# District of Columbia Minimum Wage Act

"DCMWA"

D.C. Code §§ 32-1001 – 32-1015

## § 32-1001. Findings and declaration of policy.

(a) The Council of the District of Columbia finds that persons employed in the District of Columbia should be paid at wages sufficient to provide adequate maintenance and to protect health. Any wage that is not sufficient to provide adequate maintenance and to protect health impairs the health, efficiency, and well-being of persons so employed, constitutes unfair competition against other employers and their employees, threatens the stability of industry, reduces the purchasing power of employees, and requires, in many instances, that their wages be supplemented by the payment of public moneys for relief or other public and private assistance. Employment of persons at these insufficient rates of pay threatens the health and well-being of the people of the District of Columbia and injures the overall economy.

(b) It is declared the policy of this subchapter to ensure the elimination of the conditions referred to above.

## § 32-1002. Definitions.

For the purposes of this subchapter:

(1) The term "Director" means the Director of the Department of Employment Services.

(1A) The term "employ" includes to suffer or permit to work.

(2) The term "employee" includes any individual employed by an employer, except that this term shall not include:

(A) Any individual who, without payment and without expectation of any gain, directly or indirectly, volunteers to engage in the activities of an educational, charitable, religious, or nonprofit organization;

(B) Any lay member elected or appointed to office within the discipline of any religious organization and engaged in religious functions; or

(C) Any individual employed as a casual babysitter, in or about the residence of the employer.

(3) The term "employer" includes the District of Columbia government, any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States government.

(4) The term "gratuities" or "tips" means voluntary monetary

contributions received by an employee from a guest, patron, or customer for services rendered.

(4A) The term "manager" means the person who oversees the employees in a food or beverage establishment, such as the servers, bussers, bartenders, back waiters, hosts, and hostesses, and the general operation of the establishment.

(5) The term "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent or representative, including the Department of Employment Services.

(6) The term "occupation" means any occupation, service, trade, business, industry, or branch or group of occupations or industries, or employment or class of employment, in which employees are gainfully employed.

(6A) The term "office building" means any commercial property where the primary functions are the transaction of administrative, business, civic, or professional services, including properties where handling goods, wares, or merchandise, in limited quantities, is accessory to the primary occupancy or use. The term "office building" does not include libraries, museums, or universities.

(7) The term "regular rate" means all remuneration for employment paid to, or on behalf of, the employee, but shall not be considered to include the items set forth in the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 207(e)(1), (2), (3), (4), (5), (6), and (7). Extra compensation paid as described in § 207(e)(5), (6), and (7) shall be creditable toward overtime compensation.

(7A) The term "security officer" shall have the same meaning as provided in section 2100 of Title 17 of the District of Columbia Municipal Regulations.

(7B) The term "server" means an employee in a food or beverage establishment who takes orders, serves food or drinks, or both.

(7C) The term "tip-declaration form" means a printed form provided by an employer to an employee that shows the total tips received, including the amount of the tip outs or share of a tip pool that an individual employee provided to another employee or the amount of the tip outs or share of a tip pool that the employee received from another employee, and the calculation by which the amount was determined, such as total tips received and hours worked.

(7D) The term "tip out" means the amount or percentage of servers', bartenders', or other directly tipped employees' tips that an employee shares, due to a tip-sharing policy or tip-pooling agreement,

with other employees such as bussers, bartenders, back waiters, hosts, and hostesses.

(7E) The term "tip pool" means the combining of tips from multiple employees into a single amount for the purpose of sharing tips among employees.

(7F) The term "tip-pool structure" means the calculation of the portion of a tip pool an employee will provide to or receive from the pool, as a percentage of total gratuities, sales, or other factor.

(7G) The term "tip-sharing policy" means the written calculation of any tip outs or tip-pool structures that employees, delineated by job position or other factor, will provide to or receive from other employees.

(8) The term "wage" means compensation due to an employee by reason of the employee's employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, including allowances as may be permitted by any regulation issued under §§ 32-1003 and 32-1006.

(9) The term "Washington metropolitan region" means the area consisting of the District of Columbia, Montgomery, and Prince George's Counties in Maryland, Arlington and Fairfax Counties and the Cities of Alexandria, Fairfax and Falls Church in Virginia.

(10) The term "working time" means all the time the employee:

(A) Is required to be on the employer's premises, on duty, or at a prescribed place;

(B) Is permitted to work;

(C) Is required to travel in connection with the business of the employer; or

(D) Waits on the employer's premises for work.

Interpretations of what constitutes working time shall be made in accordance with Title 29 of the Code of Federal Regulations, Part 785, Hours Worked Under the Fair Labor Standards Act of 1938, as amended, except that references to interpretations of the Portal-to-Portal Act shall have no force and effect.

## § 32-1003. Requirements.

(a)

(1) Except as provided in subsection (h) of this section, as of January 1, 2005, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $6.60 an hour, or

the minimum wage set by the United States government pursuant to the Fair Labor Standards Act (29 U.S.C. § 206 et seq.) ("Fair Labor Standards Act"), plus $1, whichever is greater.

(2) Except as provided in subsection (h) of this section, as of January 1, 2006, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $7 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.

(3) Except as provided in subsection (h) of this section, as of July 1, 2014, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $9.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.

(4) Except as provided in subsection (h) of this section, as of July 1, 2015, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $10.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.

(5)

(A) Except as provided in subsection (h) of this section and subparagraph (B) of this paragraph, the minimum hourly wage required to be paid to an employee by an employer shall be as of:

(i) July 1, 2016: $11.50;

(ii) July 1, 2017: $12.50;

(iii) July 1, 2018: $13.25;

(iv) July 1, 2019: $14.00; and

(v) July 1, 2020: $15.00.

(B) If the minimum wage set by the United States government pursuant to the Fair Labor Standards Act ("U.S. minimum wage") is greater than the minimum hourly wage currently being paid pursuant to subparagraph (A) of this paragraph, the minimum hourly wage paid to an employee by an employer shall be the U.S. minimum wage plus $1.

(6)

(A) Except as provided in subsection (h) of this section, beginning on July 1, 2021, and no later than July 1 of each successive year, the minimum wage provided in this subsection shall be increased in proportion to the annual average increase, if any,

in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of $.05.

(B) Repealed.

(b) A person shall be employed in the District of Columbia when:

(1) The person regularly spends more than 50% of their working time in the District of Columbia; or

(2) The person's employment is based in the District of Columbia and the person regularly spends a substantial amount of their working time in the District of Columbia and not more than 50% of their working time in any particular state.

(c) No employer shall employ any employee for a workweek that is longer than 40 hours, unless the employee receives compensation for employment in excess of 40 hours at a rate not less than 1 1/2 times the regular rate at which the employee is employed.

(d) All workers with disabilities shall be paid at a rate not less than the minimum wage, except in those instances where a certificate has been issued by the United States Department of Labor that authorizes the payment of less to workers with disabilities under § 214(c) of the Fair Labor Standards Act [29 U.S.C. § 214(c)].

(e) No employer shall be deemed to have violated subsection (c) of this section if the employee works for a retail or service establishment and:

(1) The regular rate of pay of the employee is in excess of $1^1/_2$ times the minimum hourly rate applicable to the employee under this subchapter; and

(2) More than 1/2 of the employee's compensation for a representative period (not less than 1 month) represents commissions on goods or services.

(f)

(1) The minimum hourly wage required to be paid by an employer to an employee who receives gratuities ("tipped minimum wage"), provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum hourly wage as set by subsection (a) of this section, shall be as of:

(A) January 1, 2005: $2.77;

(B) July 1, 2017: $3.33;

(C) July 1, 2018: $3.89:

(D) July 1, 2019: $ 4.45; and

(E) July 1, 2020: $ 5.00.

(2) Beginning on July 1, 2021, and no later than July 1 of each successive year, the tipped minimum wage shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of $.05.

(f-1) The Mayor shall publish in the District of Columbia Register, on the Department of Employment Services website, and make available to employers in a bulletin, the adjusted minimum hourly wage to be paid by an employer to an employee pursuant to subsections (a)(5) and (6) and (f) of this section at least 30 days before an increase is scheduled to go into effect.

(g) Subsection (f) of this section shall not apply to an employee who receives gratuities, unless:

(1) The employer has provided the employee with notice of the following, included in the notice furnished pursuant to § 32-1008(c):

(A) The provisions of subsection (f) of this section;

(B) If tips are not shared, that the tipped employee shall retain all tips received;

(C) If tips are shared, the employer's tip-sharing policy; and

(D) The percentage by which tips paid via credit card will be reduced by credit card fees;

(2) If the employer uses tip sharing, the employer has posted the tip-sharing policy; and

(3) All gratuities received by the employee have been retained by the employee, except that this provision shall not be construed to prohibit the sharing of gratuities among employees who customarily receive gratuities.

(h) Beginning on July 1, 2019, and no later than July 1 of each successive year, an employer shall pay a security officer working in an office building in the District of Columbia wages, or any combination of wages and benefits, that are not less than the combined amount of the minimum wage

and fringe benefit rate in effect on September 1 of the immediately preceding year for the guard 1 classification established by the United States Secretary of Labor pursuant to Chapter 67 of Title 41 of the United States Code (41 U.S.C. § 6701 et seq.), as amended.

## § 32-1004. Exceptions.

(a) The minimum wage and overtime provisions of § 32-1003 shall not apply with respect to:

(1) Any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as these terms are defined by the Secretary of Labor under 201 et seq. of the Fair Labor Standards Act); or

(2) Any employee engaged in the delivery of newspapers to the home of the consumer.

(b) The overtime provisions of § 32-1003(c) shall not apply with respect to:

(1) Any employee employed as a seaman;

(2) Any employee employed by a railroad;

(3) Any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trailers, or trucks, if employed by a non-manufacturing establishment primarily engaged in the business of selling these vehicles to ultimate purchasers; or

(4) Repealed.

(5) Repealed.

(6) Any employee employed by a carrier by air who voluntarily exchanges workdays with another employee for the primary purpose of utilizing air travel benefits available to these employees.

## § 32-1005. Authority of Mayor.

(a) The Mayor or his authorized representative shall have the authority to:

(1) Investigate and ascertain the wages of persons employed in any occupation in the District of Columbia;

(2) Enter and inspect the place of business or employment of any employer in the District of Columbia in order to:

(A) Examine and inspect any books, registers, payrolls, and other records as the Mayor or the Mayor's authorized representative may deem necessary or appropriate;

(B) Copy books, registers, payrolls, and other records as the Mayor or the Mayor's authorized representative may deem

necessary or appropriate; and

(C) Question an employee for the purpose of ascertaining whether the provisions of this subchapter and the orders and regulations issued thereunder have been and are being complied with; and

(3) Require from any employer full and correct statements in writing, including sworn statements, with respect to wages, hours, names, addresses, and any other information that pertains to the employment of the employees as the Mayor or the Mayor's authorized representative may deem necessary or appropriate to carry out the purposes of this subchapter.

(b) The Mayor shall encourage reporting pursuant to this subchapter by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or other person reporting a violation during the course of any investigation; provided, that with the authorization of such person, the Mayor may disclose his or her name and identifying information as necessary to conduct a hearing and enforce this subchapter or other employee protection laws.

## § 32-1006. Regulatory powers of Mayor.

(a) The Mayor shall make and revise regulations, including definitions of terms, as deemed appropriate to carry out the purposes of this subchapter or necessary to prevent its circumvention or evasion and to safeguard the minimum wage rates and the overtime provisions established by this subchapter.

(b) The Mayor shall make regulations in order to:

(1) Provide reasonable allowances for board, lodging, or services customarily furnished by employers to employees; and

(2) Provide allowances for other special conditions or circumstance that may be usual in a particular employer-employee relationship.

(c) The Mayor may make regulations in order to:

(1) Define and govern the employment of workers under 18 years of age and provide minimum wages for these workers at a rate lower than that specified in § 32-1003;

(2) Govern piece rates, bonuses, and commissions in relation to time rates;

(3) Govern part-time rates;

(4) Govern minimum daily wages;

(5) Relate to wage provisions governing split shifts and excessive

spread of hours; and

(6) Govern uniforms, tools, travel, and other items of expense incurred by employees as a condition of employment.

(d) The Council of the District of Columbia shall review and make recommendations, as needed, to the Mayor or the Mayor's authorized representative, to ensure that the minimum wage set by the federal government, plus $1, is fair and adequate for employees in the District of Columbia.

## § 32-1007. Investigatory powers of Mayor.

(a) The Mayor and the Attorney General shall each have the power to administer oaths and require by subpoena the attendance and testimony of witnesses, the production of all books, registers, and other evidence relative to any matters under investigation, at any public hearing, or at any meeting of any committee or for the use of the Mayor or the Attorney General in securing compliance with this subchapter.

(b) In case of disobedience to a subpoena, the Mayor or the Attorney General may invoke the aid of the Superior Court of the District of Columbia to require the attendance and testimony of witnesses and the production of documentary evidence.

(c) In case of contumacy or refusal to obey a subpoena, the Court may issue an order to require an appearance before the Mayor or the Attorney General, the production of documentary evidence, and the giving of evidence.

(d) A person or an entity to whom a subpoena has been issued may move to quash or modify the subpoena.

(e) Any failure to obey the order of the Court may be punished by the Court as contempt.

## § 32-1007.01. Reporting.

The Mayor shall submit biannually a report to the Council regarding any audits or inspections conducted related to compliance with this subchapter or any regulation issued pursuant to this subchapter. Each report shall include:

(1) The number of employers inspected for compliance due to complaints received, categorized by size of the employer based on the number of employees;

(2) The number of employers inspected for compliance as a result of a random audit, categorized by size of the employer based on the number of employees;

(3) The number of violations, by type of violation; and

(4) An explication of the actions the Mayor took pursuant to § 32-1011 against each employer charged with violating this subchapter or any regulation issued pursuant to this subchapter, including a list of fines assessed against the employer.

## § 32-1008. Duties of employers; open records.

(a)

(1) Every employer subject to any provision of this subchapter or of any regulation or order issued under this subchapter shall make, keep, and preserve for a period of not less than 3 years or the prevailing federal standard at the time the record is created, which shall be identified in rules issued pursuant to this chapter, whichever is greater, a record of:

(A) The name, address, and occupation of each employee;

(B) A record of the date of birth of any employee under 19 years of age;

(C) The rate of pay and the amount paid each pay period to each employee;

(D) The precise times worked each day and each workweek by each employee, except for employees who are not paid on an hourly basis and who are exempt from the minimum wage and overtime requirements under § 32-1004(a); and

(E) Any other records or information as the Mayor shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this subchapter or of the regulations issued under this subchapter.

(2)

(A) Any records shall be open and made available for inspection or transcription by the Mayor, the Mayor's authorized representative, or the Office of the Attorney General upon demand at any reasonable time. An employer shall furnish to the Mayor, the Mayor's authorized representative, or the Office of the Attorney General on demand a sworn statement of records and information upon forms prescribed or approved by the Mayor or Attorney General.

(B) No employer may be found to be in violation of subparagraph (A) of this paragraph unless the employer had an opportunity to challenge the Mayor or Attorney General's demand before a judge, including an administrative law judge.

(a-1) Beginning January 1, 2020, an employer that employs an employee who is paid in accordance with § 32-1003(f), except for a hotel employer, shall use a third-party payroll business to prepare the payroll for the employer.

(b) Every employer shall furnish to each employee at the time of payment of wages an itemized statement showing the following:

(1) Date of the wage payment;

(2) Gross wages paid;

(3) Deductions from and additions to wages, including a separate line for gratuities;

(4) Net wages paid;

(5) Hours worked during the pay period;

(6) Employee's tip-declaration form for the pay period, delineating cash tips and credit-card tips; and

(7) Any other information as the Mayor may prescribe by regulation.

(c) Every employer, except as specified in § 32-1008.01, shall furnish to each employee at the time of hiring, and whenever any of the information contained in the written notice changes, a written notice in English; provided, that if the Mayor has made a sample template available in a language other than English that the employer knows to be the employee's primary language or that the employee requests, the employer shall furnish the written notice to the employee in that other language also. The notice required by this subsection shall contain:

(1) The name of the employer and any "doing business as" names used by the employer;

(2) The physical address of the employer's main office or principal place of business, and a mailing address, if different;

(3) The telephone number of the employer;

(4) The employee's rate of pay and the basis of that rate, including: by the hour, shift, day, week, salary, piece, commission, any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances, or overtime rate of pay, exemptions from overtime pay, living wage, exemptions from the living wage, and the applicable prevailing wages;

(4A) The employer's tip-sharing policy, consistent with the requirements of § 32-1003(g)(1)(B) through (D);

(5) The employee's regular payday designated by the employer in accordance with § 32-1302; and

(6) Any such other information as the Mayor considers material and necessary.

(d)

(1)

(A) Within 90 days after February 26, 2015, and within 30 days of any change to the information contained in the prior written notice, an employer, except in those instances where notice is provided pursuant to § 32-1008.01, shall furnish each employee with an updated notice containing the information required under subsection (c) of this section in English and in any additional language required by subsection (c) of this section.

(B) To show proof of compliance with these notice requirements, an employer shall retain either copies of the written notice furnished to employees that are signed and dated by the employer and by the employee acknowledging receipt or electronic records demonstrating that the employee received and acknowledged the notice via email or other electronic means.

(C) Notwithstanding subparagraph (A) of this paragraph, if an employer revises its tip-out policy, the employer shall provide employees with the proposed new policy before its implementation by the employer.

(2) If an employer fails to comply with this subsection or subsection (c) of this section, the failure shall constitute evidence weighing against the credibility of the employer's testimony regarding the rate of pay promised.

(3) The period prescribed in § 32-1308(c) shall not begin until the employee is provided all itemized statements and written notice required by this section.

(e) The Mayor shall make available for employers a sample template of the notice within 60 days of February 26, 2015. On or before February 26, 2017, the Mayor also shall publish online a translation of the sample template in any languages required for vital documents pursuant to § 2-1933. The Mayor shall also publish online translations of the sample template in any additional languages the Mayor considers appropriate to carry out the purposes of this section.

## § 32-1008.01. Notice requirements for temporary staffing firms.

(a)

(1) A temporary staffing firm shall furnish to each employee at the time of the initial interview or hire a notice that is signed and dated by the temporary staffing firm and the employee containing the information required by § 32-1008(c). The notice shall be provided in English and, if the Mayor has made available a translation

of the sample template in a language that is known by the temporary staffing firm to be the employee's primary language or that the employee requests, the temporary staffing firm shall furnish written notice to the employee in that other language also.

(2) For the purposes of the notice:

(A) If a specific rate of pay has not been determined at the time of the initial interview or hire, a temporary staffing firm shall provide the employee with a range of potential wages the employee will likely earn based upon the qualifications of the employee and the suitability of the assignment;

(B) The range of potential hourly wages may not be excessively broad and must be based on a good-faith estimate of the typical wage earned by similarly qualified employees working at assignments similar to those for which the employee is eligible and likely to be assigned; and

(C) If a fixed, designated payday has not been established at the time of the initial interview or hire, a temporary staffing firm shall inform the employee that the payday may vary depending upon the usual practice at the assignment.

(b) When a temporary staffing firm assigns an employee to perform work at, or provide services for, a client, the temporary staffing firm shall furnish the employee a written notice in English, and in another language that the employer knows to be the employee's primary language or that the employee requests, if a sample template has been made available pursuant to subsection (c) of this section, of:

(1) The specific designated payday for the particular assignment;

(2) The actual rate of pay for the assignment and the benefits, if any, to be provided;

(3) The overtime rate of pay the employee will receive, or, if applicable, inform the employee that the position is exempt from additional overtime compensation and the basis for the overtime exemption;

(4) The location and name of the client employer and the temporary staffing firm;

(5) The anticipated length of the assignment;

(6) Whether training or safety equipment is required and who is obligated to provide and pay for the equipment;

(7) The legal entity responsible for workers' compensation, should the employee be injured on the job; and

(8) Information about how to contact the designated enforcement agency for concerns about safety, wage and hour, or discrimination.

(c) On or before February 26, 2017, the Mayor shall publish online a translation of the sample template of the notice required by this section in any language required for vital documents pursuant to § 2-1933. The Mayor shall also publish online translations of the sample template in any additional languages the Mayor considers appropriate to carry out the purposes of this section.

(d) For the purposes of this section:

(1) The term "temporary staffing firm" means a business that recruits and hires its own employees and assigns those employees to perform work at or services for another organization, to support or supplement the other organization's workforce, or to provide assistance in special work situations such as employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects.

(2) Electronic mail, text messaging, facsimile, and regular mail shall each constitute written notice.

## § 32-1009. Posting of act and regulations on premises; distribution of copies to employers.

(a) Every employer who is subject to any provision of this subchapter or any regulation issued under this subchapter shall keep a copy or summary of this subchapter and any applicable regulation issued under this subchapter, in a form prescribed or approved by the Mayor, posted in a conspicuous and accessible place in or about the premises at which any employee covered by the regulation is employed. If an employer fails to comply with this requirement, the period prescribed in § 32-1308(c) shall not begin until the employer posts or provides the required notice.

(b) Employers shall be furnished copies or summaries of this subchapter by the Mayor without charge, in accordance with subchapter II of Chapter 19 of Title 2 [§ 2-1931 et seq.].

(c) Employers shall be furnished with copies or summaries of this subchapter within 60 days of February 26, 2015. An employer shall not be liable for failure to post notice if the Mayor has failed to provide to the employer the notice required by this section.

## § 32-1009.01. Notice requirements for tipped wages.

(a)

(1)

(A) As of January 1, 2020, the third-party payroll business,

required pursuant to § 32-1008(a-1) to process payroll for an employer that employs an employee who is paid in accordance with § 32-1003(f), shall submit a quarterly report to the Mayor no later than 30 days after the end of each quarter certifying that each employee was paid at least the required minimum wage, including gratuities.

(B) Before January 1, 2020, an employer that employs an employee who is paid in accordance with § 32-1003(f) shall submit a quarterly report to the Mayor no later than 30 days after the end of each quarter certifying that each employee was paid at least the required minimum wage, including gratuities.

(C) A hotel employer that employs an employee who is paid in accordance with § 32-1003(f) shall submit a quarterly report to the Mayor no later than 30 days after the end of each quarter certifying that each employee was paid at least the required minimum wage, including gratuities.

(2) Each quarterly report submitted pursuant to this subsection shall include and itemize the following information:

(A) Name of each employee;

(B) Number of hours each employee worked each week during the quarter for which the report is being provided;

(C) The total pay, including gratuities, received by each employee each week during the quarter for which the report is being provided;

(D) Average weekly wage for each employee during the quarter for which the report is being provided; and

(E) The employer's current tip-out policy that the employer supplied to the third-party payroll business for calculation of wages during the quarter.

(b)

(1) The Mayor shall create an Internet-based portal for online reporting of the quarterly wage reports required by subsection (a) of this section.

(2) An employer shall submit its quarterly wage reports online unless the employer claims that online reporting creates a hardship, in which case the employer shall submit its reports in hard-copy form.

(3) The Mayor shall provide reporting requirements training to educate employers about the reporting requirements and use of the Internet-based portal.

(c) Repealed.

## § 32-1009.02. Tipped Workers Coordinating Council. [Not funded].

(a) There is established the Tipped Workers Coordinating Council ("Coordinating Council").

(b) The Coordinating Council shall be a partnership of tipped workers, employers, and public agencies that promotes a high-quality response to tipped-worker cases of wage theft and unfair labor practices.

(c) Members of the Coordinating Council shall consist of the following persons:

(1) The Director of the Department of Employment Services, or his or her designee;

(2) The Director of the Office of Nightlife and Culture, or his or her designee;

(3) The Director of the Department of Consumer and Regulatory Affairs, or his or her designee;

(4) The Director of the Office of Human Rights, or his or her designee;

(5) A representative from the Restaurant Association of Metropolitan Washington;

(6) A representative from the Hotel Association of Washington, D.C.;

(7) Two representatives, appointed by the Mayor, from District-based organizations that engage in policy or advocacy for tipped workers; and

(8) Three representatives, appointed by the Chairman of the Council as follows:

(A) Two representatives from District-based organizations that engage in policy or advocacy for tipped workers; and

(B) One representative shall be an employer that employs an employee who is paid in accordance with § 32-1003(f), but is not part of the restaurant or hotel industry.

(d) The term of office for each representative provided for in subsection (c)(5), (6), (7), and (8) of this section shall be for 3 years; provided, that the initial term of:

(1) One of the representatives appointed by the Mayor from a District-based organization that engages in policy or advocacy for tipped workers and one of the representatives appointed by the Chairman of the Council from a District-based organization that engages in policy or advocacy for tipped workers shall be for 2 years; and

(2) One of the representatives appointed by the Mayor from a District-based organization that engages in policy or advocacy for tipped workers and one of the representatives appointed by the Chairman of the Council from a District-based organization that engages in policy or advocacy for tipped workers shall be for one year.

(e) A representative who is appointed to fill a vacancy that occurs before the expiration of a representative's full term shall serve only the unexpired portion of the term.

(f)

(1) The Coordinating Council shall hold its initial meeting no later than 90 days after the date this section becomes applicable [for applicability date, see D.C. Law 22-196, § 8].

(2) At the initial meeting, one non-governmental member of the Coordinating Council shall be elected as chairperson by a majority of the Coordinating Council members.

(g) The Coordinating Council shall establish its own procedures and requirements with respect to the place at which and the manner in which it will conduct its meetings.

(h) The Coordinating Council shall:

(1) Improve coordination and functioning of the wage policies for tipped workers, investigations into wage theft involving tipped workers, and reporting mechanisms for tipped workers;

(2) Conduct regular and anonymous case reviews of all parties involved in claims of wage violations for tipped workers; and

(3) Develop a protocol to ensure that feedback and recommendations from case reviews are incorporated into the Department of Employment Services's policies, procedures, practices, training, and decisions to re-examine investigations, when applicable.

## § 32-1010. Violations.

(a) It shall be unlawful for any employer to:

(1) Violate any of the provisions of this subchapter or any of the provisions of any regulation issued under this subchapter;

(2) Violate any of the provisions of §§ 32-1008, 32-1009 and 32-1009.01 or any regulation made under the provisions of § 32-1006, or to make any statement, report, or record filed or kept pursuant to the provisions of §§ 32-1008 and 32-1009.01 or any regulation or order issued under § 32-1006 knowing the statement, report, or record to be false in a material respect;

(3) Discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee or person because that employee or person has:

(A) Made or is believed to have made a complaint to his or her employer, the Mayor, the Attorney General for the District of Columbia, any federal or District employee, or to any other person that the employer has engaged in conduct that the employee, reasonably and in good faith, believes violates any provision of this subchapter, or any regulation promulgated pursuant to this subchapter;

(B) Caused to be instituted or is about to institute a proceeding under or related to this subchapter;

(C) Provided information to the Mayor, or the Attorney General for the District of Columbia, or any federal or District of Columbia employee;

(D) Testified or is about to testify in an investigation or any proceeding filed under this subchapter; or

(E) Exercised rights protected under this subchapter.

(4) Hinder or delay the Mayor or the Mayor's authorized representative in the enforcement of this subchapter, to refuse to admit the Mayor or the Mayor's authorized representative to any place of employment upon demand, to refuse to make available any record to the Mayor or Mayor's authorized agent required to be made, kept, or preserved under this subchapter, or to fail to post a summary or copy of this subchapter or of any applicable regulation or order, as required under § 32-1009.

(b) An employee complaint or other communication need not make explicit reference to any section or provision of this subchapter to trigger the protections of this section. The employer, or any person acting on behalf of the employer, taking adverse action against an employee within 90 days of an employee or other person's engagement in the activities set forth in subsection (a) of this section shall raise a presumption that the action is retaliation. The presumption may be rebutted by clear and convincing evidence that the action was taken for other permissible reasons.

## § 32-1011. Penalties; prosecution.

(a) Any person who willfully or negligently violates any of the provisions of § 32-1010 shall, upon conviction, be subject to a fine of not more than $10,000, or to imprisonment of not more than 6 months, or both.

(b) No person shall be imprisoned under this section except for an offense

committed willfully or after the conviction of that person for a prior offense under this section.

(c) Prosecutions for violations of this subchapter shall be in the Superior Court of the District of Columbia and shall be conducted by the Attorney General for the District of Columbia.

(d)

(1) In addition to and apart from the penalties or remedies provided for in this section or § 32-1012, the Mayor shall assess and collect administrative penalties as follows:

(A) For the first violation of § 32-1003, $50 for each employee or person whose rights under this subchapter are violated for each day that the violation occurred or continued;

(B) For any subsequent violation of § 32-1003, $100 for each employee or person whose rights under this subchapter are violated for each day that the violation occurred or continued;

(C) $500 for each failure to maintain payroll records or to retain payroll records for 3 years or the prevailing federal standard at the time the record is created, which shall be identified in rules issued pursuant to this subchapter, whichever is greater, for each violation as required by § 32-1008(a)(1);

(D) $500 for each failure to allow the Mayor to inspect payroll records or perform any other investigation pursuant to § 32-1008(a)(2) or § 32-1010(a)(4);

(E) $500 for each failure to provide each employee an itemized wage statement or the written notice as required by § 32-1008(b) and (c); and

(F) $100 for each day that the employer fails to post notice as required under § 32-1009(a).

(2) The Mayor may assess more than one administrative penalty against an employer for the same adversely affected employee if the employer has violated more than one statutory provision of this subchapter, subchapter X-A of Chapter 2 of Title 2 [§ 2-220.01 et seq.], or subchapter III of Chapter 5 of this title [§ 32-531.01 et seq.].

(e) Repealed.

(f) The fine set forth in this section shall not be limited by § 22-3571.01.

(g) The administrative fines and penalties collected under this section shall be deposited into the Wage Theft Prevention Fund, established by § 32-1308.01.

## § 32-1011.01. Remedies.

If an employer or other person is found to have violated § 32-1010(a)(3), the court or administrative law judge shall, by an order which shall describe with particularity the nature of the violation, award to the employee all appropriate relief provided for under § 32-1311.

## § 32-1012. Civil actions.

(a) A civil action may be commenced according to, and with all the remedies provided under, § 32-1308

(b)

(1) Except as provided in paragraph (2) of this subsection, any employer who pays any employee less than the wage to which that employee is entitled under this subchapter shall be liable to that employee in the amount of the unpaid wages, statutory penalties, and an additional amount as liquidated damages equal to treble the amount of unpaid wages.

(2) The court may award an additional amount of liquidated damages less than treble the amount of unpaid wages, but not less than the amount of unpaid wages, only if the employer demonstrates to the satisfaction of the court that:

(A) The act or omission that gave rise to the action was in good faith;

(B) That the employer had reasonable grounds for the belief that the act or omission was not in violation of this subchapter; and

(C) That the employer promptly paid the full amount of wages claimed to be owed to the employee.

(c) A subcontractor, including any intermediate subcontractor, and the general contractor shall be jointly and severally liable to the subcontractor's employees for the subcontractor's violations of this subchapter. Except as otherwise provided in a contract between the subcontractor and the general contractor, the subcontractor shall indemnify the general contractor for any wages, damages, interest, penalties, or attorneys' fees owed as a result of the subcontractor's violations of this subchapter, unless those violations were due to the lack of prompt payment in accordance with the terms of the contract between the general contractor and the subcontractor.

(d) Any agreement between an employer and employee in which the employee agrees to work for less than the wages to which the employee is entitled under this subchapter or any regulation issued under this

subchapter shall be no defense to any action to recover unpaid wages or liquidated damages.

(e) The Mayor is authorized to supervise the payment of unpaid wages and liquidated damages owed to any employee under this subchapter or any regulation issued under this subchapter, and the agreement of any employee to accept this payment, shall upon full payment, constitute a waiver by the employee of any right the employee may have under subsection (a) of this section to any unpaid wages, and an additional amount as liquidated damages.

(f)

(1) When a temporary staffing firm employs an employee who performs work on behalf of or to the benefit of a client pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing firm and the client shall be jointly and severally liable for violations of this subchapter to the employee and to the District.

(2) The District, the employee, or the employee's representative shall notify the temporary staffing firm of the alleged violations at least 30 days before filing a claim for a violation against a client who was not the employee's direct employer.

(3) Except as otherwise provided in a contract between the temporary staffing firm and its client, the temporary staffing firm shall indemnify its client for any wages, damages, interest, penalties, or attorney's fees owed as a result of the temporary staffing firm's violations of this subchapter.

## § 32-1012.01. Administrative actions.

Administrative complaints filed for violations of this subchapter shall be considered under the same procedures and with all the same legal and equitable remedies available for violations of subchapter I of Chapter 13 of this title [§ 32-1301 et seq.].

## § 32-1013. Limitations. [Repealed].

Repealed.

## § 32-1014. Collective bargaining.

Nothing in this subchapter shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the standards applicable under the provisions of this subchapter.

## § 32-1015. Application to revised wage orders.

Section 32-1004(a) shall not apply to any revised wage order issued by the Wage-Hour Board that sets a minimum wage that is higher than the minimum wage set by this subchapter.