chicago technology company that measures retail foot traffic, said shoppers spent \$248.8 billion during the last two months of 2012.

In other words, consumers can expect to see even more stores kick off their Black Friday sales this Thanksgiving -- as well as more stores staying open 24/7 on major shopping holidays.

Yet all those extra hours won't translate into extra pay for the thousands of retail workers who staff those stores, labor and employment lawyers say.

That's because most retail workers -- who generally make slightly more than minimum wage - don't work enough hours to qualify for overtime or holiday pay even if they work those overnight or weekend shifts, said Anthony Lazzaro, a Cleveland attorney and owner of [The Lazzaro Law Firm LLC](#).

Even though some employers do pay workers extra for working on a holiday, "employees are only entitled to overtime if they actually work over 40 hours in a given workweek."

For temporary or part-time workers, "the problem is that they have no leverage," Lazzaro said. "They think, 'If I work on Christmas Day, maybe I'll get that permanent job offer.' And if they say that they don't want to work on those holidays, they can be legally terminated."

For the retailers, "the cost to bring them on is minimum wage," he said. "It's so cheap to hire them, why not be open 24/7 and [compete with Amazon](#)?"

More and more retail workers are "being asked to make a pretty big sacrifice and work on days you're supposed to be with your family," said Jason Bristol, an attorney with [Cohen Rosenthal & Kramer LLP](#) in Cleveland.

"The question is where is it going to stop?" he asked.

While not illegal, such practices violate the spirit of overtime laws meant to protect workers from being exploited, he said.

Consumers might sign petitions and complain about how workers are treated, "but that doesn't mean anything if you then go out and get that flat-screen TV on Thanksgiving," Bristol said.

"The consumers have the responsibility to put their money where their mouth is and not shop on those days," because most retailers are getting the opposite message.

"Working in retail is a difficult job under the best of circumstances," said retail consultant Robert Antall, managing partner of [Consumer Centric Consulting LLC](#) in Shaker Heights.

"In the current retail environment where retailers are battling to gain market share and lower their costs at the same time, employees are constantly being asked to do more for less. Benefits are being cut and raises are minimal to non-existent, yet the demands placed on these employees continue to increase."

Lingering unemployment and underemployment mean that retailers can hire from a larger, more educated pool of candidates who might not otherwise consider retail jobs.

Not only that, but "they can pay poorly and work them harder due to an abundance of candidates," Antall said.

In 2011, a Nebraska Target employee named Anthony Hardwick launched a ["Tell Target to Save Thanksgiving"](#) petition on [Change.org](#) to protest the company's decision to open at midnight - requiring workers to start work at 11 p.m. on Thanksgiving. He later hand-delivered that petition with 200,649 signatures to Target's corporate headquarters in Minneapolis.

Not only did Target not change its hours, the discount chain opened at 9 p.m. on Thanksgiving in 2012.

Change.org said Hardwick's petition "changed the way the country talked about how retailers let sales trump family time on Thanksgiving," and inspired more than 150 similar petitions.

Casey St. Clair, a Target worker in Corona, Calif., started a 2012 petition urging Target to ["Take the High Road and Save Thanksgiving"](#) that has drawn 373,960 supporters and counting.

"Every year the opening time gets pushed up more and more," she wrote to Target Chief Executive Gregg W. Steinhafel. "Midnight last year was pushing it. How can you expect workers to spend time with family and then stay up all night. It's inhumane and inconsiderate. You are most likely tucked away in bed while workers are in the stores pushing back a rabid crowd of shoppers trying to get an iPod.

"A 9 pm opening disgusts me and symbolizes everything that is wrong with this country. Give Thanksgiving back to families. The world won't end if people have wait 7 more hours to buy useless junk that will be outdated in a year anyway."

The retail industry [hired nearly 730,000 seasonal workers](#) during last three months of 2012, most of whom will lose their jobs after the stores' fiscal year ends on Jan. 31.

Jeff Heinen of [Heinen's Fine Foods](#), which has 18 stores in Northeast Ohio and suburban Chicago, said the company has never opened on major holidays since his grandfather, Joe Heinen, founded the company in 1929.

He said [he and his brother, Tom](#), have no plans to change that policy.

"As a family run business that believes our associate satisfaction is very important to our success, it is an easy decision for us to remain closed on holidays," he said via email. "We believe our customers understand and respect this philosophy and strive to shop when we are open.

"If we do not want to work on a holiday so we can be home with our families, why should our associates not have the same opportunity?"

Alan Au, vice president of [Jimmy Au's for Men 5'8" and Under](#), a specialty clothing store in Beverly Hills, Calif., said opening extra hours doesn't bring in more shoppers.

"I'm against opening on Thanksgiving," he said. "I think doing that against the wants of the employees also affects morale, even if you pay overtime. They are going to be disappointed they can't be with family and possibly have customer service suffer because they don't want to be there.

"Financially (it) doesn't seem to make sense," Au added. "Your door busters are probably low margin and will sell out on Thursday night, when you are paying your employees overtime."

On the other hand, [Macy's](#) department stores, which hired more than 80,000 seasonal workers, [kept its stores open 65 straight hours](#) the last weekend before Christmas. The staff who worked those overnight shifts was a mix of full-time and holiday help, said corporate spokesman Jim Sluzewski.

"We ask for volunteers among our core associates for the overnight shifts, then fill in as necessary with seasonal associates," he said via email. "In many cases, core associates like the flexibility of working

overnight so their days are free for other activities. Given that these hours are scheduled as part of a normal work week, overtime is not involved."

"Macy's stores do provide food as a thank-you for associates who work overnight shifts," he added.

"We don't keep specific statistics on the numbers, but successful seasonal associates who are interested in working year-round are the first ones we consider for openings that come up throughout the year," he said.

Macy's hasn't decided whether it will be open 24/7 for the 2013 holiday season, "but I am sure it will be considered," he said.

Its December sales at stores open at least a year jumped 4.1 percent to \$5.1 billion, the fourth straight year of higher sales.

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