



Recent Legislative Developments Affecting Washington, DC Employers

Part 2: Wage & Hour (Tipped Workers)

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April 27, 2023

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Speakers

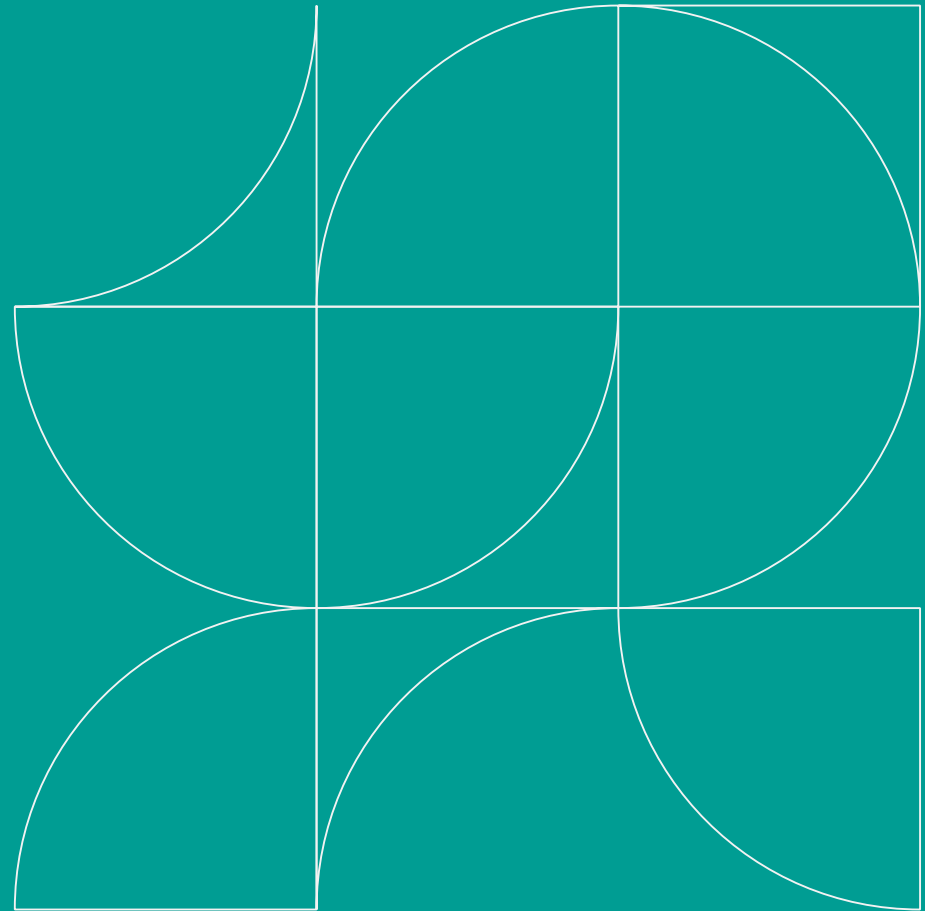


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The D.C. Tipped Wage Workers Fairness Amendment Act of 2018



Agenda

01 Overview

02 Who is Covered?

03 Requirements

Overview

On December 31, 2022, the **D.C. Tipped Wage Worker's Fairness Act** (the "**Act**") began to take effect. Also known as **D.C. Law 22-196**, it repealed Initiative No. 77 – Minimum Wage Amendment Act of 2018.

This law preserves the use of the tip credit in D.C. but imposes additional obligations on employers that employ tipped employees.

Specifically, the law requires employers to:

- annually train employees on the Minimum Wage Revision Act of 1992
- implement sexual harassment training
- report incidents of sexual harassment to DCOHR
- provide notice to tipped employees of certain rights under the Act
- post D.C. labor poster
- report wages of tipped employees quarterly

Who is Covered?

- Covered Employers
 - D.C. Employers with 1 employee paid *tipped minimum* wage
- Covered Employees
 - **food service workers** in a hotel, restaurant, cafeteria, apartment building, hospital, institution, or similar establishment;
 - **beverage staff** in taverns, brew pubs, nightclubs, clubs, or entertainment venues;
 - **janitorial or building maintenance staff** in an office building, institution, or similar establishment;
 - **non-professional employees who perform health care** or related services in a hospital, nursing care facility, or similar establishment; and
 - **individuals who provide security services** in an office building or institution or similar establishment.



Requirements: Notice

Employers who use a tip credit in the payment of wages must provide additional notice 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.

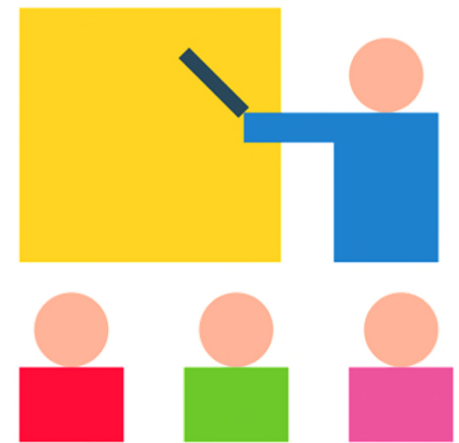
Employers who use a tip credit in the payment of wages must provide additional notice to employees regarding tip sharing and credit card fees.

Employers must also provide employees with a tip-declaration form each payday and include any tip-sharing policy in the D.C. Wage Theft Amendment Act notifications provided at the time of hire and upon any change in the rate of pay.



Requirements: Training

- Minimum Wage Revision Act of 1992
 - Each employer must receive annual training of the Minimum Wage Revision Act and offer such training to employees.
- Sexual Harassment Training
 - Employers and employee must take a sexual harassment training course provided by the DC Office of Human Rights (DCOHR) or a DC OHR-approved training provider.
 - ✓ **Current employees** must receive in-person or online training within two years after training has been approved by DCOHR.
 - ✓ **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.
 - ✓ All **managers** must attend in-person training at least once every two years.
 - Employers may offer training not provided by DCOHR but must certify completion within 30 business days after each employee, manager, owner, or operator has completed the training.
 - The deadline to comply with training requirements is August 31, 2023.



Requirements: Sexual Harassment Reporting

- Sexual Harassment Policy
 - Employers must have a sexual harassment policy describing how employees can report sexual harassment instances to management and DCOHR;
 - Must distribute the policy to all employees and post the policy in a conspicuous place; and
 - Must file their sexual harassment reporting policy with DCOHR.
- Internal Sexual Harassment Complaints
 - Employers must submit the number of sexual harassment instances reported to management; and
 - Submit the total number of reported harassers who were 1) non-managerial employees, 2) managerial employees, 3) owners, or 4) operators to DCOHR.

The **deadline** to submit the sexual harassment policy and instances of reported sexual harassment was **March 31, 2023**.



Requirements: Quarterly Reporting

Employers must submit a quarterly wage report to the Mayor for each preceding calendar quarter certifying that each individual was paid at least the required minimum wage and provide:

1. each employee's name;
2. average hourly wage received per week during the quarter;
3. total hours worked at or above the minimum hourly wage;
4. gross wages received per week; and
5. total gratuities received per week.

Hotel employers may self-submit wage reports along with a certification of accuracy.

Employer must use a third party to process payroll.



Requirements: Posting

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.

- Employers must **display the poster** in every employee breakroom and at every time clock on the employer's premises.
- 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.

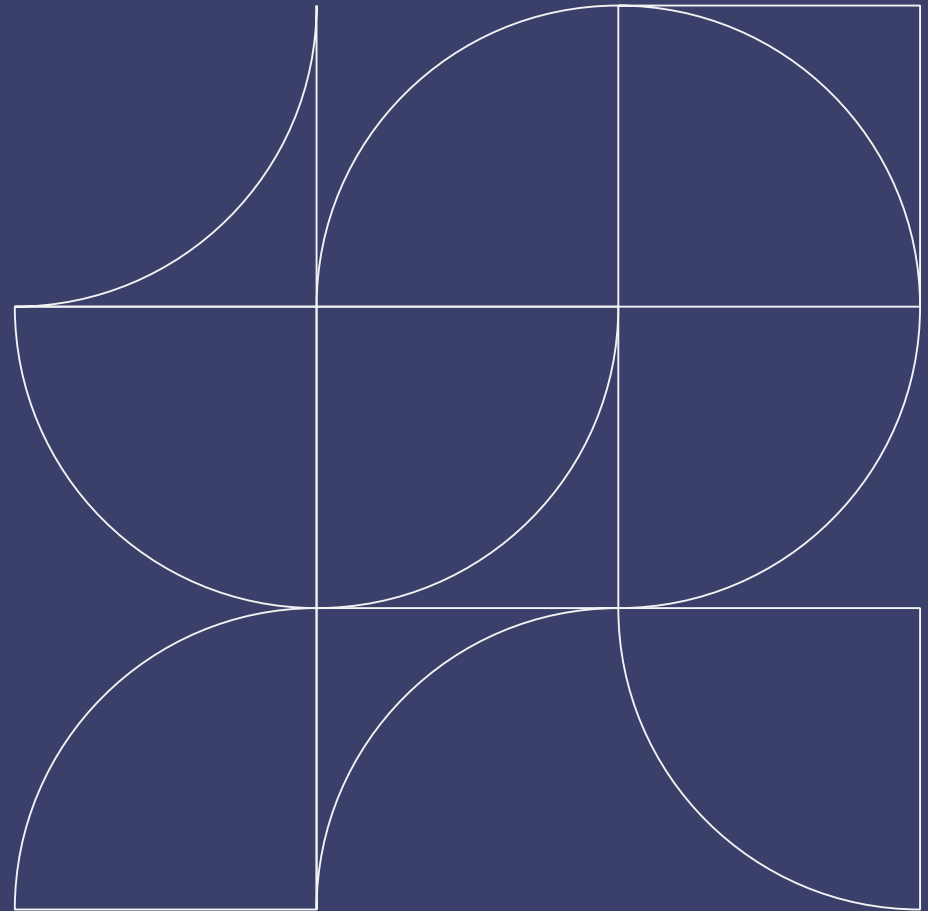


Resources



D.C. Office of Human Rights – The Tipped Wage Workers Fairness Act: <https://ohr.dc.gov/page/tipped-wage-workers-fairness-act>

Questions?



Thank You

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