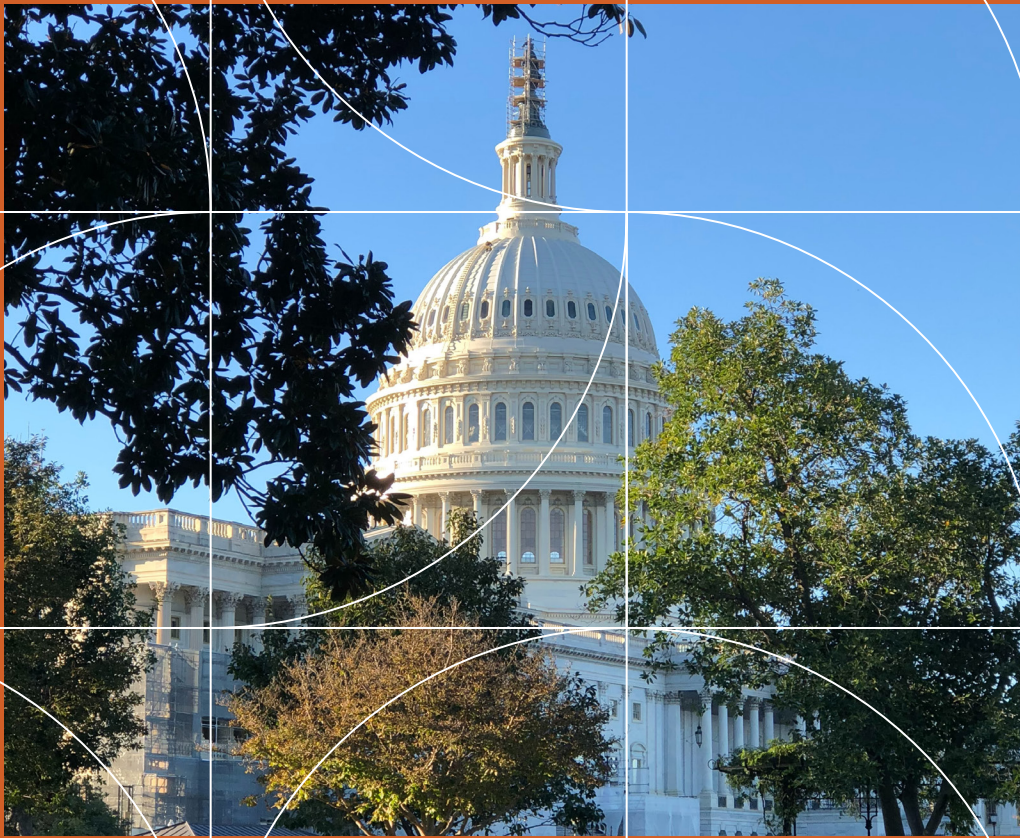




# Washington, DC Employment Laws

A Reference Guide for Employers



**2025** Edition



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# EEO/Non-Discrimination

The Equal Employer Opportunity/Non-Discrimination laws specific to certain DC employers and their eligible employees include:

- [DC Human Rights Act](#)
- [Unemployed Anti-Discrimination Act](#)
- [Protecting Pregnant Workers Fairness Act](#)
- [Employment Discrimination on the Basis of Tobacco Use](#)

## DC Human Rights Act (DCHRA)

All employers in the District of Columbia are prohibited from refusing to hire, terminating, or otherwise discriminating against or harassing any individual with respect to compensation, terms, conditions, or privileges of employment, on the basis of 18 protected categories. D.C. Code § 2-1402.11. Additionally, the DCHRA includes special requirements and protections for pregnancy, childbirth, and related medical conditions, credit information, and victims of domestic violence, sexual offenses, and stalking.

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### Covered Employer

Any person who, for pay or other compensation, employs an individual, including any person acting in the interest of such employer, directly or indirectly; and any professional association. D.C. Code § 2-1401.02. The law applies to all employers, regardless of the number of employees. Individuals can be employers.

### Covered Employees

Any individual employed by or seeking employment from an employer, including unpaid interns and independent contractors. D.C. Code § 2-1401.02.

### Protected Traits

The DCHRA prohibits discrimination or harassment in employment based on 18 protected categories:

1. Race
2. Color
3. Religion
4. National origin
5. Sex (which includes a person's gender, pregnancy, childbirth, related medical conditions, breastfeeding, and reproductive health decisions)
6. Age (18 years or older)
7. Marital status
8. Personal appearance
9. Sexual orientation
10. Gender identity or expression
11. Family responsibilities
12. Political affiliation

13. Disability
14. Matriculation
15. Genetic information
16. Credit information
17. Status as a victim or family member of a victim of domestic violence, a sexual offense, or stalking
18. Homeless status

## **Additional Protections Under the DCHRA**

### **1. Harassment**

Prohibits harassment on the basis of the 18 protected categories described above. D.C. Code § 2-1402.11. “Harassment” is defined broadly, and means “conduct, whether direct or indirect, verbal or nonverbal, that unreasonably alters an individual's terms, conditions, or privileges of employment or has the purpose or effect of creating an intimidating, hostile, or offensive work environment.” *Id.* “Sexual harassment” means “any conduct of a sexual nature that constitutes harassment as defined [above], and sexual advances, requests for sexual favors, or other conduct of a sexual nature where submission to the conduct is made either explicitly or implicitly a term or condition of employment or where submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual's employment.” *Id.* Harassment under the DCHRA “need not be severe or pervasive to constitute harassment and no specific number of incidents or specific level of egregiousness is required.” *Id.* This language is in direct contrast to requirement under Title VII that to be actionable harassment, the conduct complained of must be “severe or pervasive.” The law identifies five factors a fact-finder should consider to determine whether conduct constitutes unlawful harassment, including: the frequency and duration of the conduct; the location where the conduct occurred; whether the conduct involved slurs, epithets, stereotypes, or humiliating or degrading conduct; and whether a party to the conduct held a position of formal authority or informal power relative to another party. *Id.* Of note, the law provides that a single incident—such as a single use of a slur—may constitute unlawful harassment. It also provides that conduct may constitute harassment if the conduct occurred outside the workplace. *Id.* This means that even after work hours or weekend conduct by an employee could be the subject of harassment complaints.

### **2. Pregnancy, Childbirth, and Related Medical Conditions**

Requires employers to treat an employee affected by pregnancy, childbirth, a pregnancy-related or childbirth-related medical condition, breastfeeding, or a reproductive health decision, the same for all employment-related purposes (including receipt of benefits, like leave) as any other employee with a similar ability or inability to work. An employer is required to treat an employee temporarily unable to perform the functions of the job because of pregnancy-related condition, in the same manner as it treats other employees with temporary disabilities. However, an employer is not required to provide insurance coverage related to a reproductive health decision.

### **3. Credit Information**

The DC Fair Credit in Employment Amendment Act of 2016 (“DCFCEAA”), a part of the DCHRA, prohibits employers, employment agencies, and labor organizations in the District of Columbia, from discriminating against an employee or applicant based on credit information (including creditworthiness, credit standing, credit capacity or credit history), even if an applicant voluntarily discloses credit information. Employers, unless excluded by the law, detailed below, may not directly or indirectly ask for or rely on, credit information of an employee or applicant in making employment decisions.

The DCFCEAA does not apply in seven situations:

1. Where DC law requires an employer to obtain an employee's credit information;
2. Where an individual applies for, or is employed as, a police officer with the Metropolitan Police Department, as a special police officer or campus police officer, or in a position with a law enforcement function;
3. Where credit information must be provided to the Office of the Chief Financial Officer of DC;

4. Where an employee must have a security clearance under DC law; however, in some instances federal law may preempt DC law;
5. Where DC government employees have to provide disclosures to the Board of Ethics and Government Accountability, or to the Office of the Inspector General;
6. Where the job or position would require the employee to access personal financial information, such as when employed by financial institutions; or
7. Where an employer is following a lawful court order or cooperating with a law enforcement investigation.

#### **4. Victims of Domestic Violence, Sexual Offenses, and Stalking**

Under the Employment Protections for Victims of Domestic Violence, Sexual Offenses, and Stalking (“DVSOS”) Amendment Act of 2018, employers, employment agencies and labor organizations may not discriminate against victims of stalking and their family members, including because (1) the employee participated in a criminal, civil, or other proceeding related to DVSOS; (2) the employee sought medical, mental health, or counseling related to DVSOS; or (3) an individual caused a disruption or made a threat to the employee’s employment or work place related to DVSOS.

Employers are also required to provide reasonable accommodations to victims of, or family members of victims of, DVSOS, when necessary to ensure the employee’s security and safety absent undue hardship. Examples of reasonable accommodations include: transfer or reassignment; a modified schedule or leave; changing a work station, phone number, or email address; installing a lock; assisting with documenting incidents of DVSOS that occur in the workplace; or implementing other safety procedures in response to actual or threatened DVSOS.

Employers may not disclose any information related to an employee’s status as a victim of, or family member of a victim of, DVSOS. If a disclosure is made by the employer, it must notify the employee of the disclosure.

#### **The Complaint Process at DCOHR**

In order to file a complaint with District of Columbia Office of Human Rights (“DCOHR”), complainants must complete and submit an Intake Questionnaire within one year of an alleged discriminatory act. Once OHR receives an Intake Questionnaire, it schedules an intake interview with the complainant. If, after the interview, OHR finds there is enough information to file a Charge of Discrimination, OHR will draft the Charge and the complainant verifies and signs the Charge. Once a Charge of Discrimination is docketed, OHR serves the Charge with a Letter of Notice on the employer, which includes a deadline for submission of a position statement. The position statement is provided to the complainant, and the complainant may provide a rebuttal.

After a Charge is docketed, mandatory mediation is scheduled. If the parties reach agreement during mediation, OHR closes the case and the matter is concluded.

If mediation fails, OHR commences its investigation. During the investigation, OHR may issue a Request for Information, posing specific questions or requests for documents from the respondent, and/or may request to schedule interviews with witnesses.

Once the investigation is completed, OHR issues a Letter of Determination detailing its findings and conclusion: either probable cause or no probable cause, to believe that discrimination occurred.

If OHR finds probable cause to believe that a violation of the law occurred, the case is set for mandatory conciliation (which is very similar to mediation). If the case does not resolve at conciliation, the case is set for a full hearing (an administrative trial) before the Commission on Human Rights (usually a panel) or before an Administrative Law Judge. Hearings are “de novo” and the parties have the ability to conduct some discovery and motions practice before the ALJ or panel. Following the hearing, a proposed decision is issued to the parties, who have an opportunity to file “exceptions.” After the exceptions are addressed, the record is submitted to the Commission for a final decision, either affirming, rejecting or modifying the proposed decision.

For private sector matters, either party may appeal a decision of the Commission on Human Rights to the DC Court of Appeals. For government matters, either party may appeal an OHR decision to the DC Superior Court.

If OHR determines there is no probable cause, the complainant has the option to: file a request for reconsideration (if the request is denied, the complainant may file a petition for review with the DC Superior Court); file a substantial weight review with the EEOC, if the matter involves EEOC subject matter jurisdiction (such as a violation of federal law); or file a petition for review with the DC Superior Court.

OHR may also issue a “split finding” determination, finding probable cause to believe that discrimination occurred with respect to some claims, and no probable cause on others.

### **Anti-Retaliation**

Prohibits employers from retaliating against an employee who has filed an internal complaint, a complaint with the DC Office of Human Rights, or otherwise aided or encouraged someone else, in exercising rights under the DCHRA. Similarly, employers are prohibited from interfering with an employee’s right to complain or exercise rights under the DCHRA.

### **Aiding or Abetting**

The DCHRA prohibits any person from aiding or abetting the doing of any of the acts prohibited by the DCHRA or attempting to do so. D.C. Code § 2-1402.62. This provision is often used to name individual decision makers in lawsuits.

### **Employer Record Keeping and Notice/Posting Requirements**

Employers are required to preserve regularly kept business records for one year from the date the record was created, including but not limited to: applications for employment, credit and reference reports, and personnel records. When a charge of discrimination has been filed against an employer under the DCHRA, the employer is required to preserve all relevant records until a final disposition of the charge. D.C. Code § 2-1402.52.

All employers are required to post and keep posted in a conspicuous location where business or activities are customarily conducted (e.g., a break or lunch room), DCOHR’s prescribed [notice](#), which sets forth the pertinent provisions of the DCHRA and information regarding how to file a complaint. D.C. Code § 2-1402.51.

### **Enforcement and Remedies**

Violations of the DCHRA can be pursued through a civil lawsuit *or* administrative proceeding through DCOHR. D.C. Code § 2-1403.16. A civil lawsuit must be filed in court within one year of the unlawful discrimination, or of the discovery of the unlawful discrimination. Similarly, an Intake Questionnaire must be filed with DCOHR within one year of the unlawful discrimination.

This means that, unlike claims brought under Title VII, a complainant may proceed immediately in court without need to go through administrative proceedings. Under the DCHRA’s election of remedies provision, a complainant cannot file a complaint with DCOHR and bring suit in court. Jurisdiction of the court and DCOHR are mutually exclusive, unless: (a) DCOHR dismissed the complaint on grounds of administrative convenience; or (b) the complainant voluntarily withdrew the complaint before an administrative decision was reached.

Under the DCFCEAA, an employer found in violation at the conclusion of a hearing may be subject to the following fines to be paid to the complainant: \$1,000 for the first violation \$2,500 for the second violation; and \$5,000 for each subsequent violation.

Employers may be liable for any damages, including back pay, front pay, compensatory damages, attorney fees and costs, and civil penalties. D.C. Code § 2-1403.13. Civil penalties are calculated based on: (i) an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior unlawful discriminatory practice; (ii) in an amount not to exceed \$25,000 if the respondent has been adjudged to have committed one other unlawful discriminatory practice during the five-year period ending on the date of the filing of the charge; and (iii) an amount not to exceed \$50,000 if the respondent has been adjudged to have

committed two or more unlawful discriminatory practices during the seven-year period ending on the date of the filing of the charge.

## Unemployed Anti-Discrimination Act (UADA)

Prohibits employers and employment agencies from discriminating against, including refusing to consider or hire, an applicant who is unemployed. The UADA does not prohibit employers and employment agencies from examining the reasons underlying an individual's status as unemployed in determining whether the applicant is able to perform a job or in otherwise making employment decisions about that individual.

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The UADA Prohibits employers and employment agencies from discriminating against, including refusing to consider or hire, an applicant who is unemployed.

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Employers and employment agencies may not publish in an advertisement or job announcement any provision indicating that an individual's status as unemployed, disqualifies the individual for the job. D.C. Code § 32-1362. However, nothing in the UADA prohibits employers from indicating a position is limited to internal applicants, currently employed by the employer. D.C. Code § 32-1364.

### Covered Employer

The UADA applies to employers and employment agencies. An "employer" is any person who, for compensation, employs or seeks to employ an individual in DC, and any person acting in the interest of such employer, directly or indirectly. D.C. Code § 32-1361. "Employment agency" is any person or business regularly undertaking or attempting to procure employees for an employer or to procure for employees opportunities to work for an employer, and includes an agent of such business or person. D.C. Code § 32-1361.

### Covered Employee

An "employee" is as an individual who is employed by an employer. A "potential employee" is as an individual who has applied to an employer for a vacant position in order to gain employment.

### Anti-Retaliation

The UADA prohibits employers and employment agencies from interfering with an individual's rights under the law, or refusing to hire or discharging an employee or potential candidate because the employee or candidate filed an internal complaint, filed a complaint with the DCOHR, or participated in an investigation regarding a violation of the UADA. D.C. Code § 32-1363.

### Enforcement and Remedies

If an applicant believes an employer, agency or entity has violated the UADA, the applicant can file a complaint with DCOHR within one year of the alleged violation. An employer or employment agency found to have violated the UADA, is subject to the following penalties: \$1,000 per claimant for an employer's first violation; \$5,000 per claimant for an employer's second violation; and \$10,000 per claimant for each subsequent violation, but not to exceed \$20,000 per violation. D.C. Code § 32-1366. There is no private right of action under the UADA. D.C. Code § 32-1366.

## Protecting Pregnant Workers Fairness Act (PPWFA)

Requires employers to provide reasonable accommodations for employees whose ability to perform job duties is limited because of pregnancy, childbirth, breastfeeding, or a related medical condition.

Examples of reasonable accommodations include, but are not limited to: more frequent or longer breaks; time off to recover from childbirth; the temporary transfer to a less strenuous or hazardous position or other job

restructuring such as providing light duty or a modified work schedule; or having the employee refrain from heavy lifting. D.C. Code § 32-1231.01.

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The PPWFA requires employers to provide reasonable accommodations for employees whose ability to perform job duties is limited because of pregnancy, childbirth, breastfeeding, or a related medical condition.

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## Interactive Process

Employers are required to engage in good faith in the interactive process with an employee, in a timely manner, to determine a reasonable accommodation. The employer may require that an employee provide a certification from their health care provider regarding the medical necessity of a reasonable accommodation. This certification is essentially the same as that required for any other temporary disability. The burden is on the employer to demonstrate it would be an undue hardship to provide a particular reasonable accommodation. D.C. Code Ann. § 32-1231.02.

## Anti-Retaliation

An employer is prohibited from retaliating against an employee who requests or uses a reasonable accommodation under the PPWFA. An employer is also prohibited from forcing or requiring an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation if the accommodation is not necessary for the employee to perform the duties of the job, or requiring an employee to take leave if an accommodation can be provided, or taking an adverse action against an employee who has been absent from work because of a pregnancy-related condition. D.C. Code § 32-1231.03.

## Posting Required

Employers are required to post and maintain a notice of rights in both English and Spanish and provide written notice of an employee's right to a reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding to: new employees at the commencement of employment; existing employees within 120 days after March 3, 2015, if not already done so; and within 10 days after any employee provides notification to the employer of her pregnancy or related condition. D.C. Code § 32-1231.04. The notice is available on [DCOHR's website](#).

## Enforcement and Remedies

If an employee believes they have been injured by a violation of the PPWFA, they can file a complaint with DCOHR or a civil action in court within one year of the alleged violation. D.C. Code § 32-1231.06-07, 09.

If an employer is found to have violated the PPWFA, penalties will include: back pay; reinstatement; and attorney's fees and costs. Employers may also be ordered to pay penalties of not more than \$500 per day that the violation continues for each employee against whom the violation occurred. D.C. Code § 32-1231.07.

Additionally, an employer who willfully violates the PPWFA shall be subject to a civil penalty of \$1,000 for the first offense, \$1,500 for the second offense, and \$2,000 for the third and each subsequent offense. An employer who fails to post the required notice of rights under the PPWFA shall be assessed a civil penalty not to exceed \$50 for each day that the employer fails to post the notice; provided, that the total penalty shall not exceed \$250, unless the ongoing violation is willful. D.C. Code § 32-1231.11.

## Employment Discrimination on the Basis of Tobacco Use

### Protected Trait

Employers are prohibited from refusing to hire or employ any applicant for employment, discharge, or otherwise discriminate against any employee with respect to compensation or any other term, condition, or privilege of

employment, on the basis of the use of tobacco or tobacco products. D.C. Code § 7-1703.03. This law, however, does not prohibit an employer from establishing or enforcing workplace smoking or tobacco-use restrictions or prohibitions.

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Employers are prohibited from refusing to hire or employ any applicant for employment, discharge, or otherwise discriminate against any employee with respect to compensation or any other term, condition, or privilege of employment, on the basis of the use of tobacco or tobacco products.

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### **Enforcement and Remedies**

Violations can be pursued by a private cause of action; however, the employee or applicant must pursue and exhaust all remedies available pursuant to any collective bargaining agreement, grievance procedure, or other employer-employee dispute resolution process prior to commencing a civil action.

Employers may be liable for any damages, including lost or back wages or salary and reasonable attorney's fees. D.C. Code § 7-1703.03.

# Hiring

The hiring laws specific to certain DC employers and their employees include:

- [Fair Criminal Record Screening Amendment Act](#)
- [Ban on Non-Compete Agreements Amendment Act](#)
- [DC Lie Detector Law](#)
- [Pre-Employment Testing and Restrictions on Marijuana in the Workplace](#)
- [DC New Hire Registry](#)

## Fair Criminal Record Screening Amendment Act

### What is Prohibited

Employers are prohibited from making an inquiry about or requiring an applicant to disclose or reveal (1) an arrest or criminal accusation made against the applicant, which is not then pending against the applicant or did not result in a conviction; or (2) a criminal conviction until after making a conditional offer of employment. Following the extension of a conditional offer of employment, an employer may only withdrawal the conditional offer to an applicant or take an adverse action against an applicant for a legitimate business reason. D.C. Code § 32–1342

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Employers are prohibited from making an inquiry about or requiring an applicant to disclose or reveal an arrest or criminal accusation made against the applicant, which is not then pending against the applicant or did not result in a conviction; or a criminal conviction until after making a conditional offer of employment

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### Exceptions

When a federal or District of Columbia law or regulation requires the consideration of an applicant's criminal history for the purposes of employment or to any facility or employer that provides programs, services, or direct care to minors or vulnerable adults. In addition, it does not apply to any position designated by the employer as part of a federal or District of Columbia government program or obligation that is designed to encourage the employment of those with criminal histories.

If an applicant believes that a conditional offer was terminated, or an adverse action was taken against the applicant, on the basis of a criminal conviction, the applicant may request, within 30 days after the termination or adverse action, that the employer provide the applicant within 30 days a copy of any and all records procured by the employer in consideration of the applicant, including criminal records; and a notice that advises the applicant of his or her opportunity to file an administrative complaint with the DC Office of Human Rights.

### Enforcement

A person claiming to be aggrieved under the law can file an administrative complaint with the DCOHR. There is no private cause of action in court under this statute. If a violation is found, the DCOHR can imposed penalties ranging from \$1,000-\$5,000, depending on the size of the employer. Half of the penalty is awarded to the applicant and is the exclusive remedy for violations of this law.

The DCOHR has created a [fact sheet](#) for employers.

# Ban on Non-Compete Agreements Amendment Act

On January 11, 2021, the Mayor signed the District of Columbia's Ban on Non-Compete Agreements Amendment Act. When signed, this was one of the broadest non-compete bans in the country. In response to concerns raised by the business community, however, on March 28, 2022, the Mayor signed emergency legislation extending the effective date of the Act. The law was then modified, and on July 27, 2022, the Mayor signed the Non-Compete Clarification Amendment Act of 2022. The Amended Act became effective on October 1, 2022. It is not retroactive.

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Non-competition agreements are prohibited—and void and unenforceable—for most DC employees earning less than \$154,200 per year, or medical specialists earning less than \$257,000 per year.

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## Who is Covered

The Amended Act applies to all “employers,” including any individual, partnership, general contractor, subcontractor, association, corporation, or business trust operating in the District of Columbia, or any person or group acting directly or indirectly in the interest of an employer operating in the District of Columbia.

A “covered employee” is one who: (i) spends more than 50% of his or her work time for the employer working in DC or (ii) whose employment for the employer is based in DC and the employee regularly spends a substantial amount of his or her work time for the employer in DC and not more than 50% of his or her work time for that employer in another jurisdiction. This also includes new hires that an employer reasonably believes is covered by the definition. Covered employees do not include: (i) highly compensated employees, (ii) casual babysitters in or about the residence of the employer; (iii) partners in a partnership; and (iv) DC and federal government employees.

A “highly compensated employee” is one who, other than a broadcast employee, is reasonably expected to earn in a consecutive 12-month period, compensation greater than or equal to the minimum qualifying compensation, currently \$154,200, or if the employee is a medical specialist, \$257,000. These amounts increase annually on January 1 based on the Department of Labor's Consumer Price Index.

## What is Covered

Employers cannot require or request that employees sign a non-compete agreement. The law defines a non-compete provision to include “a provision in a written agreement or workplace policy that prohibits the employee from being simultaneously or subsequently employed by another person, performing work or providing services for pay for another person, or operating the employee's own business.” The law does not prohibit only “agreements,” but also prohibits workplace policies containing similar restrictions.

The Amended Act excludes four categories of provisions from the definition of “non-compete provision” that are deemed lawful under the Act:

1. Non-competition provisions in the sale of a business.
2. Non-disclosure or confidentiality provisions that prohibits or restricts an employee from disclosing, using, selling or accessing the employer's confidential or proprietary employer information.
3. Anti-moonlighting provisions that prohibit or restrict an employee from “[a]ccepting money or a thing of value for performing work for a person other than the employer, during the employee's employment with the employer, because the employer reasonably believes the employee's acceptance of money or a thing of value under such circumstances will”: (a) “[r]esult in the employee's disclosure or use of confidential employer information or proprietary employer information”; (b) “[c]onflict with the employer's, industry's, or profession's established rules

regarding conflicts of interest”; (c) “[c]onstitute a conflict of commitment if the employee is employed by a higher education institution”; or (d) “[i]mpair the employer’s ability to comply with District or federal laws or regulations; a contract; or a grant agreement.”

4. A provision that provides a “long-term incentive,” such as “bonuses, equity compensation, stock options, restricted and unrestricted stock shares or units, performance stock shares or units, phantom stock shares, stock appreciation rights, and other performance driven incentives for individual or corporate achievements typically earned over more than one year.”

Non-compete agreements for “highly compensated employees” must include: (i) “[t]he functional scope of the competitive restriction, including what services, roles, industry, or competing entities the employee is restricted from performing work in or on behalf of”; (ii) the geographic scope; and (iii) the restriction period, which cannot exceed 365 days from the date of the employee’s separation from employment (or 730 days if the employee is a medical specialist).

### **What is Not Covered**

In addition to the carveouts listed above, the law does not address and therefore likely does not ban, post-employment non-solicitation restrictions, which should permit employers to continue to require employees not to solicit customers for a reasonable period following the end of employment.

### **Notice Requirement**

Highly compensated employees must be provided a written copy of any non-compete agreement at least 14 days before he or she begins employment, or if the individual is already employed, at least 14 days before he or she must execute the agreement.

In addition, employers must provide a “highly compensated employee” with a written notice when the non-compete agreement is proposed stating, “The District’s Ban on Non-Compete Agreements Amendment Act of 2020 limits the use of non-compete agreements. It allows employers to request non-compete agreements from highly compensated employees, as that term is defined in the Ban on Non-Compete Agreements Amendment Act of 2020, under certain conditions. [Name of Employer] has determined that you are a highly compensated employee. For more information about the Ban on Non-Compete Agreements Amendment Act of 2020, contact the District of Columbia Department of Employment Services (DOES).”

Additionally, employers “with a workplace policy that includes one or more of the exceptions to the definition of non-compete provision [namely, non-disclosure/confidentiality provisions; anti-moonlighting and conflicts of interest rules; or non-competition provisions in the context of long-term incentive programs]. . . shall provide a written copy of the provisions to an employee”: (i) within 30 days of the employee’s acceptance of employment; or (ii) when the employer’s policies change. Note: his disclosure requirement applies to all affected DC employees, not just highly compensated employees.

### **Penalties**

The Mayor may assess administrative penalties of \$350 to \$1,000, and fines for retaliation. Employers may also be liable to employees, in amounts between \$500 and \$3,000, depending on whether it is a repeat violation.

Employers may not retaliate against employees who refuse to sign non-competes, or who complain about non-compete policies. Employers may be liable for \$1,000 to \$3,000 if they retaliate against employees.

### **Effective Date**

The current effective date is October 1, 2022.

## DC Lie Detector Law

### What is Prohibited

Any employer or prospective employer from administering (or having someone administer on its behalf), or accepting or using the results of a lie detector test with regard to any employee in the District of Columbia, or in connection with the employment, application or consideration of an individual in or during any hiring procedure whose employment, as contemplated at the time of the administration of the test, would take place in whole or in part in the District of Columbia. Special rules apply to the police, fire and corrections employees. D.C. Code, 32-902.

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The DC Lie Detector Law prohibits any employer or prospective employer from administering (or having someone administer on its behalf), or accepting or using the results of a lie detector test as part of a hiring process.

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### Who is Covered

An “employee” is any natural person who performs any labor for compensation, in whole or in part, in the District of Columbia, with exceptions for employees of the federal government, foreign governments and certain international organizations

### Important Definitions

“**Hiring procedure**” – Any procedure or action in the District of Columbia that is used to find, or to select for employment, any person seeking employment, whether the procedure is used by a prospective employer with all persons seeking employment, or is used only selectively with such persons.

“**Lie detector test**” – Any polygraph, lie detector, or other test which by any mechanical, electrical, chemical, or physiological means attempts to determine whether a person is telling the truth, or the truth to the best of the person’s knowledge.

### Enforcement

Any employer who violates this law is guilty of a misdemeanor and subject to a fine of \$500, or 30 days in jail, or both, upon conviction. Any administration of a lie detector test to any employee or person seeking employment in violation of this law constitutes an invasion of privacy and the employee or applicant can see the customary damages available for torts in the District of Columbia, which would include compensatory and punitive damages, and employees can also recover attorney’s fees.

## Pre-Employment Testing and Restrictions on Marijuana in the Workplace

### What is Prohibited

Any employer from testing a prospective employee for marijuana use *before* a conditional offer of employment is extended, unless otherwise required by law. D.C. Code 32-931.

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Prohibits any employer from testing a prospective employee for marijuana use before a conditional offer of employment is extended, unless otherwise required by law.

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## What is Permitted

Nothing prohibits an employer from testing a prospective employee for marijuana *after* a conditional offer has been extended. Further, nothing prohibits an employer from demanding compliance with workplace drug policies or denying a position based on a positive drug test (post-conditional offer). Likewise, nothing requires an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace or at any time during employment. See also D.C. Code 48-904.01(1)(C) - Controlled Substances Act - further permitting employers to establish and enforce workplace policies restricting the use of marijuana by employees.

## Employment Protections for Cannabis Use

### What is Prohibited

On July 1, 2023, DC enacted the Cannabis Employment Protections Amendment Act of 2022 (the “Act”). However, the employee protections and notice provisions of the law were not included in the 2025 budget and are therefore not yet in effect. At this time, only the definitions in the Act are effective under DC law. Once the Act is included in an approved budget, employers may not refuse to hire, terminate from employment, suspend, fail to promote, demote, or penalize an individual due to an individual’s: (i) use of cannabis; (ii) status as a “medical cannabis program patient;” or (iii) having “the presence of cannabinoid metabolites in [their] bodily fluids in an employer-required or requested drug test without additional factors indicating impairment.” “Impairment” for purposes of the Act is defined as where “the employee manifests specific articulable symptoms while working, or during the employee’s hours of work, that substantially decrease or lessen the employee’s performance of the duties or tasks of the employee’s job position, or such specific articulable symptoms interfere with an employer’s obligation to provide a safe and healthy workplace as required by District or federal occupational safety and health law.” D.C. Law 24-190.

### What is Permitted

Employers may take action related to the use of cannabis if the employee is working in a “safety-sensitive position,” defined as an employment position as designated by the employer, in which it is reasonably foreseeable that, if the employee performs the position’s routine duties or tasks while under the influence of drugs or alcohol, he or she would likely cause actual, immediate and serious bodily injury or loss of life to self or others. Additionally, employers may take action related to the use of cannabis if their actions are required by federal statute, federal regulations or a federal contract or funding agreement.

Employers may also prohibit and take disciplinary action against employees who are impaired at work and are permitted to require post-accident and reasonable suspicion drug testing of employees. Employers are also not required to permit or accommodate the use, consumption, possession, growing, and sale or transfer of cannabis at work.

## DC New Hire Registry

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All employers must report newly hired, rehired, and recalled employees to the District of Columbia Registry of New Hires within 20 days of their hire date.

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### What is Required

All employers must report newly hired, rehired, and recalled employees to the District of Columbia Registry of New Hires within 20 days of their hire date. Accordingly, all employers and labor organizations in the District of Columbia must report their new hires and rehires within 20 days of their hire date whether they are full-time, part-time, or temporary workers and include the following information:

- **Employer's Federal Employer Identification Number (FEIN)**
- **Employer's Name**
- **Employer's Address**
- **Employee's Name (First, Middle, Last)**
- **Employee's Address**
- **Employee's Social Security Number (SSN)**
- **Date the employee first performed services for remuneration**

*NOTE: Additional information may be required if reporting electronically.*

### **Which Employees Must be Reported**

All employees who reside or work in the District of Columbia to whom they anticipate paying earnings. Employees must be reported even if they only work one day and are terminated prior to the employer fulfilling the new hire reporting requirement. The District of Columbia uses the definition of newly hired employee found in Section 453A(a)(2) of the Social Security Act, which is an employee who (1) has not previously been employed by the employer; or (2) was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days. There are exceptions for certain employees of federal or local government.

Temporary or staffing agencies must report workers who sign a W-4 form and report to an assignment. Workers only need to be reported once, and they do not need to be reported each time they are placed with a new client. If the worker has a break in service from the agency and a new W-4 form is required, or gap in wages from your company for at least 60 consecutive days, then a new hire report would be necessary.

### **Special Rules for Labor Organizations and Staffing Agencies**

Must report individuals who work directly for the labor union or hiring hall. If a labor organization actually pays the individuals whom it refers, as opposed to having them paid by the person or entity to whom they have been referred, the labor organization would be considered the "employer" and therefore required to submit new hire reports according to the mandated requirements.

If the labor union or hiring hall only refers individuals for employment, it does not need to file new hire reports for these individuals.

### **How to Make Submissions**

New hire reports can be made online at the [DC New Hire website](#). The [new hire reporting form](#) can be faxed or mailed. Employers who submit reports electronically must report their new hires in two monthly transmissions no more than 12 to 16 days apart. Employers can [register to submit new hires electronically](#).

# Leave

Leave laws specific to certain DC employers and their eligible employees include:

- [DC Family and Medical Leave Act](#)
- [Accrued Sick and Safe Leave Act](#)
- [DC Paid Family Leave](#)
- [DC Emancipation Day Leave](#)
- [DC Parental Leave Act](#)
- [Jury Leave](#)
- [Leave to Vote Amendment Act](#)

## DC Family and Medical Leave Act (DCFMLA)

### Overview

Employees may be entitled to take up to 16 weeks of unpaid medical leave and 16 weeks of unpaid family leave in any 24-month period.

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### Covered Employer

Employers who employ 20 or more employees in the District of Columbia during at least 20 calendar workweeks in the current or preceding calendar year.

### Eligible Employees

- (1) Work within the District of Columbia. Generally, employees are considered to work in the District if they spend more than 50% of their time working within DC; and
- (2) Have been employed by the covered employer for 12 months (consecutive or non-consecutive) during the 7-year period immediately preceding the date the DCFMLA leave is to start; and
- (3) Have worked at least 1,000 hours during the 12-month period (consecutive or non-consecutive) *of employment with the covered employer* preceding the date the DCFMLA leave is to start. Hours paid to an employee for holiday, sick, vacation time and temporary military leave are included in calculating whether an employee worked 1,000 hours for purposes of determining eligibility.

### Reasons for Leave

- **Birth of the employee's child;**
- **Placement of a child with the employee for adoption or foster care;**
- **Placement of a child with the employee for whom the employee permanently assumes and discharges parental responsibility;**
- **Employee provision of care for a family member who has a serious health condition; or**
- **Employee's own serious health condition which renders the employee unable to perform the functions of the employee's job.**

## Definitions

**“Serious health condition”** – A physical or mental illness, injury, or impairment that involves inpatient care; or continuing treatment or supervision at home by a health care provider or other competent individual.

**“Family member”** – A person to whom the employee is related by blood, legal custody, or marriage; a foster child; a child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; or a person with whom the employee shares/ has shared, within the last year, a mutual residence and with whom the employee maintains a committed relationship.

**“Child”**– Someone who is (1) under 21 years of age; (2) 21 years of age or older but substantially dependent upon the employee by reason of physical or mental disability; or (3) under 23 years of age and a full-time student at an accredited college or university.

## Intermittent Leave

When medically necessary, Medical Leave for the employee’s own serious health condition and Family Leave to care for a family member with a serious health condition may be taken on an intermittent or reduced schedule basis for medical treatment or recovery. Family Leave for the birth or placement of a child may be taken on a reduced schedule basis over a period of up to 24 months only if both the employer and the employee agree.

## Use of Family Leave

For Family Leave due to the birth or placement of a child with the employee, the Family Leave must be used within 12 months of the birth or placement.

## Leave is Unpaid, but the Employee Can Elect to Use Paid Leave

DCFMLA Leave is unpaid leave. However, the employee may elect to use accrued paid medical, sick, vacation, personal, or compensatory leave if the requirements for using such paid leave are satisfied. If paid leave is used (including leave from a leave bank), the leave time will still count against the 16 weeks of Medical Leave or 16 weeks of Family Leave. Unlike the federal FMLA, an employer cannot require an employee to use paid leave while on DCFMLA leave. The employee must choose to use paid leave

## Family Members Employed by the Same Employer

If two family members are employed by the same employer, the employer may limit the aggregate amount of Family Leave to which the employees are entitled to 16 weeks of Family Leave in a 24-month period. In addition, the employer may limit the amount of weeks that the employees can take simultaneously to four weeks in a 24-month period.

## Employee Notice of a Request for Leave

An employee must provide at least 30 days’ notice of the need for leave if possible. If the employee could not reasonably have foreseen the need for leave at least 30 days in advance, the employee must notify the employer as soon as practicable.

## Employer Notice and Posting Requirements

DCFMLA information must be posted, in conspicuous place frequented by employees and/or an electronic posting on the employer’s website, and included in the employee handbook. If there is no handbook, the employer must distribute DCFMLA information in a handout or via e-mail.

When an employee makes a request for DCFMLA Leave, or if the employer has reason to know that an employee’s leave may be covered by the DCFMLA, the employer must provide written notice of eligibility to the employee within five days. If the employee is eligible, the employer also must include the obligations and expectations of the employee, employee rights, and the number of hours of leave available under the DCFMLA and federal FMLA (which may run concurrently). The employer may require the employee to provide medical certification for Medical Leave or for Family Leave to care for a family member with a serious health condition.

After receiving the medical certification, the employer must provide the employee with written notice designating the leave within five business days after receiving the medical certification.

An employer who fails to satisfy the notice requirements may be liable to pay lost compensation and benefits, other monetary losses, and other appropriate equitable or other relief tailored to the harm suffered.

The poster that DC employers must post can be found [here](#).

## Employment and Benefits Protection

With limited exceptions, employees who take DCFMLA Leave have the right to return to work in the same or equivalent position (i.e., equivalent benefits, pay, seniority, and other terms and conditions of employment) the employee held at the time the leave commenced and cannot be terminated for taking DCFMLA Leave, even if the leave imposes a burden on the employer.

Exceptions to this requirement *may* apply for employees who are subject to a collective bargaining agreement that provides otherwise or the employee is a salaried employee who is among the five highest paid employees (if the employer has less than 50 employees) or among the highest paid 10% of employees (if the employer has 50 or more employees). Employers should ensure that all relevant conditions are met before relying on these exceptions in denying an employee job restoration.

Employees who take DCFMLA Leave retain employment benefit or seniority that was accrued prior to taking the DCFMLA Leave. In addition, group health insurance coverage must be maintained during the DCFMLA Leave at the same level and under the same conditions as if the employee had not taken the DCFMLA Leave. The employer can require the employee to make employee contributions for the insurance coverage if the employee would have made such contributions if the employee was not taking DCFMLA Leave. If the employee does not make such payments, health insurance coverage may be terminated until the employee returns to employment and resumes payments.

## Anti-Retaliation Provision

Employers are prohibited from interfering with, restraining, or denying the exercise or attempt to exercise any rights provided by the DCFMLA.

## Enforcement and Remedies

Violations of the law can be pursued through an administrative proceeding with the DC Office of Human Rights or a civil lawsuit within one year after a violation occurred or was discovered. The statute of limitations for filing a civil action will be tolled while the employee's claim is pending administrative review.

Employers may be liable for back pay and lost benefits due to the violation plus interest, consequential damages, medical expenses not covered by the employee's health insurance, and costs and reasonable attorneys' fees.

## Accrued Sick and Safe Leave Act (ASSLA)

### Covered Employer

All employers in District of Columbia are required to provide paid leave to covered employees in accordance with the Act. This includes restaurants, bars, temporary and staffing firms and employers of part-time employees.

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All employers in District of Columbia are required to provide paid leave to covered employees in accordance with the Act.

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## Definition of Employer

The definition of “employer” under the Act includes any entity that directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee. This means entities that use temporary or staffing agency employees are responsible for the provision of paid leave to those employees under the Act.

## Covered Employees

ASSLA applies to all employees (full-time or part-time) who spend 50% or more of their working time in DC. This law does not apply to independent contractors. Additional limited exceptions can be found at D.C. Code § 32–531.01(2).

Employers are also not required to provide paid leave under ASSLA to employees who do not suffer a loss of income when absent from work for a number of days equal to the paid leave required based on employer size. However, such employees are still subject to the Act’s protections against interference and retaliation set forth in D.C. Code § 32–531.08.

## Leave Accrual

ASSLA requires employers to provide covered employees with a certain number of paid leave hours per year for enumerated sick and safe uses. The number of hours of required paid leave depends on employer size, with the exception of tipped employees.

Employer Category	Accrual
<b>Employers with 100 or more</b>	Employees shall accrue a minimum of one hour of paid ASSLA leave for every 37 hours worked. Employers in this category are not required to provide more than seven days of ASSLA leave per calendar year.
<b>Employers with 25 to 99</b>	Employees shall accrue a minimum of one hour of paid ASSLA leave for every 43 hours worked. Employers in this category are not required to provide more than five days of ASSLA leave per calendar year.
<b>Employers with 24 or fewer</b>	Employees shall accrue a minimum of one hour of paid ASSLA leave for every 87 hours worked. Employers in this category are not required to provide more than three days of ASSLA leave per calendar year.
<b>Tipped employees, regardless of employer size</b>	Tipped employees working in restaurants and bars shall accrue a minimum of one hour of paid ASSLA leave for every 43 hours worked, regardless of employer size. Employers are not required to provide tipped employees with more than five days of ASSLA leave per calendar year. Paid leave for tipped employees shall be paid at the current DC minimum wage rate.

For the purposes of determining the applicable accrual rate, the number of employees shall be determined by the monthly average number of full-time equivalent employees in the District in the prior calendar year. Note that employees who are exempt from overtime under the FLSA (based on the executive, administrative, professional or outside sales exemption) do not accrue sick leave beyond a 40-hour work week. Accrual starts on an employee’s first day of employment with the employer; however, an employer can limit access to ASSLA leave until after 90 days of an employee’s service with the employer.

## Carry Over, Caps and Payout

Employers must permit employees to carryover all accrued but unused ASSLA leave from one calendar year to the next. However, employers may limit use of ASSLA leave to an amount equal to the maximum annual accrual. So for example, an employer with 200 employees may limit an employee's use of ASSLA leave to seven days per year, even if the employee has accrued additional ASSLA leave.

Employers are not required to payout accrued but unused ASSLA leave upon termination. However, an employee that is rehired by the same employer within one year must be permitted to access the previously accrued ASSLA leave. In those circumstances, if the employee separated after the 90th day of employment, the employee can access leave immediately upon rehire.

## Qualifying Reasons

The Act requires that employees be permitted to access ASSLA leave for any of the following qualifying reasons:

- **An absence resulting from the employee's physical or mental illness, injury, or medical condition.**
- **An absence resulting from an employee obtaining professional medical diagnosis or care, or preventative medical care.**
- **An absence for the purpose of caring for a child, a parent, a spouse, domestic partner, or any other family member who has a physical or mental illness, injury, or medical condition or who needs professional medical diagnosis or care, or preventative medical care.**
- **An absence if the employee or the employee's family member is a victim of stalking, domestic violence, or sexual abuse; provided, that the absence is directly related to social or legal services pertaining to the stalking, domestic violence, or sexual abuse, to:**
  - Seek medical attention for the employee or the employee's family member to recover from physical or psychological injury or disability caused by domestic violence or sexual abuse;
  - Obtain services from a victim services organization;
  - Obtain psychological or other counseling;
  - Temporarily or permanently relocate;
  - Take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence or sexual abuse; or
  - Take other actions to enhance the physical, psychological, or economic health or safety of the employee or the employee's family member or to enhance the safety of those who associate or work with the employee.

For the purposes of this section, a "family member" includes an employee's children (including foster children or children who live with the employee and for whom the employee assumes and discharges parental responsibility, and grandchildren); parents, brothers and sisters, a spouse or person with whom the employee is in a committed relationship and shares or has shared a mutual residence for at least the preceding 12 months; parents of a spouse, son-in-law or daughter-in-law; and mother-in-law or father-in-law.

## Scheduling and Employee Notice Requirements

Employers may require employees to submit written requests to use paid leave at least 10 days (or as early as possible) in advance when the need to use such leave is foreseeable. A request for paid leave should include the reasons for the absence and the anticipated duration of the leave. Employers may require use of a specific form for requesting such leave.

When the need for paid leave is unforeseeable, employees can make a verbal request for paid leave at any time prior to the start of the shift for which the employee seeks to use the paid leave. In the event of an emergency, the employee shall provide notice of the need for leave prior to the start of the next shift or within 24 hours of the onset of the emergency, whichever occurs sooner.

Employees must make reasonable efforts to schedule ASSLA leave in a manner that does not unduly disrupt the operations of the employer.

An employee who requests three or more consecutive days of ASSLA leave may be required to provide a reasonable certification of the reason for requesting ASSLA leave.

Reasonable certification may include a signed document from a health care provider affirming the illness of the employee or the employee's family member, a police report indicating that the employee or the employee's family member was the victim of stalking, domestic violence, or sexual abuse, a court order indicating that the employee or the employee's family member was the victim of stalking, domestic violence, or sexual abuse, or a signed written statement from the victim and witness advocate or a domestic violence counselor affirming that the eligible employee is involved in legal action or proceedings related to stalking, domestic violence, or sexual abuse. Certification must be provided upon the employee's return to work.

An employer may establish and enforce a policy that prohibits the improper use of paid leave and permits the employer to seek more frequent certifications from an employee if there is evidence of a pattern of abuse of paid leave. Examples of a "pattern of abuse" are set forth in the relevant regulations and employers should use caution when implementing such policy given the breadth of the anti-retaliation provisions under the Act.

### **Anti-Retaliation Provision**

ASSLA includes an anti-retaliation provision prohibiting employers from retaliating against any employee that has filed an internal complaint, filed a complaint with DOES, filed a civil complaint or otherwise "informed any person" about an employer's alleged violation, participated or testified in any proceeding or investigation of an alleged violation of the Act, opposed any practice made unlawful by the Act, informed any person of their rights under the Act, or used paid leave pursuant to the Act.

If an employer takes any adverse action within 90 days of any of these actions, there shall be a rebuttable presumption that the employer has violated the Act.

Employers may not count ASSLA leave as an absence that may lead to or result in any adverse action for the employee.

### **Employer Record Keeping and Notice/Posting Requirements**

Employers must maintain time and payroll records reflecting employees' use of paid leave for a minimum of three years.

Employers must also post the official notice published by the Mayor in a conspicuous place. The notice must be posted in English and any other language spoken by 3% or more than 500 of the employer's employees in DC.

### **Enforcement and Remedies**

Violations of the Act can be pursued through a civil lawsuit or an administrative proceeding through DOES. Employers who are found to have violated the Act face both damages and civil penalties.

Specifically, employers may be liable for back pay for lost wages caused by a violation, reinstatement or other injunctive relief, compensatory and punitive damages, interest and reasonable attorneys' fees. Additionally, if an employer fails to allow an employee to use paid leave as required by this subchapter, the employer shall pay \$500 in additional damages to the employee for each accrued day denied, regardless of whether the employee takes unpaid leave or reports to work on that day.

Employers found liable for "willful" violations will also be subjected to a civil penalty for each affected employee of \$1,000 for the 1st offense, \$1,500 for the 2<sup>nd</sup> offense, and \$2,000 for the 3<sup>rd</sup> and each subsequent offense. If, after receiving notice of a violation, the employer fails to comply with ASSLA, the Mayor may also seek revocation or suspension of any registration certificates, permits or licenses held or requested by the employer until the violation is remedied.

## Interaction with other Employer-Provided Paid Leave Policies

Employers do not need to alter or amend their paid leave policies so long as employees can accrue and access paid leave at the same or greater rate as required under ASSLA and for the same qualifying reasons.

Special Considerations	
<b>Health Care Workers</b>	Health care workers who choose to participate in a premium pay program are excluded by the Act's coverage.
<b>General Contractors</b>	A general contractor will be jointly and severally liable to a subcontractor's employees for the subcontractor's failure to pay wages in violation of ASSLA.
<b>Employees Covered by a CBA</b>	Generally, ASSLA requirements cannot be waived by a CBA for less than three paid leave days per calendar year by written terms of the CBA.

However, ASSLA paid leave requirements can be waived in their entirety for employees in the building and construction industry covered by a CBA, where a clear and unambiguous waiver is included in the CBA.

## DC Paid Family Leave (DCPFL)

Eligible employees may receive paid leave benefits for qualifying parental, family, medical and prenatal events under the Universal Paid Leave Act of 2016, the District of Columbia's Paid Family Leave (PFL) law. PFL benefits provide partial wage replacement during a qualifying leave. PFL benefits are provided to the employee directly from the District of Columbia through the District's [Office of Paid Family Leave \(OPFL\)](#), a division of DOES. All PFL eligibility decisions and benefit determinations are made by OPFL.

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### Covered Employers

All employers with any covered employee in DC are subject to this law. There is no minimum employer size and there are no exemptions for employers who offer their own paid leave programs, even where the employer's own paid leave benefits are more generous than PFL benefits.

### Covered Employees

Individuals employed in DC may be eligible to apply for and receive DCPFL benefits. The law defines covered employees as (1) workers who spend more than 50% of their working time in DC, or (2) workers who are based in DC and do not spend more than 50% of their working time in another jurisdiction or whose work outside of DC is incidental, temporary or isolated. The law offers a practical shortcut to determine employee coverage by creating a rebuttable presumption of coverage for any employee for whom the employer pays Unemployment Insurance (UI) Tax in DC. If an employer pays UI tax on an employee in DC but does not believe the individual meets the covered employee definition, the employer can apply for an exception with OPFL. OPFL's website provides specific forms that the employer can use to apply for an exception.

## Employer Contributions

PFL benefits are funded through employer payroll taxes. Employer's must file and pay quarterly payroll taxes for all covered employees through DC's Employer Self Service Portal ("ESSP"), the same portal and process used for UI tax reporting and payments. The current tax is 0.75% and there is no cap on the amount of wages taxed.

Employers are not permitted to deduct these contributions from employee wages (*i.e.*, no paystub deductions). Failure to file wage reports and make required contribution payments by the quarterly deadlines can result in interest and a penalty up to 10% of the amount due.

## Qualifying Events for Leave

For claims filed after October 1, 2022, PFL benefits are available to an eligible employee for any of the following purposes:

Qualifying Events	
<b>Medical Leave</b>	An employee may be eligible for up to twelve weeks of leave in a 52-week period due to the employee's own serious health condition.
<b>Family Medical Leave</b>	An employee may eligible for up to twelve weeks of leave in a 52-week period to participate in providing care or companionship for a covered family member due to the diagnosis or occurrence of the family member's serious health condition.
<b>Parental Leave</b>	An employee may be eligible for up to twelve weeks of leave in a 52-week period within one year of the birth of a child of an eligible employee, or the placement of a child with the eligible employee for adoption or foster care, or for whom the employee legally assumes and discharges parental responsibility.
<b>Prenatal Leave</b>	An employee may be eligible for up to two weeks of leave in a 52-week period due to routine and specialty appointments, exams, and treatments associated with a pregnancy provided by a health care provider.

A "serious health condition" is a physical or mental illness, injury, or impairment that requires inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision at home by a health care provider or other competent individual.

"Family member" is an employee's:

- **Biological, adopted, foster, or stepchild (including a child of a domestic partner) a legal ward, or a child to whom employee stands in loco parentis;**
- **Biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who acted as a parent to the employee when the employee was a child;**
- **Domestic partner or spouse;**
- **Biological, adoptive, foster, or step grandparent; or**
- **Biological, half, step, adopted or foster sibling or sibling-in-law.**

## Paid Leave Benefits and Limitations

OPFL will use a formula based on the employee's earnings for the past five quarters to determine the PFL benefit amount. However, the current maximum benefit amount is \$1,153 per week. DOES will determine the maximum benefit amount for each year thereafter.

An employee will only be eligible for a maximum of 12 weeks of PFL benefits in a 52-week period, regardless of the number of qualifying events an employee experiences during that period. For example, an employee who experiences a parental leave event and a medical leave event will receive a combined maximum of 12 weeks of benefits in the benefit year for both leave events. A benefit year is the 52-week period that starts with the employee's first payable benefit date (not the qualifying event). There is an exception to this limitation for employees who apply for and receive prenatal and parental benefits in the same 52-week period. Such employees are eligible to receive a maximum leave benefit equal to the maximum leave benefits for prenatal leave plus the maximum leave benefits for parental leave for the that fiscal year. Based on current leave eligibility, pregnant employees who qualify for both prenatal and parental leave benefits may be eligible for a maximum of 14 weeks of PFL benefits.

Similar to contribution rates, the amount of leave benefits available for each qualifying event is subject to adjustment based on an annual review of the funding level and expected costs of the program by the District's Chief Financial Officer. Adjusted leave benefit availability is expected to be implemented on October 1<sup>st</sup> of each year. The seven-day waiting period for benefits previously required by the law has been eliminated.

### **Intermittent Leave**

Employees may take any PFL leave intermittently in increments of one (1) day. Employees will be required to identify the dates on which they will seek intermittent leave as part of the application process. Unscheduled intermittent leave may be retroactively approved in the case of qualifying family, medical or prenatal leave events only.

### **Employer Posting and Notice Requirements**

Employers must post a physical poster at each worksite and should send a copy of the poster to remote or telework employees. Employers must also provide notice directly to employees (1) at the time of hire, (2) annually, and (3) at the time the employer becomes aware that an employee may need or qualify for DCPFL. Copies of the Paid Family Leave Employee Notice that can be used for both posting and direct notice can be found in several languages [here](#).

Employers bear the burden of proving compliance with notice requirements so it is recommended that employers retain signed acknowledgments or email receipts (if notice is sent electronically) demonstrating compliance. Employers may be subject to civil penalties of up to \$100 per day for noncompliance with the posting requirement and up to \$100 per covered employee who does not receive individual notice.

### **Recordkeeping Requirements**

Employers must maintain the following records for a period of three years:

- **Covered worked wage information which includes name, social security (or tax identification) number, pay period dates, wages per period, method of payment, total earnings and dates paid;**
- **Covered worker PFL information which includes dates employees take parental, medical or family leave, copies of leave notices employees provide to their employers, and records of "disputes" between the employer and employee over PFL;**
- **Copies of required PFL notices given to employees; and**
- **Documents describing employer-provided employee benefits, including STD and LTD policies, sick leave, vacation leave and other leave policies.**

### **Employee Notice to Employer**

Although employees submit PFL applications directly to OPFL, employees should also provide notice of the intent to take leave to employers. The law and accompanying regulations set forth the type, timing and manner of required employee notice to employers.

An employee should provide notice to the employer including the type of leave being requested (Parental Leave, Prenatal Leave Family Medical Leave, Personal Medical Leave), the expected duration of the leave

(including the anticipated start and end dates) and whether leave benefits will be requested on an intermittent or continuous basis. Notice should be in writing to the extent practicable.

For foreseeable leave, an employee must provide the notice as early as possible, but at least ten days before the employee intends to take PFL leave. If the need for leave is unforeseeable, an employee must provide either verbal or written notice to the employer before the start of the work shift for which the employee is using the leave. In the case of an emergency that prevents an employee from providing notice before the start of the employee's shift for which they are using the leave, the employee (or someone on the employee's behalf) must provide notice within 48 hours of the emergency, and if the notice is oral, supplement the notice with a written notice as soon as practicable. Employees must also inform the employer of any application to change the leave schedule (e.g., convert a continuous leave to intermittent leave) on any open claim for PFL benefits.

Notably, the law does not permit an employer to deny or interfere with an employee's PFL benefits if the employee fails to give the required notice.

### **Interaction with Other Leaves**

Any leave taken under the PFL program that also qualifies as protected leave pursuant to FMLA, or DC FMLA, shall run concurrently with FMLA and/or DC FMLA.

An employer can elect to have PFL run concurrently or consecutively with any employer-provided leave benefits. The law provides significant leeway to employers to determine how their own benefits will interact with PFL. However, it should be set forth in the employer's policies as the Act and regulations make clear that an employee's right to employer-provided benefits while receiving PFL benefits shall be determined by the employer's policies. Therefore, employers can modify their existing leave and benefit plans, but when developing a policy on how employer-provided leaves will interact with PFL, employers must be careful not to limit or restrict an employee's ability to access PFL benefits. DOES guidance on PFL also provides that the program does not supersede any law, collective bargaining agreement, or contract that provides paid-leave rights in addition to the rights established by Act. Additionally, third-party insurers may not reduce the amount of short-term disability benefit payments due to an employee under the policy based on the availability or receipt of PFL benefits. This limitation does not apply to self-insured employers.

If an employer intends to use its own paid leave benefits to supplement PFL benefits to provide 100% wage replacement for a qualifying leave, the employer should require the employee to instruct OPFL to disclose the benefit amount to the employer. The benefit amount is not otherwise provided to employers by OPFL absent this employee instruction.

An individual may not receive PFL benefits while also receiving unemployment benefits or long-term disability benefits under a private or public program.

### **No Separate Job Protection**

PFL does not provide separate job protection. However, leave taken under the PFL program may be job protected to the extent it also qualifies under FMLA, DC FMLA or another law that provides job-protection. Employers should also be mindful of the anti-retaliation provisions in the Act before taking any employment action.

### **Prohibited Actions and Enforcement**

The Act prohibits any person from interfering with, restraining, or denying the attempt to exercise any right (e.g., applying for PFL benefits) under the Act. Regulations define interference to include failing to provide required notices or failing to grant a leave request for a period of leave for which paid-leave benefits would be available absent a legitimate business reason, where these actions cause "material harm" to the employee.

Despite the lack of separate job protection, the Act also includes an anti-retaliation provision that prohibits employers from retaliating "in any manner" because a person opposes any practice prohibited by the Act, files or attempts to file a charge, institutes, attempts to institute or otherwise facilitates institution of a proceeding, or

“requests, applies for, or uses paid-leave benefits.” Despite the lack of job protection, regulations governing the enforcement of these provisions indicate that retaliation includes, *inter alia*, subjecting an employee to an adverse employment action “absent a legitimate business reason.”

All claims alleging a violation of the Act (other than regarding a claim determination) may be filed with the DC Office of Human Rights and will be governed by the same administrative enforcement procedures used for DC FMLA claims. Any charge filed with DCOHR must be filed within one year of the alleged violation.

Employees, the DC Attorney General or the Mayor may also seek enforcement of the Act through a civil action filed within one year of any alleged violation. The one-year statute of limitation will be tolled during the pendency of any administrative proceedings or for any period during which the employer has failed to provide the required notices under the Act. Remedies and penalties for any violation of the Act are the same as those available under DC FMLA at D.C. Code § 32-509(b)(6) and (7).

## DC Emancipation Day Leave

### Overview

Employees may be entitled to a day of leave on April 16th of each year.

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Employees may be entitled to a day of leave on April 16th of each year.

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### Covered Employer

All employers who use the services of at least one employee for pay in the District of Columbia are covered by the law.

### Covered Employee

Any individual whose services are used for pay in the District of Columbia by a covered employer is covered by the law.

### Reason for Leave

District of Columbia Emancipation Day.

### Amount of Leave

One day each year, on April 16<sup>th</sup>.

### Employee Notice of a Request for Leave

An employee who wants to use leave must notify the employer at least 10 calendar days in advance.

### Reasons for Denying the Leave

The employer may deny an employee’s request to use leave only if the employee’s use of leave would disrupt the employer’s business and make it unusually difficult for the employer to achieve production or service delivery.

### Unpaid Leave, but Available Paid Leave May be Used

This leave is unpaid. However, the employee may elect to use any paid vacation, personal, family, compensatory, or leave bank leave provided by the employer.

### Employer Notice/Posting Requirement

The employer must post and maintain in a conspicuous place a notice devised by the Mayor which sets forth excerpts from or summaries of the pertinent provisions of the law and information regarding filing a complaint to

enforce the law. An employer who willfully fails to post the notice is subject to a civil penalty of up to \$100 for each day on which the notice is not posted.

### **Anti-Retaliation Provision**

An employee who takes leave shall not lose any seniority or employment benefit that was accrued prior to or during the leave.

### **Enforcement and Remedies**

Violations of the law can be pursued through an administrative proceeding or a civil lawsuit within one year after a violation occurred or was discovered.

Employers may be liable for back pay and lost benefits due to the violation plus interest, consequential damages such as medical expenses not covered by the employee's health insurance, and costs and reasonable attorneys' fees.

## **DC Parental Leave Act**

### **Overview**

Employees may be entitled to up to 24 hours of leave in any 12-month period for purposes of participating in or attending a school-related event for the employee's child.

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Employees may be entitled to up to 24 hours of leave in any 12-month period for purposes of participating in or attending a school-related event for the employee's child.

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### **Covered Employer**

All employers who use the services of at least one employee for pay in the District of Columbia are covered by the law.

### **Covered Employee**

Any individual whose services are used for pay in the District of Columbia by a covered employer is covered by the law. *Only parents are entitled to take leave. However, the definition of "parent" is defined broadly to include:*

- **The child's natural mother or father;**
- **Someone who has legal custody of the child;**
- **Someone who acts as a guardian of the child, even if the person has not been legally appointed as a guardian;**
- **The child's aunt, uncle, or grandparent;**
- **Someone who is married to, or in a domestic partnership with, any of the individuals listed above.**

### **Reason for Leave**

A "school-related event," which is defined as "an activity sponsored by either a school or an associated organization such as a parent-teacher association." *The following are non-exhaustive examples of school-related events for which a "parent" employee can take leave:*

- **Student performances, including concerts, plays, or rehearsals;**
- **A school sport team's game or practice;**
- **A meeting with a school counselor or teacher.**

Events in which the child is not directly a subject or participant are not "school-related events." An event where the child is a spectator is not a "school-related event."

## Amount of Leave

A total of 24 hours of leave in any 12-month period.

## Employee Notice of a Request for Leave

An employee who wants to use leave must notify the employer at least 10 calendar days in advance. However, the employee may provide less notice if the need to attend the school-related event was not reasonably foreseeable.

## Reasons for Denying the Leave

The employer may deny an employee's request to use leave only if the employee's use of leave would disrupt the employer's business and make it unusually difficult for the employer to achieve production or service delivery.

## Unpaid Leave, but Available Paid Leave May be Used

This leave is unpaid. However, the employee may elect to use any paid vacation, personal, family, compensatory, or leave bank leave provided by the employer.

## Employer Notice/Posting Requirement

The employer must post and maintain in a conspicuous place a notice devised by the Mayor which sets forth excerpts from or summaries of the pertinent provisions of the law and information regarding filing a complaint to enforce the law. An employer who willfully fails to post the notice is subject to a civil penalty of up to \$100 for each day on which the notice is not posted. The poster that DC employers must post can be found [here](#).

## Anti-Retaliation Provision

An employee who takes leave shall not lose any seniority or employment benefit that was accrued prior to or during the leave.

## Enforcement and Remedies

Violations of the law can be pursued through an administrative proceeding or a civil lawsuit within one year after a violation occurred or was discovered.

Employers may be liable for back pay and lost benefits due to the violation plus interest, consequential damages such as medical expenses not covered by the employee's health insurance, and costs and reasonable attorneys' fees.

# Jury Leave

## Overview

Employees may be entitled to up to five days of paid leave, less the fee received for jury service, for jury duty.

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Employees may be entitled to up to five days of paid leave, less the fee received for jury service, for jury duty.

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## Covered Employer

Employers with ten or more employees.

## Covered Employee

Individuals employed full-time in the District of Columbia by a covered employer. Any individual whose services are used for pay in the District of Columbia by a covered employer is covered by the law.

## Reason for Leave

For petit or grand jury service of five days or less.

## Amount of Paid Leave

Up to five days of pay at the employee's usual compensation minus the juror fee received by the employee. However, the employee is not entitled to pay for any day when the employee would not have earned regular wages if the employee was not engaging in jury service. In addition, the employee is not entitled to pay for any day that the employee would not have worked over half of a shift that extends into another day if the employee was not engaging in jury service.

## Anti-Retaliation Provision

An employer is prohibited from depriving an employee from employment or threatening or coercing an employee with respect to employment because the employee received or responded to a summons, went to court for prospective jury duty, or served as a juror.

## Enforcement and Remedies

If an employer fails to pay an employee for jury service as required by DC law, the employee may bring a civil lawsuit to recover lost wages or salary. Prevailing employees are entitled to receive reasonable attorneys' fees.

If an employer violates the anti-retaliation provision of the DC law, the employer is guilty of criminal contempt and possible fines. The first offense can result in a fine of up to \$300 and/or imprisonment for up to 30 days. Subsequent offenses can result in a fine of up to \$5,000 and/or imprisonment for up to 180 days.

If an employer terminates the employment of an employee because the employee received or responded to a summons, went to court for prospective jury duty, or served as a juror, the employee may bring a civil lawsuit to be reinstatement to employment and to recover lost wages or salary, damages, and reasonable attorneys' fees.

## Leave to Vote Amendment Act

This Act generally provides individuals employed in the District of Columbia with up to two hours of paid leave to vote.

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This Act generally provides individuals employed in the District of Columbia with up to two hours of paid leave to vote.

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## Covered Employers and Eligible Employees

The Act applies to all employers and employees in the District of Columbia. There are no employer-size or employee service requirements.

## Amount of Leave Granted

Employers must grant at least two hours of paid leave for an employee to vote in person in any election in DC or any election run by the jurisdiction where the employee is eligible to vote. Employers are only required to provide this paid leave if the employee would have otherwise been scheduled to work during the time for which the leave is requested.

## When Leave May Be Taken

Employers can require employees take leave during specific hours (e.g., the beginning or end of the shift) or during a period designated for early voting rather than on the actual day of the election.

## **Employees' Request for Leave and Notice to Employer**

The law does not specify how much notice an employer can require from an employee requesting notice, but permits employers to require employees to submit requests a “reasonable time” in advance. Employers who do not have an established policy defining reasonable advance notice cannot require employees to provide more than seven (7) days' notice to take voting leave.

## **Notice and Posting Required**

Employers are required to post and maintain a notice developed by the Board of Elections describing employee rights under this law. According to recent regulations, the notice must be posted in a prominent location as least 60 days before all scheduled elections, including special elections. For remote workers, employers must provide notice to employees by other “reasonable means” and obtain a signed acknowledgment of receipt from the employee. The notice is election specific and may be found on the DC Board of Elections website or by emailing [communications@dcboe.org](mailto:communications@dcboe.org). A sample of the 2024 election notice may be found [here](#).

## **Interference and Retaliation Prohibited**

Employers are prohibited from “interfering with, restraining or denying” an employee’s attempt to take leave pursuant to this law. The law also prohibits retaliation against employees for taking this leave.

## **Enforcement and Penalties**

The Act does not include specific enforcement and penalty provisions. However, an employee who believes their rights have been violated under the law may file a complaint with the DC Board of Elections within 14 days of the alleged violation. The Board may impose a civil fine of up to \$2,000 for violations of the law.

# Wage and Hour

Wage and hour laws specific to certain DC employers and their employees include:

- [DC Minimum Wage Act](#)
- [Wage Payment and Collection Law](#)
- [Living Wage Act \(Government Contractors\)](#)
- [Wage Theft Prevention Act](#)
- [Wage Transparency Act](#)
- [DC Tipped Wage Workers Fairness Amendment Act](#)
- [Sustainable DC Omnibus Amendment Act](#)
- [Transportation Benefits Equity Amendment Act](#)

## DC Minimum Wage Act

### How Much

On July 1, 2024, the minimum wage in the District of Columbia will become \$17.50 per hour. The minimum wage will increase during each successive year pursuant to the Consumer Price Index. If the minimum wage set by the United States government is greater than the minimum wage set by the District of Columbia, the minimum wage becomes one dollar more than the US minimum wage.

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On July 1, 2024, the minimum wage in the District of Columbia will become \$16.50 per hour. The minimum wage will increase during each successive year pursuant to the Consumer Price Index. If the minimum wage set by the United States government is greater than the minimum wage set by the District of Columbia, the minimum wage becomes one dollar more than the US minimum wage.

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For employees who receive gratuities, starting July 1, 2024, the minimum hourly rate will be \$10.00 per hour. If an employee's hourly tipped earnings (averaged weekly) added to the service rate do not equal the minimum wage, the employer must pay the difference.

If you employ an employee who receives gratuities, you must submit a quarterly wage report to the Mayor, within 30 days of the end of each quarter, certifying that employees were paid the required minimum wage.

### Overtime is Required

Of course, overtime must be paid at 1.5 times the regular rate of pay for all hours worked over 40 in a workweek.

### Employees Who Work in the District

For the purposes of the Act, an employee works in the District of Columbia if the employee regularly spends more than 50% of their working time in the District or "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."

### Record Keeping/Posting

Employers must keep and maintain, for at least 3 years, records including: name, address and occupation of each employee, the date of birth of any employee under 19, and the rate of pay and the amount paid each pay period to each employee. Failure to keep accurate records of all hours worked (for non-exempt employees) and all compensation paid can expose an employer to significant liability in lawsuits as well as fines. The Wage

Theft Prevention Amendment Act reinforced the record keeping requirement, requiring employers to keep records of the “precise time worked.”

Additionally, an **employer must provide employees an itemized statement**—at the time wages are paid—showing the date of the wage payment, gross wages paid, hourly rate, deductions from and additions to wages, net wages paid, hours worked during the pay period, and employee’s tip-declaration form for the pay period, delineating cash tips and credit-card tips. It must also include the employer’s name, address and Federal Employer Identification Number. D.C. Code Ann. § 32-1008(b).

Employers may use direct deposit to pay employees with the employee’s consent. D.C. Code Ann. § 32-1302.

Finally, employers must post in a conspicuous and accessible place, a [District of Columbia Minimum Wage poster](#).

## Enforcement and Penalties

The DC Department of Employment Services, Wage and Hour Division, investigates potential wage and hour violations and enforces the City’s wage and hour laws. Employees may submit claims electronically. Employees may also file lawsuits in order to recover monies owed, and may be able to recover liquidated damages, as well as their attorneys’ fees. **Individuals can be employers** under this law.

Further, employers who violate the wage hour laws may be subject to fines up to \$10,000 and even imprisonment, and the Mayor may impose additional administrative penalties such as: \$50 for each employee whose rights are violation for each day the violation occurred; for subsequent violations this amount rises to \$100 per day; \$500 for failure to maintain and retain payroll records; \$500 for refusing to allow the Mayor to inspect payroll records; \$500 for each failure to provide an itemized wage statement; and \$100 for each day an employer fails to post the required notices.

Retaliation is prohibited.

## Wage Payment and Collection Law

### Payment of Wages

Employers must pay all wages earned at least twice each month (exempt employees need not be paid twice per month), on regularly designated paydays. No more than 10 working days may elapse between the end of the pay period and the payday. “Wages” includes bonuses, commissions and almost any type of compensation.

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Employers must pay all wages earned at least twice each month (exempt employees need not be paid twice per month), on regularly designated paydays. No more than 10 working days may elapse between the end of the pay period and the payday. “Wages” includes bonuses, commissions and almost any type of compensation.

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### An Employee Quits or is Fired

If an employee quits or resigns, employers must pay wages due on the next payday, but no later than 7 days after the employee quits. If you fire an employee, you must pay all wages earned no later than the working day after the employee is fired. So, for example, if you fire an employee on Tuesday, you must pay all wages owed on Wednesday.

## Disagreement About What is Owed

If your employee says he is entitled to \$300, and you believe he is only entitled to \$200, you are required to pay the undisputed amount (\$200 in this scenario) within the time required, and give the employee a written notice of the amount you concede is due.

## Accrued Vacation and Deductions

Absent an agreement to the contrary, an employee is entitled to payment of accrued but unused vacation on termination of employment. Employers may not deduct money from paychecks for damage to property or for failing to return equipment.

## Enforcement and Penalties

If an employer does not pay earned wages as required under the wage payment and collection law, it must pay to the employee 10% of the unpaid wages for each working day that the wages remain unpaid, or an amount equal to the unpaid wages, whichever is smaller. Employees can bring civil lawsuits to recover wages owed, and may do so as a group. Liquidated damages, equal to 3 times the amount of unpaid wages, and attorneys' fees may be recovered.

Retaliation is prohibited.

In an enforcement action, an employer may be fined up to 5,000 for a first offense and imprisoned for up to 30 days, and for subsequent offenses, the fine goes up to \$10,000 and the jail time is increased to 90 days.

## Living Wage Act (Government Contractors)

### Covered Employer

The Living Wage Act of 2006 (LWA) requires recipients of District contracts or government assistance at or above \$100,000 to pay their affiliated employees no less than the living wage, currently \$15.50 per hour.

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The Living Wage Act of 2006 (LWA) requires recipients of District contracts or government assistance at or above \$100,000 to pay their affiliated employees no less than the living wage, which will be \$17.05 per hour effective January 1, 2024.

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### Definitions

**“Recipient”** – An individual or entity that enters into contracts or receives assistance from the Washington, DC government.

**“Contract”** – A written agreement between a recipient and the DC government.

**“Government assistance”** – A grant, loan, or tax increment financing resulting in a financial benefit from a DC government entity.

All subcontractors of recipients that receive \$15,000 or more from District government contract funds must also pay their affiliated employees at least the living wage. Government assistance subcontractors must pay their affiliated employees the living wage if they receive \$50,000 or more in District government assistant funds from a recipient.

As of March 1, 2006, the DC government has had to pay its employees the living wage (unless a separate wage has been established under an effective collective bargaining agreement, or federal law or grant).

## Covered Employee

“Affiliated employees” are individuals employed by recipients who were compensated directly from DC contract or government assistance funds, including employees of contractors or subcontractors of recipients who perform services under a government contract or government assistance.

## Exempted Contracts

The LWA specifically excludes from its scope:

- **Contracts or other agreements subject to higher wage determinations under federal law;**
- **Existing and future collective bargaining agreements, so long as the future agreement results in payment of no less than the living wage;**
- **Contracts for electricity, telephone, water, sewer, or other services delivered by a regulated utility;**
- **Contracts for services needed immediately to prevent or respond to a disaster or imminent threat to public health or safety declared by the Mayor;**
- **Contracts or other agreements awarded to recipients that provide trainees with additional services, provided they do not replace employees subject to this subchapter;**
- **An employee under 22 years old who is employed during a school vacation period or enrolled as a full-time student in high school or at an accredited institution of higher education, and who works fewer than 25 hours per week, provided they do not replace employees subject to this subchapter;**
- **Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia, provided they did not receive direct District government assistance;**
- **Employees of nonprofit organizations that employ 50 or fewer individuals and qualify for 501(c)(3) exempt status;**
- **Medicaid provider agreements for direct care services to Medicaid recipients, provided the care is not delivered through a home care agency, a community residence facility, or a group home for persons with intellectual disabilities; and**
- **Contracts or other agreements to provide health services between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration.**

## Determination of the Living Wage Rate

The Department of Employment Services must revise the living wage rate annually, based on 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 up to 3%. The Department must calculate the adjustment to the nearest \$0.05 and publish the adjusted rate by March 1<sup>st</sup> of each year. The living wage rate can never fall below the DC minimum wage.

The mayor must approve annual adjustments exceeding 3% and must publish any adjustment to the rate in the District of Columbia Register within 45 days of the rate’s adjustment.

## Contract Contents and Living Wage Notice

All contracts and government assistance subject to the LWA must include information concerning living wage payment, notice, records, and enforcement. The Mayor shall provide a [fact sheet](#).

- **A notice of the living wage rate;**
- **A summary of the living wage payment and records requirements; and**
- **Enforcement information, including a name, address, and telephone number for compliance complaints.**

Recipients and subcontractors must provide covered affiliated employees with a fact sheet regarding living wage payment and enforcement requirements; these employers must also conspicuously post a notice reflecting living wage payment and enforcement requirements at their places of business.

Recipients must provide written notice including the above information to their covered subcontractors.

## Recordkeeping

Recipients and subcontractors must retain payroll records created and maintained in the regular course of business for at least three years or for the prevailing federal standard at the time the record is created, whichever is greater, from the payroll date for covered employees. 29 C.F.R. 516.5(a) requires employers covered by the Fair Labor Standards Act to maintain payroll records for three years, a period equal to the LWA's retention requirement.

## Enforcement

Failing to comply with the LWA subjects violators to the procedures, liquidated damages and penalties, and other remedies or relief described by [D.C. Code Chapter 13 of Title 32](#).

For example, employers in violation are subject to a misdemeanor conviction, with attendant penalties including:

- **Up to \$2,500 per affected employee for the first offense by an employer who negligently fails to comply with the LWA;**
- **Up to \$5,000 per affected employee for subsequent, negligent offenses;**
- **Up to \$5,000 per affected employee, or 30 days imprisonment, for the first offense by an employer who willfully fails to comply with the LWA; and**
- **Up to \$10,000 per affected employee, or 90 days imprisonment, for subsequent willful offenses.**

In addition, the Mayor assesses and collects administrative penalties of \$50 for first offenses and \$100 for subsequent offenses for each person whose rights under the LWA are violated for each day that the violation occurred or continued. The Mayor also collects administrative penalties of \$500 for failure to provide notice of investigation to employees and failure to post notice of violations to the public.

## Waiver

Entities may submit written waiver requests, stating the rationale for their request and demonstrating that compliance with the LWA would pose a significant financial hardship resulting in substantial layoffs, substantial downsizing, or the inability to meet payroll. The Mayor may exempt a recipient from the LWA's requirements, subject to DC Council approval.

## Applicability

The LWA applies to contracts and agreements for government assistance entered into after June 8, 2006, and not to any existing agreement entered into before that date. Renewals or extensions after June 8, 2006 constitute new agreements and trigger coverage if their terms otherwise meet the LWA's coverage requirements.

The DC minimum wage applies to agreements entered into, renewed, or extended on or after August 19, 2016 if the living wage is lower than the required minimum wage. D.C. Code § 2-220.03 reads, in part: "at no time shall the living wage be less than the minimum wage established pursuant to § 32-1003"; § 32-1003 describes requirements for the DC minimum wage.

## Wage Theft Prevention Act

### Wage Notice

The Wage Theft Prevention Act requires all DC employers, regardless of size, to provide a written notice to DC based employees with information about their employment.

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The Wage Theft Prevention Act requires all DC employers, regardless of size, to provide a written notice to DC based employees with information about their employment.

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## Notice Requirements

The notice must include: employer's name; any dba names; physical address; mailing address and phone number; employee's rate of pay and how it is determined, *i.e.* hourly/by shift/weekly, etc.; any allowances claimed, *i.e.* tips, meals, lodging; explanation of any tip pool policy; overtime rate; living wage applicability; prevailing wage rates if applicable; the designated regular payday; information about how to contact DOES wage and hour division; and include an acknowledgement signed by both employer and employee.

Employers should get the signed acknowledgment forms. The notice should be provided to all new employees when they are hired. An updated notice must be provided if any of the information changes. The District of Columbia DOES provides a [template wage notice](#).

The notice must be provided in English and the employee's primary language, if the Mayor has issued a template in that language.

## General/Subcontractor Liability

The Wage Theft Prevention Act makes general and subcontractors jointly and severally liable if the subcontractor does not pay its employees' wages owed. General contractors must ensure that subcontractors are paying all wages owed or they may be required to make those payments themselves—plus additional damages and attorneys' fees. Subcontractors must indemnify general contractors for any money owed as a result of a violation.

## Staffing Companies

If an employer uses employees provided by a temporary staffing company, both it and the staffing company are responsible for paying all wages owed. Temporary staffing companies and the entities/individuals who use such employees are jointly and severally liable for wages owed. Temporary staffing companies must indemnify employers for any money owed as a result of a violation.

## Posting

The posting requirement can be found [here](#) on the DOES website.

## Enforcement and Penalties

Failing to provide the required notice may result in the imposition of a \$500 administrative penalty for each employee that does not receive the notice. Failure to post a summary notice issued by DOES carries a penalty of \$100 per day.

Retaliation is prohibited and if an adverse action is taken against an employee within 90 days of the employee's complaint of a wage theft violation, there is a rebuttable presumption the action is retaliatory.

## Wage Transparency Act

### Employees Can Ask About and Discuss Wages

Employers cannot prohibit employees from discussing or comparing their pay, or from asking the employer about it.

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Employers cannot prohibit employees from discussing or comparing their pay, or from asking the employer about it

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## **Employers Must Disclose Wage Range**

Employers must disclose the minimum and maximum projected salary or hourly pay in all job listings (including internal listings, transfers, and promotions) and position descriptions advertised. The range must be based on the employer's good faith belief of what it would pay at the time of the posting. If an employer does not provide these disclosures, the prospective employee may inquire about the pay range for the job.

The employer must disclose the existence of healthcare benefits that the employee may receive before the first interview.

## **No Discharge/Discipline**

Similarly, employers cannot fire, discipline or retaliate against employees for asking about their pay or talking about it with their co-workers or anyone else.

## **Employers Cannot Ask About Pay History**

Employers cannot screen prospective employees based on their wage history or seek their wage history from a former employer. Employers cannot require that a prospective employee's wage history satisfy a minimum or maximum criteria or require that the prospective employee disclose the wage history as a condition to being interviewed or considered for an offer of employment.

## **This Does Not Mean Employers Have to Share Wage Information**

The law makes clear that employers can prohibit HR employees and others with access to wage information, from sharing it, unless the reason for disclosing it is part of an investigation or a response to an investigation. The law also makes clear that it does not require employers to tell an employee what someone else makes, or that employees are required to share what they make if a co-worker asks.

## **Enforcement and Penalties**

The Mayor may assess a civil fine of up to \$1,000 for the first violation, \$5,000 for the second and \$20,000 for each violation after that. The law does not create a private right of action, so employees cannot sue their employer for violations.

# **DC Tipped Wage Workers Fairness Amendment Act**

## **Notice Requirements for Usage of Tip Credit**

Employers who use a tip credit in the payment of wages must provide additional notice at the time of hire to employees that: (1) advises that tips not shared shall be retained by the employee, (2) if tips are shared, sets forth the employer's tip-sharing policy, and (3) states the percentage by which tips paid via credit card will be reduced by credit card fees. In addition, employers who utilize tip-sharing must post the tip-sharing policy in a conspicuous place accessible to all employees. Employers must also provide employees with a tip-declaration form each payday and include any tip-sharing policy in the DC Wage Theft Amendment Act notifications provided at the time of hire, upon any change or update in the tip-sharing policy, and upon any change in the rate of pay.

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Employers who use a tip credit in the payment of wages must provide additional notice to employees regarding tip sharing and credit card fees

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## **Quarterly Wage Reports and Required Use of Third-Party Payroll Processor**

All employers of tipped employees, except for hotel employers, must use a third-party to process payroll. They must also submit a quarterly wage report to the Mayor for each preceding calendar quarter which certifies that each individual was paid at least the required minimum wage and further provide: (a) each employee's name;

(b) average hourly wage received per week during the quarter, (c) total hours worked at or above the minimum hourly wage; (d) gross wages received per week; and (e) total gratuities received per week. Hotel employers may self-submit wage reports along with a certification of accuracy.

### **Training on Minimum Wage Revision Act of 1992**

Every business owner, operator, or manager for an employer who uses a tip credit in the payment of wages must undergo annual training on the requirements of the Minimum Wage Revision Act. These employers must also annually offer employees the opportunity to attend such a training.

### **Universal Posting Requirements**

The Mayor's Office is required to create a website that sets forth the rights of all employees under all DC labor and anti-discrimination laws, and publish an updated poster that must be posted in a conspicuous place, accessible to all employees. Employers must display the poster in every employee breakroom and at every time clock on the employer's premises. In addition, employers must print copies of the information posted on the Mayor's new website, compile it into a single source (e.g., a binder), and make a copy of the complete information packet available at every location that the employee notice poster is posted. Employers must also ensure, on a monthly basis, that these printed materials are updated and identical to the information posted on the website. Unlike other provisions of the Act, these requirements apply to all employers, whether or not they employ tipped employees. Employers displaying the updated poster from the Mayor's Office need not also comply with the individualized posting requirements of: (1) the Living Wage Act, (2) the DC Human Rights Act, (3) the DC Family and Medical Leave Act, (4) the Parental Leave Act, (5) the Accrued Sick and Safe Leave Act, (6) the Minimum Wage Act Revision Act, (7) the Building Service Employees Minimum Work Week Act, (8) the Protecting Pregnant Workers Fairness Act and (9) the DC Workers' Compensation Act.

### **Mandatory Sexual Harassment Training**

If an employer has any tipped employees, all of the employer's employees, managers, owners, or operators must take a sexual harassment training course provided by the DC Office of Human Rights (DCOHR) or a DC OHR-approved training provider. Owners/Operators, managers and current employees must receive in-person, virtual or pre-recorded training every two years. New employees must receive in-person or online training within 90 days of their hire, unless they received the training within the last two years. If the training is not provided directly by DCOHR, employers must certify the completion of the course to DCOHR ([tipsdc@dc.gov](mailto:tipsdc@dc.gov)) within 30 business days after each employee, manager, owner, or operator has completed the training.

The DCOHR recently released additional guidance to clarify the legislation and has stated that any business that has moved away from the tip credit and now pays its employees the D.C. minimum hourly wage is no longer required to provide the mandatory sexual harassment training and submit sexual harassment policy and reporting information.

### **Sexual Harassment Reporting Requirements**

Employers must file their sexual harassment reporting policy with DCOHR, distribute the policy to all employees, and post the policy. The reporting policy must outline how employees can report harassment both to management and DCOHR. Employers must distribute their sexual-harassment policy to all employees and post it in a conspicuous place accessible to all employees. Employers must also document all reported instances of sexual harassment and whether the alleged harasser held a managerial, non-managerial, owner, or operator position, annually report the number of such instances to DCOHR.

For more on the Act's sexual harassment prevention training and documentation requirements, see DCOHR's [website](#), which links to additional resources compliance guidance, and FAQs.

# Sustainable DC Omnibus Amendment Act

The DC Transit Ordinance, D.C. Law 20-142, codified in Subtitle A of Title III of the Act as Reducing Single Occupancy Vehicle Use by Encouraging Transit Benefits, requires certain DC employers to provide employees with pre-tax commuter transportation benefits.

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The DC Transit Ordinance requires certain DC employers to provide employees with pre-tax commuter transportation benefits.

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## Subject Employers

Employers with 20 or more employees working in the District (i.e., “covered employers”) to provide certain options in the form of transportation benefit programs to all employees who work in the District.

## Covered Employees

All full-time and part-time employees who perform 50% of their work in the District of Columbia or whose employment is based in the District of Columbia and the employee performs a substantial amount of his or her work in the District of Columbia and less than 50% in any other state. Employees are eligible for the program after 90 days of employment.

## Employer Obligations

Employers must offer at least one of the following transportation benefit options to all District employees:

- **Pre-tax transportation fringe benefits that provide “commuter highway vehicle, transit, or bicycling benefits...at least equal to the maximum amount that may be deducted for those programs from an employee’s gross income” set by the Internal Revenue Code (i.e., \$100 per month for transportation in a commuter highway vehicle or transit pass).**
- **A prepaid (by the employer) benefit program whereby, at the election of the employee, an employee can receive a transit pass for public transportation of the employee’s choice or “reimbursement of vanpooling or bicycling costs in [an] amount at least equal to the purchase price of a transit pass for an equivalent trip on a public transit system.”**
- **Employer-provided transportation at no cost to the covered employee in a vanpool or bus operated by or for the employer.**

Forms of public transport covered under the Act include transit passes for travel on any bus, streetcar or train operated by the Washington Metropolitan Area Transit Authority, Maryland Area Regional Commuter, Virginia Railway Express or Amtrak.

Importantly, employers must provide the following information to covered employees:

- **Notification of the available commuter transit benefits**
- **How to apply for the benefits**
- **A point of contact if employees have questions about the program**

Additionally, employers must maintain records necessary to substantiate program compliance for at least three (3) years.

## Penalties for Failure to Comply

Any covered employer who fails to offer a transportation benefit program to its employees is subject to potential civil fines of up to \$800 for each covered employee to whom the employer fails to offer at any point during a calendar month at least one transportation benefit program and shall be reassessed for each subsequent calendar month in which such failure continues to exist and penalties.

## Implementation

The rules implementing the statute became effective August 16, 2019 and can be found [here](#).

## Transportation Benefits Equity Amendment Act

The [Transportation Benefits Equity Amendment Act of 2020](#), also known as the “Parking Cash-Out Law,” requires certain DC employers to reduce the number of employees who commute into the city by private vehicle. These measures include: (1) providing mass transportation for employees directly; (2) giving employees a transit pass (including passes for travel by bus, streetcar, Metro, Maryland Area Regional Commuter, Virginia Railway Express or Amtrak); or (3) reimbursing employees for the purchase, maintenance and storage of a bicycle. Alternatively, employers can pay a \$100 fee per employee per month or develop a transportation demand management plan.

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The Transportation Benefits Equity Amendment Act of 2020 requires certain DC employers to reduce the number of employees who commute into the city by private vehicle.

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## Covered Employers

Employers of more than 20 employees who offer a “parking benefit” in DC to an employee.

**Parking Benefit** – (1) parking in DC at or within one-half mile of the business for which the employee pays nothing or less than market value; or (2) compensation for such parking, either directly or through an employer subsidy, to park on or near the business premises.

## Exceptions

An employer who owned the parking spaces used by employees prior to the date the new law takes effect and continues to own the spaces unless the employer leases the parking spot used by the employee. In addition, the law does not apply to a parking benefit that is offered to an employee who is required to use a personal motor vehicle in the regular performance of their work.

## Requirements

Employers who offer a parking benefit will be required to do one of the following three options: (1) offer a clean-air transportation fringe benefit in an amount equal to or greater than the monthly market value of the parking benefit, (2) pay a “Clean Air Compliance” fee or (3) develop and implement a transportation demand management plan.

## Clean Air Transportation Fringe Benefit

The following benefits provided in addition to the employee’s compensation: (1) transportation in a “commuter highway vehicle” between the employee’s residence and place of employment; (2) a “transit pass” to pay for transportation via mass transit; or (3) a qualified bicycle commuting reimbursement (as all of these terms are defined under federal law). An employee may not accept the clean-air transportation fringe benefit unless the employee has declined the parking benefit the employer has offered.

An employee who accepts a clean-air transportation fringe benefit must estimate the amount of the benefit the employee will use each month. If the employee’s estimate is less than the value of the offered clean-air transportation fringe benefit, the employer must pay the difference by providing the employee with additional compensation, an increase contribution to the employee’s healthcare coverage or both. The employee may amend the estimate up to once every 12 months. The Department of Transportation is expected to provide additional guidance for the form that this estimate will take.

## Clean Air Transportation Fee

Employers may opt to pay a fee of \$100 per month for each employee who is offered a parking benefit.

## **A Transportation Demand Management Plan**

An employer who opts to implement a transportation demand management plan must submit to the DC Department of Transportation a plan to reduce, by 10% from the previous year, the number of commuter trips employees make by car, until 25% or less of employees' commuter trips are made by car. The Department of Transportation will provide a form for this plan. The plan is subject to approval by the DC Department of Transportation and compliance checks.

## **Regular Reports**

All covered employers must submit a report to the mayor every two years that includes: (1) the total number of employees; and (2) the number of employees (a) offered a parking benefit, (b) using a parking benefit, (c) offered a clean-air transportation fringe benefit and (d) using a clean-air transportation fringe benefit.

## **Effective Date**

The requirements became effective as of January 13, 2023.

# Workplace Rules

Workplace rules and recommendations specific to certain DC employers and their employees include:

➤ Smoking Prohibitions; Inspections

## Smoking Prohibitions; Inspections

Requires employers to prohibit smoking in places of employment. The law applies to both traditional tobacco smoking and vaping.

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Employers are required to prohibit smoking in places of employment. The law applies to both traditional tobacco smoking and vaping.

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### Definitions

**“Place of employment”** – An enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, and vehicles owned by a private employer, if the vehicle is used by more than one person, and excludes a private residence, unless it is used as a child care, adult day care, or health care facility.

**“Smoking”** – The inhaling, exhaling, burning, or carrying of a lighted or heated cigar, cigarette, pipe, electronic smoking device, or any other tobacco or plant product intended for human consumption through inhalation, in any manner or in any form.

**“Electronic smoking device”** – Any product, including one composed of a heating element, battery, or electronic circuit, that contains or delivers nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. This includes any such product, regardless of whether it is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or by any other product name or descriptor.

### Covered Employers

Applies to public and private employers with employees, including independent contractors or volunteers, who work in enclosed indoor areas. D.C. Code § 7-1703(8).

Employers can establish and enforce smoking restrictions or prohibitions in the workplace, or to establish that smoking restrictions or prohibitions are bona fide occupational qualifications (BFOQs). D.C. Code § 7-1703.03(a).

### Policy and Posting Requirements

Employers are required to adopt a written smoking policy and to post it conspicuously in the workplace. D.C. Code § 7-1703.02(a)(2). Employers are required to display signs reflecting the written smoking policy in the location where workers’ compensation notices or similar notices are posted.

The owner of a building or the person in charge of the premises where smoking is prohibited must post appropriate “no smoking” signs visible at the entrance and inside the building. D.C. Code § 7-1704. In any area where smoking is prohibited, the sign must also carry a health warning stating that “Smoking causes lung cancer, heart disease, emphysema, and may cause fetal injury, premature birth and low birth weight in pregnant women.” D.C. Code § 7-1704(a).

## **Smoking Areas**

Smoking is prohibited in public and private workplaces, except for designated smoking areas. D.C. Code § 7-1703(8). Employers may ban smoking entirely throughout a building, or they may designate smoking areas that are separated from non-smoking areas by a physical barrier. D.C. Code § 7-1703.02(a)(1). However, the designation of a smoking area is subject to collective bargaining under District of Columbia public sector labor relations law. D.C. Code § 7-1703.02(b). The District of Columbia labor relations provisions regarding collective bargaining are found at D.C. Code § 1-617.08(b).

## **Penalties**

Penalties for failing to post or maintain the required signs and failing to warn smokers observed violating the law is punishable by a fine of not more than \$300, and each day the violation continues shall be considered a separate violation. D.C. Code § 7-1706(a)(3).

Smoking in a posted no-smoking area is punishable by a fine of a \$10 to \$50 for the first offense, and \$50 to \$100 for each subsequent offense. D.C. Code § 7-1703.02(b). Obscuring, removing, defacing, mutilating, or destroying a sign posted in accordance with this law could lead to a fine of up to \$300. D.C. Code § 7-1706(2).

## **Discrimination against off-duty smokers**

Employers cannot refuse to hire, discharge, or otherwise discriminate against any employee or applicant because of the employee or applicant's use of tobacco products while off-duty. D.C. Code § 7-1703.03(a).

Employees or applicants aggrieved by a violation of the prohibition have a private cause of action for damages, including lost wages, salary, and attorney's fees, but they first have to attempt to exhaust any administrative, grievance, or collective bargaining procedures available. D.C. Code § 7-1703.03(b), (c).

# Sources & Resources

## DC Human Rights Act (DCHRA)

<u>Statutory Authority:</u>	D.C. Code § 2-1401, et seq. <a href="https://code.dccouncil.us/us/dc/council/code/titles/2/chapters/14/">https://code.dccouncil.us/us/dc/council/code/titles/2/chapters/14/</a>
<u>Applicable Regulations:</u>	4 DCMR 500, et seq. <a href="https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=4-5&amp;ChapterId=2004">https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=4-5&amp;ChapterId=2004</a> 4 DCMR 200, et seq. <a href="https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=4-2&amp;ChapterId=2001">https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=4-2&amp;ChapterId=2001</a>
<u>Employer Notice:</u>	EEO Poster <a href="https://ohr.dc.gov/sites/default/files/dc/sites/ohr/EEO%20Workplace%20Poster_English_5.17.2024%20.pdf">https://ohr.dc.gov/sites/default/files/dc/sites/ohr/EEO%20Workplace%20Poster_English_5.17.2024%20.pdf</a>
<u>Additional Resources:</u>	Protected Traits in DC <a href="https://ohr.dc.gov/protectedtraits">https://ohr.dc.gov/protectedtraits</a> Complaint Process <a href="https://ohr.dc.gov/complaints/process">https://ohr.dc.gov/complaints/process</a> DC Office of Human Rights Fact Sheets <a href="https://ohr.dc.gov/page/office-human-rights-fact-sheets">https://ohr.dc.gov/page/office-human-rights-fact-sheets</a>

## Unemployed Anti-Discrimination Act (UADA)

<u>Statutory Authority:</u>	D.C. Code § 32-13C, et seq. <a href="https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/13C">https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/13C</a>
<u>Additional Resources:</u>	<a href="https://ohr.dc.gov/page/unemployed">https://ohr.dc.gov/page/unemployed</a> DC Office of Human Rights, Unemployed Anti-Discrimination Act; Fact Sheet for Employers and Applicants <a href="https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/UADA_FAQ_112315_0.pdf">https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/UADA_FAQ_112315_0.pdf</a>

## Protecting Pregnant Workers Fairness Act (PPWFA)

<u>Statutory Authority:</u>	D.C. Code § 32-1231.01, et seq. <a href="https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/12A">https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/12A</a>
<u>Employer Notice:</u>	Protecting Pregnant Workers <a href="https://ohr.dc.gov/sites/default/files/dc/sites/ohr/Pregnant%20Workers%20Poster_English_5.17.2024.pdf">https://ohr.dc.gov/sites/default/files/dc/sites/ohr/Pregnant%20Workers%20Poster_English_5.17.2024.pdf</a> Breastfeeding <a href="https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/Breastfeeding%20DCHOR%20Work%20PlacePosters.pdf">https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/Breastfeeding%20DCHOR%20Work%20PlacePosters.pdf</a>
<u>Additional Resources:</u>	<a href="https://ohr.dc.gov/page/pregnantworkers">https://ohr.dc.gov/page/pregnantworkers</a> Pregnancy and Parental Rights in the Workplace Notice <a href="https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/OHR_ListeningLab_Aug2022_Flyer-Right-to-Nurse-English-v3.pdf">https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/OHR_ListeningLab_Aug2022_Flyer-Right-to-Nurse-English-v3.pdf</a>

DC Office of Human Rights, Protecting Pregnant Workers Fairness Act; Fact Sheet for Employers and Employees  
[https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/PregnantWorkers\\_FAQ\\_FINAL.pdf](https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/PregnantWorkers_FAQ_FINAL.pdf)

### **Employment Discrimination on the Basis of Tobacco Use**

Statutory Authority: D.C. Code § 7-1703.03  
<https://code.dccouncil.us/us/dc/council/code/sections/7-1703.03.html>

### **Fair Criminal Record Screening Amendment Act**

Statutory Authority: D.C. Code § 32–13B, et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/13B/subchapters/l/>

Applicable Regulations: 4 DCMR 503  
<https://www.dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionNumber=4-503>

Additional Resources: DC OHR Criminal Background Screening and Employment: Resources for Employers  
<https://ohr.dc.gov/page/returningcitizens/employers>

DC OHR Criminal Background Screening and Employment Fact Sheet  
[https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/EmployerFAQ\\_FINAL\\_121714.pdf](https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/EmployerFAQ_FINAL_121714.pdf)

### **Ban on Non-Compete Agreements Amendment Act**

Statutory Authority: D.C. Law 23-209 Ban on Non-Compete Agreements Amendment Act of 2020  
<https://code.dccouncil.us/us/dc/council/laws/23-209>

D.C. Code § 32–581.01, et seq. (Effective October 1, 2022)  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/5B>

Additional Resources: Office of the Attorney General for the District of Columbia, Know Your Rights: The Ban on Non-Compete Agreements Amendment Act of 2020 (March 16, 2021)  
<https://oag.dc.gov/release/know-your-rights-ban-non-compete-agreements>.

DC OHR Criminal Background Screening and Employment Fact Sheet  
[https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/EmployerFAQ\\_FINAL\\_121714.pdf](https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/EmployerFAQ_FINAL_121714.pdf)

Office of Wage and Hour Public Notice  
<https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/FY%2024%20Non-Compete%20Clause.pdf>

### **DC Lie Detector Law**

Statutory Authority: D.C. Code § 32–901, et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/9>

## **Pre-Employment Testing and Restrictions on Marijuana in the Workplace**

Statutory Authority: D.C. Code § 32–9A, et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/9A>

D.C. Code § 48-904.01(1)(C)  
<https://code.dccouncil.us/us/dc/council/code/sections/48-904.01>

Additional Resources: Pending Legislation  
<https://lims.dccouncil.us/Legislation/B24-0109>

## **Employment Protections for Cannabis Use**

Statutory Authority: D.C. Law 24-190  
<https://code.dccouncil.gov/us/dc/council/laws/24-190>

D.C. Code § 32-951.01, et seq.  
<https://code.dccouncil.gov/us/dc/council/code/titles/32/chapters/9B>

## **DC New Hire Registry**

Statutory Authority: D.C. Code § 46-226.06  
<https://code.dccouncil.us/us/dc/council/code/sections/46-226.06>

Additional Resources: DC New Hire Website  
<https://dc-newhire.com/>

DC New Hire Registration  
<https://dc-newhire.com/register>

DC New Hire Reporting Form  
<https://dc-newhire.com/files/DCForm.pdf>

DC New Hire Employer Resources  
[https://dc-newhire.com/employer\\_resources](https://dc-newhire.com/employer_resources)

## **DC Family and Medical Leave Act (DCFMLA)**

Statutory Authority: DC Code § 32–501, et seq.  
<https://code.dccouncil.us/us/dc/council/code/sections/32-501>

Applicable Regulations: 4 DCMR 1600, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=4-16&ChapterId=2808>

Employer Notice: DC Office of Human Rights, DC Family and Medical Leave Act (Updated May 2024)  
[https://ohr.dc.gov/sites/default/files/dc/sites/ohr/DC%20Family%20Medical%20Leave%20Act%20Poster\\_English\\_5.17.2024.pdf](https://ohr.dc.gov/sites/default/files/dc/sites/ohr/DC%20Family%20Medical%20Leave%20Act%20Poster_English_5.17.2024.pdf)

DC Office of Human Rights, DC Family and Medical Leave Act Fact Sheet  
[https://ohr.dc.gov/sites/default/files/dc/sites/ohr/DC%20FMLA%20FAQ\\_English\\_9.10.2024.pdf](https://ohr.dc.gov/sites/default/files/dc/sites/ohr/DC%20FMLA%20FAQ_English_9.10.2024.pdf)

## **Accrued Sick and Safe Leave Act (ASSLA)**

Statutory Authority: D.C. Code § 32-531 et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/5/subchapters/III>

Applicable Regulations: 7 DCMR 3200, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-32&ChapterId=2394>

Employer Notice: ASSLA Notice  
[https://does.dc.gov/sites/default/files/dc/sites/does/page\\_content/attachments/ASSLA%20Poster%20-%20English%20Spanish%20Combo%20-%20FINAL.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/ASSLA%20Poster%20-%20English%20Spanish%20Combo%20-%20FINAL.pdf)

Additional Resources: Accrued Sick and Safe Leave Act of 2008 and Earned Sick and Safe Leave Act of 2013  
[https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/D OES%20ASSLA%20Fact%20Sheet\\_0.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/D OES%20ASSLA%20Fact%20Sheet_0.pdf)

### **DC Paid Family Leave (DCPFL)**

Statutory Authority: D.C. Code § 32–541.01, et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/5/subchapters/IV>

Applicable Regulations: 7 DCMR 3400, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-34&ChapterId=3902>

7 DCMR 3500, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-35&ChapterId=5355>

4 DCMR 1700, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=4-17&ChapterId=5411>

Employer Notice: <https://dcpaidfamilyleave.dc.gov/announcements/2022-notice-to-employees/>

Additional Languages: <https://dcpaidfamilyleave.dc.gov/employer-forms/>

Additional Resources: <https://does.dc.gov/page/dc-paid-family-leave>  
<https://dcpaidfamilyleave.dc.gov/>

### **DC Emancipation Day Leave**

Statutory Authority: D.C. Code § 1-612.02a  
<https://code.dccouncil.us/us/dc/council/code/sections/1-612.02a>

D.C. Code § 32-521  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/5/subchapters/II>

### **DC Parental Leave Act**

Statutory Authority: D.C. Code § 32–521  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/5/subchapters/II>

Employer Notice: Parental Leave  
<https://ohr.dc.gov/publication/parental-leave-act-workplace-posters>

## **Jury Leave**

<u>Statutory Authority:</u>	D.C. Code § 11-1913 <a href="https://code.dccouncil.us/us/dc/council/code/sections/11-1913#">https://code.dccouncil.us/us/dc/council/code/sections/11-1913#</a>
	D.C. Code § 15-718 <a href="https://code.dccouncil.us/us/dc/council/code/sections/15-718.html">https://code.dccouncil.us/us/dc/council/code/sections/15-718.html</a>
<u>Additional Resources:</u>	DC Office of Wage-Hour, Frequently Asked Questions, Jury Duty <a href="https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/FAQs%20for%20OWH-Final.pdf">https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/FAQs%20for%20OWH-Final.pdf</a>

## **Leave to Vote Amendment Act**

<u>Statutory Authority:</u>	D.C. Code § 1-1001.07a <a href="https://code.dccouncil.us/us/dc/council/code/sections/1-1001.07a">https://code.dccouncil.us/us/dc/council/code/sections/1-1001.07a</a>
<u>Applicable Regulations:</u>	3 DCMR 726-728 <a href="https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=3-7&amp;ChapterId=20">https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=3-7&amp;ChapterId=20</a>
<u>Additional Resources:</u>	Sample 2024 Election Notice <a href="https://www.complianceprotectionplan.com/pdfs/FED1645.pdf">https://www.complianceprotectionplan.com/pdfs/FED1645.pdf</a>

## **DC Minimum Wage Act**

<u>Statutory Authority:</u>	DC Code § 32-1003, et seq. <a href="https://code.dccouncil.us/us/dc/council/code/sections/32-1003">https://code.dccouncil.us/us/dc/council/code/sections/32-1003</a>
<u>Applicable Regulations:</u>	7 DCMR 900, et seq. <a href="https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-9&amp;ChapterId=2105">https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-9&amp;ChapterId=2105</a>
<u>Employer Notice:</u>	District of Columbia Minimum Wage Poster <a href="https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/Minimum%20Wage%20Poster_2022_0.pdf">https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/Minimum%20Wage%20Poster_2022_0.pdf</a>
<u>Additional Resources:</u>	DC DOES, Office of Wage-Hour Compliance <a href="https://does.dc.gov/service/office-wage-hour-compliance-0">https://does.dc.gov/service/office-wage-hour-compliance-0</a>

## **Wage Payment and Collection Law**

<u>Statutory Authority:</u>	D.C. Code § 32-1301, et seq. <a href="https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/13/subchapters/l">https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/13/subchapters/l</a>
<u>Applicable Regulations:</u>	7 DCMR 900, et seq. <a href="https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-9&amp;ChapterId=2105">https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-9&amp;ChapterId=2105</a>
<u>Additional Resources:</u>	Office of the Attorney General for the District of Columbia, Wage and Hour Laws <a href="https://oag.dc.gov/worker-rights/wage-and-hour-laws">https://oag.dc.gov/worker-rights/wage-and-hour-laws</a>

## **Living Wage Act (Government Contractors)**

<u>Statutory Authority:</u>	D.C. Code § 2-220, et seq. <a href="https://code.dccouncil.us/us/dc/council/code/titles/2/chapters/2/subchapters/X-A/">https://code.dccouncil.us/us/dc/council/code/titles/2/chapters/2/subchapters/X-A/</a>
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Applicable Regulations: 7 DCMR 1000, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-10&ChapterId=2497>

Employer Notice: DC DOES Living Wage Act Poster  
<https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/2024%20Minimum%20Wage%20Poster.pdf>

Additional Resources: <https://does.dc.gov/service/office-wage-hour-compliance-0>  
DC DOES Living Wage Act Fact Sheet  
<https://ocp.dc.gov/sites/default/files/dc/sites/ocp/publication/attachments/2024%20Living%20Wage%20Fact%20Sheet%20.pdf>

### **Wage Theft Prevention Act**

Statutory Authority: D.C. Code § 32-1301, et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/13>  
<https://code.dccouncil.gov/us/dc/council/laws/20-157>

Employer Notice: DC DOES Office of Wage-Hour Employers, Required Postings  
<https://does.dc.gov/page/office-wage-hour-employers>

Additional Resources: DC DOES Template Wage Notice  
[https://does.dc.gov/sites/default/files/dc/sites/does/page\\_content/attachments/Notice%20of%20Hire-English\\_OWH%20Revised.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/Notice%20of%20Hire-English_OWH%20Revised.pdf)  
Notice of Wage Theft Prevention Amendment Act of 2014  
[https://does.dc.gov/sites/default/files/dc/sites/does/page\\_content/attachments/NOTICE%20OF%20WAGE%20THEFT%20PREVENTION%20AMENDMENT%20ACT%20OF%20202014.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/NOTICE%20OF%20WAGE%20THEFT%20PREVENTION%20AMENDMENT%20ACT%20OF%20202014.pdf)

### **Wage Transparency Act**

Statutory Authority: D.C. Code § 32–14A, et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/14A/>

### **DC Tipped Wage Workers Fairness Amendment Act**

Statutory Authority: D.C. Law § 22-196 <https://code.dccouncil.us/us/dc/council/laws/22-196>

Additional Resources: <https://ohr.dc.gov/page/tipped-wage-workers-fairness-act>  
DC Office of Human Rights, Tipped Wage Workers Fairness Amendment Act: Got Tips? Got Rights! Know Your Rights in the District of Columbia  
<https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/TWFA%20-%20GotTipsGotRights%20-%20Factsheet%20-%20102021.pdf>

### **Sustainable DC Omnibus Amendment Act**

Statutory Authority: D.C. Code § 32–151, et seq.  
<https://code.dccouncil.us/us/dc/council/code/titles/32/chapters/1B>

Applicable Regulations: 7 DCMR 3300, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=7-33&ChapterId=5356>

Employer Notice: Employee Notice for the Sustainable DC Omnibus Amendment Act of 2014  
<https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/Commuter%20Benefits%20Notice%202020.pdf>

### **Transportation Benefits Equity Amendment Act**

Statutory Authority: D.C. Act 23-305  
[https://lms.dccouncil.us/downloads/LIMS/41896/Signed\\_Act/B23-0148-SignedAct.pdf](https://lms.dccouncil.us/downloads/LIMS/41896/Signed_Act/B23-0148-SignedAct.pdf)

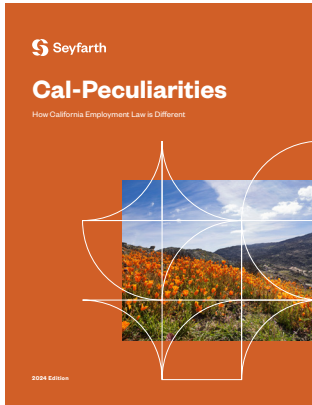
### **Smoking Prohibitions; Inspections**

Statutory Authority: D.C. Code § 7-741.02  
<https://code.dccouncil.us/us/dc/council/code/sections/7-741.02.html>

D.C. Code § 7-1703  
<https://code.dccouncil.us/us/dc/council/code/sections/7-1703>

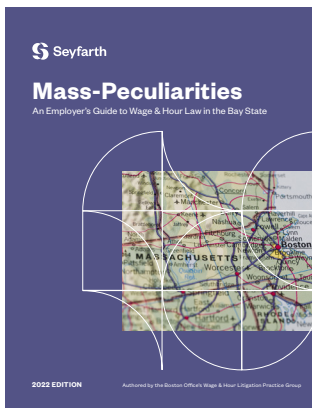
Applicable Regulations: 20 DCMR 2100, et seq.  
<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=20-21&ChapterId=471>

**We also invite you to explore other region-specific resources offered by Seyfarth's Labor & Employment department.**



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