



Chairman Phil Mendelson

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

AN ACT

---

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

---

To amend, on an emergency basis, DC Act 22-436, the “Initiative 77 – Minimum Wage Amendment Act of 2018”; requires mandatory sexual harassment training and training on the requirements under the District’s wage theft law; provides that employers must provide an employee with his or her tip out sheet for the pay period and indicates that employers have to provide their employees, as well as the employer’s third-party payroll company, with a copy of the employer’s tip-out policy, and dictates that employers who employ tipped workers use a third-party to do payroll for the employer and mandates the third-party to report certain wage data to DOES on a quarterly basis, and establishes a Tipped Worker Coordinating Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Tipped Wage Workers Fairness Emergency Amendment Act of 2018”.

Sec. 2. D.C. Act 22-436, the “Initiative 77 – Minimum Wage Amendment Act of 2018, enacted on June 29, 2018 is amended as follows:

(a) Section 2(b) (amending section 4(f)(2) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003(f)(2) is amended by striking the phrase “\$4.50” and inserting the phrase “\$3.89” in its place.

38 (b) A new section (4a) is added to read as follows:

39 Sec. 4a. Applicability.

40 This act shall apply as of March 31, 2019.

41 Sec. 3. Mandatory Workplace Training

42 (a)(1) Each business owner or operator who employs an employee who is paid in  
43 accordance with section 4(f) of the Minimum Wage Act Revision Act of 1992, effective March  
44 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003(f)) shall attend either in-person or  
45 online, on a yearly basis, at least one sexual harassment training and at least one training on the  
46 requirements under An Act To provide for the payment and collection of wages in the District of  
47 Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code §32-1301 *et seq.*).

48 (2) Each manager who is employed by an employer who employs an employee  
49 who is paid in accordance with section 4(f) of the Minimum Wage Act Revision Act of 1992,  
50 effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003(f)) shall attend an in-  
51 person, on a yearly basis, at least one sexual harassment training and at least one training on the  
52 requirements under An Act To provide for the payment and collection of wages in the District of  
53 Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code §32-1301 *et seq.*).

54 (c) Each employer who employs an employee who is paid in accordance with section  
55 4(f) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-  
56 248 shall offer, at least once annually, his or her employees that opportunity to attend in-person  
57 or to complete online at least one sexual harassment training and at least one training on the  
58 requirements under An Act To provide for the payment and collection of wages in the District of  
59 Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code §32-1301 *et seq.*).

60 (d) By December 31<sup>st</sup> of each year, each employer subject to the requirements of this  
61 section shall provide certifications to the Department of Employment Services that all

62 requirements of this section have been fulfilled. The Department of Employment Services shall  
63 make the certifications available to the Office of Human Rights.

64 Sec. 4. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C.  
65 Law 9-248; DC Official Code § 32-1001 *et seq.*) is amended as follows:

66 (a) Section (3) (D.C. Official Code § 32-1002) is amended as follows:

67 (1) Paragraph (1) is redesignated as paragraph (1A).

68 (2) A new paragraph (1) is added to read as follows:

69 “(1) “Director” means the Director of the Department of Employment Services,  
70 established by Reorganization Plan No. 1 of 1980, effective April 17, 1980.”.

71 (3) A new paragraph (4A) is added to read as follows:

72 “(4A) “Manager” means the person who oversees the employees in a food or  
73 beverage establishment, such as the servers, bussers, bartenders, back waiters, hosts, and  
74 hostesses, and the general operation of the establishment.”.

75 (4) New paragraphs (7B), (7C), and (7D) are added to read as follows:

76 “(7B) “Server” means the employee in a food or beverage establishment who  
77 takes orders, and serves the food or drinks, or both.

78 “(7C) “Tip out” means the amount or percentage of server’s tips that the server  
79 shares, either voluntarily or as mandated in a tip-sharing a tip-pooling agreement, with other  
80 employees such as bussers, bartenders, back waiters, hosts, and hostesses.

81 “(7D) “Tip out sheet” means a printed form provided by an employer to an  
82 employee that shows the amount of the tip out that the employee will share and the calculation  
83 by which the amount was determined.”.

84 (b) Section 9 (D.C. Official Code § 32-1008) is amended as follows:

85 (1) A new subsection (a-1) is added to read as follows:

86           “(a-1) An employer who employs an employee who is paid in accordance with  
87 section 4(f) shall use a third-party payroll business to prepare the payroll for the employer.”.

88           (2) Subsection (b) is amending by striking the phrase “hours worked during the  
89 pay period, and” and inserting the phrase “hours worked during the pay period, the employee’s  
90 tip out sheet for the pay period, and” in its place.

91           (3) Subsection (c) is amended by a new paragraph (4A) to read as follows”

92           “(4A) The employer’s tip out policy;”.

93           (4) Subsection (d)(1) is amended by adding a new subparagraph (C) to read as  
94 follows:

95           “(C) Notwithstanding subparagraph (A) of this paragraph, if an employer revises  
96 its tip out policy, the employer shall provide employees with the proposed new policy prior to  
97 implementation of the revised tip out policy.”.

98           (c) Sections 10a(a) (D.C. Official Code §§ 32-1009.01(a)) is amended to read as  
99 follows:

100           “(a)(1) An employer’s third-party payroll company, required pursuant to section  
101 9(a-1), shall submit to the Mayor a quarterly wage report within the 30 days of the end of the  
102 quarter.

103           “(2) Each quarterly wage report prepared pursuant to this subsection shall include  
104 and itemize the following information:

105                   “(A) Name of each employee;

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

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

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

112                   “(E) The employer’s current tip out policy that the employer supplied to  
113 the third-party payroll company for calculation of wages during the quarter.”.

114           (d) A new section (10b) is added to read as follows:

115           “Sec. 10b. Tipped Workers Coordinating Council.

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

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

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

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

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

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

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

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

129                   “(6) A representative of the Hotel Association of Washington D.C.;

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

132                   “(8) Three representatives, appointed by the Chairman of the Council.

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

135                   “(B) One representative shall be an employer that is not part of the  
136 restaurant or hotel industry.

137                   “(d) The term of office for each member provided for in paragraphs (4) – (8) of  
138 subsection (c) is 3 years, except that members first appointed to the Tipped Workers  
139 Coordinating Council shall serve the following terms:

140                   “(1) The representative from the Restaurant Association of Metropolitan  
141 Washington, the representative from the Hotel Association of Washington D.C., and the  
142 representative, appointed by the Chairman of the Council, that is an employer that is not a part of  
143 the restaurant or hotel industry shall serve for 3 years;

144                   “(2) One representative appointed by the Mayor that is from a District-based  
145 organization that engages in policy or advocacy for tipped workers and one representative  
146 appointed by the Chairman of the Council from a District-based organization that engages in  
147 policy or advocacy for tipped workers shall serve for 2 years; and

148                   “(3) One representative appointed by the Mayor that is from a District-based  
149 organization that engages in policy or advocacy for tipped workers and one representative  
150 appointed by the Chairman of the Council from a District-based organization that engages in  
151 policy or advocacy for tipped workers shall serve for 1 year.

152                   “(e) Representatives who are appointed to fill vacancies that occur before the expiration  
153 of a representative’s full term shall serve only the unexpired portion of the term.

154                   “(f)(1) The Coordinating Council shall hold its initial meeting within 90 days of the  
155 effective date of this act.

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

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

160           Sec. 5. Applicability

161           Section 2 of this act shall apply as of October 9, 2018.

162           Sec. 6. Fiscal Impact Statement

163           The Council adopts the fiscal impact statement of the Chief Financial Officer  
164 as the fiscal impact statement required by section 4a of the General Legislative Procedures Act  
165 of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

166           Sec. 7. Effective Date

167           This act shall take effect following approval by the Mayor (or in the event of veto by the  
168 Mayor, action by the Council to override the veto), and shall remain in effect no longer than 90  
169 days, as provided for emergency acts of the Council of the District of Columbia in section  
170 412(a).