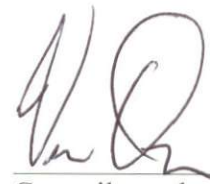


1 
2 Chairman Phil Mendelson


Councilmember Vincent Orange

10 A BILL
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16 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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21 To amend, on an emergency basis, the Wage Theft Prevention Act of 2014 to exempt an
22 employer from keeping precise time records for bona fide executive, administrative, and
23 professional employees; to limit the languages necessary for an employer's compliance
24 with payment notice requirements to those languages required in notices by the Mayor
25 pursuant to the Language Access Act; and to amend section 2 of An Act To provide for
26 the payment and collection of wages to continue to exempt an employer from paying
27 wages to bona fide executive, administrative, and professional employees at least twice
28 during each calendar month, provided that the employer pays wages to such employees at
29 least once per month.

30
31 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
32 act may be cited as the "Wage Theft Prevention Clarification Emergency Amendment Act of
33 2015".

34 Sec. 2. The Wage Theft Prevention Amendment Act of 2014, enacted on September 19,
35 2014 (D.C. Act 20-426; 61 DCR 10157), is amended as follows:

36 (a) Section 3(c)(1)(B) is amended to read as follows:

37 "(B) Subparagraph (D) is amended to read as follows:

38 “(D) The precise time worked each day and each workweek by each employee,
39 except for employees who are exempt from the minimum wage and overtime requirements under
40 section 5(a) of this act (D.C. Official Code § 32-1004(a));”

41 (b) Section 3(c)(2) is amended as follows:

42 (1) New subsection “(c)” is amended by striking the phrase “shall furnish to each
43 employee at the time of hiring a written notice, both in English and in the employee’s primary
44 language, containing the following information” and inserting the phrase “shall furnish to each
45 employee at the time of hiring a written notice in English in the form made available by the
46 Mayor pursuant to subsection (e) of this section. If, pursuant to subsection (e) of this section, the
47 Mayor has made available a translation of the sample template in a second language that is
48 known by the employer to be the employee’s primary language or that the employee requests, the
49 employer also shall furnish written notice to the employee in that second language. The notice
50 shall contain the following information:” in its place.

51 (2) New subsection “(e)” is amended to read as follows:

52 “(e) The Mayor shall make available for employers a sample template of the notice
53 required by section 9(c) within 60 days of the effective date of the Wage Theft Prevention
54 Amendment Act of 2014, passed on 2nd reading on July 14, 2014 (Enrolled version of Bill 20-
55 671). The Mayor also shall make available for employers a translation of the sample template in
56 any language required for vital documents pursuant to the Language Access Act (D.C. Law 15-
57 167, § 4; D.C. Code § 2-1933).”

58 (c) Section 3(d) is amended as follows:

59 (1) New section “9a(a)(1)” is amended by striking the phrase “containing the information
60 required by section 9(c)” and inserting the phrase “containing the information required by

61 section 9(c) and in the form of the sample template made available by the Mayor pursuant to
62 subsection 9(e). The notice shall be provided in English and if, pursuant to subsection (e) of this
63 section, the Mayor has made available a translation of the sample template in a second language
64 that is known by the employer to be the employee's primary language or that the employee
65 requests, the employer also shall furnish written notice to that employee in that second
66 language." in its place.

67 (2) New section "9a(b)" is amended to read as follows:

68 "(b) When a temporary staffing firm assigns an employee to perform work at, or provide
69 services for another organization, the temporary staffing firm shall furnish the employee a
70 written notice in English, in the form of the sample template made available by the Mayor
71 pursuant to subsection (c) of this section, of:

- 72 (1) The specific designated payday for the particular assignment;
- 73 (2) The actual rate of pay for the assignment and the benefits, if any to be
74 provided;
- 75 (3) The overtime rate of pay the employee will receive or, if applicable,
76 inform the employee that the position is exempt from additional overtime compensation and the
77 basis for the overtime exemption;
- 78 (4) The location and name of the client employer and the temporary staffing
79 firm;
- 80 (5) The anticipated length of the assignment;
- 81 (6) Whether training or safety equipment is required and who is obligated to
82 provide and pay for the equipment;

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

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

If, pursuant to subsection (c) of this section, the Mayor has made available a translation of the sample template in a second language that is known by the employer to be the employee's primary language or that the employee requests, the employer shall also furnish written notice to that employee in the second language.

(3) New section "9a(c)" is amended to read as follows:

"(c) The Mayor shall make available for temporary staffing firms a sample template of the notice required by section 9a(b) within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, passed on 2nd reading on July 14, 2014 (Enrolled version of Bill 20-671). The Mayor also shall make available for employers a translation of the sample template in any language required for vital documents pursuant to the Language Access Act (D.C. Law 15-167, § 4; D.C. Code § 2-1933)."

Sec. 3. Section 2 of An Act to provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat 976, D.C. Official Code § 32-1302), is amended by striking the phrase "Every employer shall pay all wages earned to his employees at least twice during each calendar month, on regular paydays designated in advance by the employer;" and inserting the phrase "Every employer shall pay all wages earned to his employees on regular paydays designated in advance by the employer and at least twice during each calendar month, except that all bona fide administrative, executive, and professional employees (as defined in 7 D.C.M.R. 999.1) shall be paid at least once per month;"

106 Sec. 4. Fiscal impact statement.

107 The Council adopts the fiscal impact statement of the Council's Budget Director required
108 by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973
109 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

110 Sec. 5. Effective date.

111 This act shall take effect following approval by the Mayor (or in the event of veto by the
112 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
113 90 days, as provided for emergency acts of the Council of the District of Columbia in section
114 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
115 D.C. Official Code § 1-204.12(a)).

COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director



Jennifer Budoff
Budget Director

FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson, Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director



Certified by Jennifer Budoff
Budget Director
Council of the District of Columbia

DATE: January 29, 2015

SHORT TITLE: The Wage Theft Prevention Clarification Emergency Amendment Act of 2015

TYPE: Emergency

REQUESTING OFFICE: Chairman Phil Mendelson

Conclusion

This legislation will not have an adverse impact on the District's budget and financial plan because there is no cost to the District associated with implementing this legislation.

Background

This legislation corrects an unintended consequence included in the "Wage Theft Prevention Amendment Act of 2014." The original act was required that employees be paid at least twice per month and that employers would be required to keep record of hours worked for all employees. The act was intended to protect hourly employees for wage theft. This emergency legislation would make it clear that these requirements are not intended to change the way salaried employees are paid or require them to use time clocks or other time reporting mechanisms.

The original act required that the employee be given wage related information in English and the in the employee's primary language. This requirement is broader than the District's Language Access Act which leaves the decision about which languages to the discretion of the Mayor. This emergency legislation clarifies that the employee be given wage related information in English and other languages at the Mayor's discretion as specified in the Language Access Act.

Analysis of Impact on Revenue

This legislation will not impact revenue.

Analysis of Impact on Spending

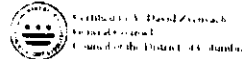
This legislation will not impact spending.



MEMORANDUM

TO: Chairman Phil Mendelson

FROM: V. David Zvenyach, General Counsel



DATE: February 03, 2015

**RE: Legal Sufficiency Determination for the Wage Theft Prevention
Clarification Emergency/Temporary Amendment Act of 2015**

This measure is legally and technically sufficient for Council consideration.

The Wage Theft Prevention Clarification Emergency/Temporary Amendment Act of 2015 amends:

1. Section 3 of the Wage Theft Prevention Amendment Act of 2014 to exempt employers from recording the precise time worked by those employees who are exempt from minimum-wage and overtime requirements under section 32-1004(a) of the D.C. Code (employees employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman, and any employee engaged in the delivery of newspapers to the home of the consumer).
2. Section 3 of the Wage Theft Prevention Amendment Act of 2014 to require that an employer furnish certain required payment information to employees both in English and in a second language if: (a) the employer knows the second language is the employee's primary language or the employee requests notice in the second language; and (b) the Mayor has made available a translation of the payment-notice template in the second language. The Mayor shall make a translation of the template available in a given language when doing so would be required for a "vital document" under the Language Access Act.
3. Section 2 of An Act To provide for the payment and collection of wages in the District of Columbia to continue to exempt an employer from paying wages to bona fide executive, administrative, and professional employees at least twice during each calendar month; provided that the employer pays wages to such employees at least once per month.