



Department of Employment Services

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WAGE THEFT PREVENTION AMENDMENT ACT OF 2014

PUBLIC EDUCATION CAMPAIGN

**D.C. Office of Wage-Hour
Labor Standards Bureau**



**District of Columbia
Muriel Bowser, Mayor**

**Department of Employment Services
Odie Dondald II, Acting Director**





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ABOUT THE MODERATOR

- Your moderator for today is a **member of the Office of Wage-Hour** with D.C. Department of Employment Services..
- The **Office of Wage-Hour** conducts compliance audits and works to recover unpaid wages for employees who have not been paid pursuant to DC wage laws, either administratively or through court action.
- **Wage-Hour compliance** involves ensuring adherence to the wage laws of the District of Columbia by holding employers accountable when wages are not paid to employees who have performed work in the District.





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AGENDA

- I. Purpose of the Act
- II. Employer Requirements
- III. Employee Options for Wage Recovery
- IV. Retaliation
- V. Damages & Penalties





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PURPOSE OF THE ACT

- To amend the following existing D.C. wage laws:
 - Wage Payment and Wage Collection Law
 - Minimum Wage Revision Act (Current rate: \$10.50 per hour)
 - Accrued Sick and Safe Leave Act (All employees must be able to access paid leave)
 - Living Wage Act (Upholds previous 2013 amendment. Current rate: \$13.80 per hour)
- To require the employer to provide written notices to employees of their employment status
- To clarify administrative procedures for enforcement of D.C. wage laws
- To enhance applicable remedies, fines, and administrative penalties





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BACKGROUND

- The Wage Theft Prevention Amendment Act of 2014 (WTPAA) went into effect **February 26, 2015**.
- The WTPAA is comprised of:
 - Wage Theft Prevention Amendment Act of 2014 signed September 19, 2014
 - Wage Theft Prevention Correction and Clarification Emergency Amendment Act of 2014 (1st Emergency Amendment) signed December 29, 2014
 - Wage Theft Prevention Clarification Emergency Amendment Act of 2015 (2nd Emergency Amendment) signed February 3, 2015





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WHO DOES THIS LAW AFFECT?

- All **employers** of employees working in the District of Columbia
- All **employees** working in the District of Columbia





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FOR EMPLOYERS

As an employer, what am I supposed to do?

- Pay your employees in accordance with the law at the rate that was agreed to when you hired them.
- Comply with the Minimum Wage and Living Wage laws.
- Inform employees of their rights under the law in writing.
- Post notifications in a place where employees can see them.
- Maintain your personnel and payroll records for three (3) years.
- Not retaliate against employees who question their pay or seek legal recourse.





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FOR EMPLOYEES

As an employee, what do I need to know?

- Your employer must pay you in accordance with the law at the rate that was agreed upon when you were hired.
- Your pay cannot be less than the D.C. minimum wage, which is currently \$10.50 per hour. This rate will increase to \$11.50 per hour beginning July 1, 2016.
- Your employer must give you notice of your rights under the Wage Theft Prevention Amendment Act.
- You should notify the Office of Wage-Hour when you think you have not received the correct pay and you have not been able to resolve it on your own.





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EMPLOYER REQUIREMENTS

- Posting of the Notice of the WTPAA
- Notice of Employment Status
- Precise Record Keeping
- Joint Liability





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NOTICE

DISTRICT OF COLUMBIA

DEPARTMENT OF EMPLOYMENT SERVICES

Labor Standards Bureau

Office of Wage-Hour

The Wage Theft Prevention Amendment Act of 2014

The Wage Theft Prevention Amendment Act of 2014 (WTPAA) has an effective date of February 26, 2015. The law includes provisions to enhance applicable remedies, fines, and administrative penalties when an employer fails to pay earned wages, to provide for suspension of business licenses of employers that are delinquent in paying wage judgments or agreements, to clarify administrative procedures and legal standards for adjudicating wage disputes, to require the employer to provide written notice to each employee of the terms of their employment, and to maintain appropriate employment records.

Requirements

Written Employment Notice:

As an employer of the District of Columbia, upon hire, you are required to provide a notice to employees of their employment. Also, within 90 days of the effective date of WTPAA, every employer shall furnish each employee with an updated written notice containing the information required. As proof of compliance, every employer shall retain copies of the written notice furnished to employees that are signed and dated by the employer and by the employee acknowledging receipt of the notice. *(There are additional requirements for temporary staffing firms.)*

This notice must include:

- 1) The name of the employer and any "doing business as" (DBA) names used by the employer
- 2) The physical address of the employer's main office or principal place of business, and a mailing address if different
- 3) The telephone number of the employer
- 4) The employee's rate of pay and the basis of that rate, including:
 - a. Rate by the hour, shift, day, or week (whichever is applicable)
 - b. Salary, Piece Rate, or commission (whichever is applicable)
 - c. Any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances
 - d. Overtime rate of pay or exemptions from overtime pay
 - e. Living wage or exemptions from the living wage
 - f. Any applicable prevailing wages
- 5) The employee's regular payday designated by the employer



NOTICE OF HIRE – EMPLOYMENT STATUS AND ACKNOWLEDGEMENT OF WAGE RATE(S)

Notice of Hire (Check only one)	
<input type="checkbox"/> At Hire	<input type="checkbox"/> Current Employee
<input type="checkbox"/> Annual-Current Date: _____ <input type="checkbox"/> Change in pay rate(s) or payday	
Effective Date: ____/____/____	
Section 1	
Employer	Employee
Company Name: _____	Employee Name: _____
DBA: _____	Physical Address: _____
Permanent Address: _____	City: _____ State: _____
Street Line 2: _____	Zip Code: _____
City: _____ State: _____	Mailing Address: <input type="checkbox"/> Same as Physical Address
Zip Code: _____	Street Line 2: _____
Mailing Address: <input type="checkbox"/> Same as Physical Address	City: _____ State: _____ Zip Code: _____
Street Line 2: _____	Phone: (____) _____ - _____
City: _____ State: _____ Zip Code: _____	
Phone: (____) _____ - _____	
Section 2	
Pay Frequency and Payday	
Pay Frequency: _____	Designated Pay Day: _____
(Weekly, bi-weekly, semi-monthly, monthly, etc.)	(Day of week when wages are payable/available)
Section 3	
Allowances Claimed As Part of Wages: <input type="checkbox"/> None, or:	
<input type="checkbox"/> Tips	\$ _____ per hour
<input type="checkbox"/> Meals	\$ _____ per meal
<input type="checkbox"/> Lodging	\$ _____ per _____
<input type="checkbox"/> Other	\$ _____ per _____
Section 4	
Tipped Employees	
<p>As of January 1, 2005, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be \$2.77 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage. Also, all gratuities received by the employee must be retained by the employee. This employee (will or will not) participate in the following company tip pool:</p> <p>Tip Pool Policy: <i>(Explain if applicable)</i></p>	



EMPLOYEE OPTIONS FOR WAGE RECOVERY

- **Wage-Hour Administrative Investigation**
 - This is an administrative process where the claim is handled by the Office of Wage-Hour on behalf of the claimant.
- **Administrative Law Judge Hearing**
 - This is a formal hearing requested by either the claimant or the employer, where those individuals are representing themselves in front of the Administrative Law Judge.
- **Civil Action: Court Proceeding**
 - The Office of the Attorney General prosecutes these civil actions.



RETALIATION

- It is unlawful for any employer to:
 - Discharge
 - Threaten
 - Penalize
 - Or discriminate in any other manner
- Retaliation penalties/remedies:
 - Fines
 - Penalties
 - Damages to employee
- **It is illegal for *any* person to retaliate**





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DAMAGES AND PENALTIES

- Court assessed fines
- Administrative penalties
- Liquidated damages





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Question:

Can you provide more guidance on the term “precise time”... Do you really expect a worker in the field or office to keep precise time with respect to his breaks, let alone his arrival or departure time?





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Answer:

The exact beginning and ending time should be recorded for all employees.

The [Wage-Hour Rules](#) provides detailed explanation of “precise time” in section 911.1(h) – a daily record of the hours of beginning and stopping work and the hours of beginning and ending the meal recess if the employee works a split shift should be recorded.



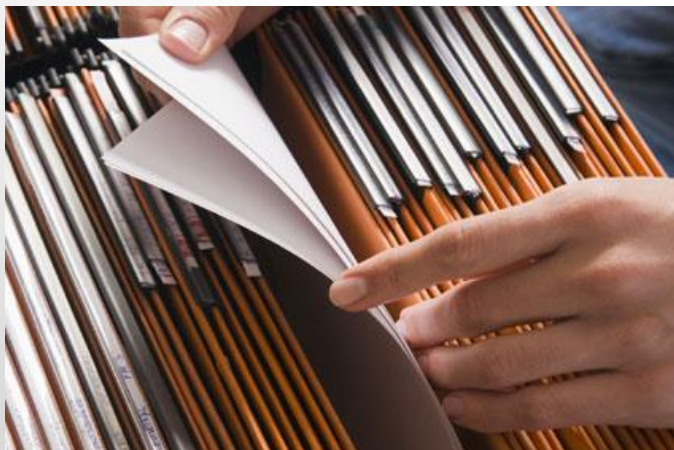


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Question:

How precise is record keeping? Are we expected to keep time records for every employee?





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Answer:

Every employer subject to any provision of this subchapter or of any regulation or order issued under this subchapter shall make, keep, and preserve for a period of **not less than three (3) years** or whatever the prevailing federal standard is, whichever is greater, a record of:

- The name, address, and occupation of each employee
- A record of the date of birth of any employee under 19 years of age
- The rate of pay and the amount paid each pay period to each employee
- The hours worked each day and each workweek by each employee, provided that for each employee compensated on an hourly basis, or based on any other unit of time, the record shall include the precise time worked

Further explanation of the Recordkeeping Requirements shall follow the standards followed by the U.S. Department of Labor Fact Sheet: <http://www.dol.gov/whd/regs/compliance/whdfs21.pdf>





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Question:

Regarding the written notice, in the Notice of Hire section, what effective date should be used for existing employees who are to receive the notice by May 27, 2015? Is it just the date the written notice is provided to the employee?

NOTICE OF HIRE – EMPLOYMENT STATUS AND ACKNOWLEDGEMENT OF WAGE RATE(S)	
<small>Notice of Hire (Check only one)</small>	
<input type="checkbox"/> At Hire <input type="checkbox"/> Current Employee <input type="checkbox"/> Annual-Current Date <input type="checkbox"/> Change in pay rate(s) or payfile	
Effective Date: ____/____/____	
Section 1	
Employer	Employee
Company Name: _____	Employee Name: _____
DIN: _____	Physical Address: _____
Permanent Address: _____	City: _____ State: _____
Street Line 2: _____	Zip Code: _____
City: _____ State: _____	Street Line 2: _____
Zip Code: _____	City: _____ State: _____ Zip Code: _____
Mailing Address: <input type="checkbox"/> Same as Physical Address	Mailing Address: <input type="checkbox"/> Same as Physical Address
Street Line 2: _____	Street Line 2: _____
City: _____ State: _____ Zip Code: _____	City: _____ State: _____ Zip Code: _____
Phone: (____) _____	Phone: (____) _____
Section 2	
Pay Frequency and Payfile	
Pay Frequency: _____	Designated Pay Day: _____
(Weekly, bi-weekly, semi-monthly, monthly, etc.)	(Day of week when wages are payable/available)
Section 3	
Allowances Claimed As Part of Wages: <input type="checkbox"/> None, or:	
<input type="checkbox"/> Tip \$ _____ per hour	
<input type="checkbox"/> Meals \$ _____ per meal	
<input type="checkbox"/> Lodging \$ _____ per _____	
<input type="checkbox"/> Other \$ _____ per _____	
Section 4	
Tip Pool Employees	
<small>As of January 1, 2005, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be \$2.77 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage. Also, all gratuities received by the employee must be retained by the employee. This employee (self or will not) participate in the following company tip pool:</small>	
Tip Pool Policy: (If/when if applicable)	





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Answer:

The effective date used is the date in which the information included on the notice became effective.

For most employees, the effective date is the hire date or the last date information changed (e.g., pay increase date, business move date, employee move date).





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Question:

The image shows two forms from the District of Columbia Department of Employment Services. The left form is a 'NOTICE' regarding the Wage Theft Prevention Amendment Act of 2014, which requires employers to provide written notices to new hires and existing employees. The right form is a 'NOTICE OF HIRE - EMPLOYMENT STATUS AND ACKNOWLEDGEMENT OF WAGE RATES', which is a detailed form for employers to fill out, including sections for Employer and Employee information, Frequency of Payroll, and a signature line for the employer.

I am a bit confused about “posting” requirements. It did sound as if employers are required to **both post and provide the notice to new hires and existing employees**. I understand the requirement to provide the notice to new hires at the time of hire and to existing employees by the 90 day cut off date in May...

HOWEVER, I am unsure if employers are ALSO required to “post the notice” as well. By posting, I am referring to exhibiting the notice alongside the other District of Columbia required posters (i.e., Minimum Wage, Leave Act, Equal Employment, etc.) Would you please clarify this issue?



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Answer:

The Notice of Hire should be provided to all employees, and you should retain a copy for your records.

The Notice of the WTPAA is what needs to be posted in a conspicuous place at your business. Yes, this Notice of the Act should be posted alongside the other District of Columbia required posters.





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Question:

When will a Spanish version of the Notice of Hire be released?





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Answer:

Spanish translations of the WTPAA Notices of Hire are available on our website.

If you have a specific translation need, please contact our office directly at (202) 671-1880.





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Question:

Can the required notice be supplied electronically and can the receiving employee supply an electronic signature?





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Answer:

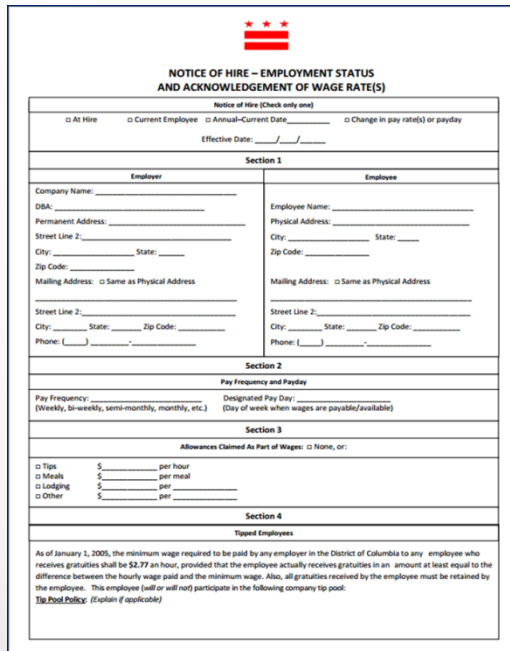
The WTPAA specifically allows for Temporary Staffing Firms to supply written notice to an employee via electronic mail, text messaging, facsimile, and regular mail.

The Office of Wage-Hour will accept these forms of messaging and electronic signatures from traditional employers as well.



Question:

May employers create their own notice forms, as long as all of the required information is contained in it?



NOTICE OF HIRE - EMPLOYMENT STATUS AND ACKNOWLEDGEMENT OF WAGE RATE(S)

Notice of Hire (Check only one)

At Hire Current Employee Annual-Current Date _____ Change in pay rate(s) or payday

Effective Date: ____/____/____

Section 1

Employer	Employee
Company Name: _____	Employee Name: _____
DBA: _____	Physical Address: _____
Permanent Address: _____	City: _____ State: _____
Street Line 2: _____	Zip Code: _____
City: _____ State: _____	Zip Code: _____
Zip Code: _____	Mailing Address: <input type="checkbox"/> Same as Physical Address
Mailing Address: <input type="checkbox"/> Same as Physical Address	Mailing Address: _____
Street Line 2: _____	Street Line 2: _____
City: _____ State: _____ Zip Code: _____	City: _____ State: _____ Zip Code: _____
Phone: (____) _____	Phone: (____) _____

Section 2

Pay Frequency and Payday

Pay Frequency: _____ Designated Pay Day: _____
(Weekly, bi-weekly, semi-monthly, monthly, etc.) (Day of week when wages are payable/available)

Section 3

Allowances Claimed As Part of Wages: None, or:

Tips \$ _____ per hour

Meals \$ _____ per meal

Lodging \$ _____ per _____

Other \$ _____ per _____

Section 4

Tipped Employees

As of January 1, 2005, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be \$1.77 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage. Also, all gratuities received by the employee must be retained by the employee. This employee (will or will not) participate in the following company tip pool: _____

Tip Pool Policy: (Explain if applicable)




AIRLINE COMPANY

Someone Somebody
100 Long St
Brisbane, Australia

Dear Someone Somebody,

Lorem ipsum dolor sit amet, consectetur adipiscing elit. Praesent mattis eros a tellus. Quisque leo tortor, commodo id, dapibus et, lacinia et, justo. Ut urna sapien, dictum eu, cursus vel, consectetur tristique, eros. Etiam in libero. Etiam tempor. Maecenas ligula felis, commodo eget, scelerisque id, suscipit nec, odio. Vivamus commodo magna in mollis feugiat, felis nisi dapibus dolor, eu blandit orci nulla in orci. Cras felis ipsum, mollis sit, semper et, tristique id, ipsum. Ut consectetur elit nec elit. Cras luctus molestie ligula. In gravida tempor nunc.

Curabitur nisi ligula, pulvinar et, volutpat non, porta a, ipsum. Donec tristique ante et est. Pellentesque volutpat est non diam. Aenean vel velit. Suspendisse facilisis nisi et massa. Mauris nec eros. Pellentesque luctus arcu ut dui. Proin suscipit lorem id augue. Maecenas eget ipsum nec orci conwallis elemea. Suspendisse potenti. Donec sed enim. Ut et turpis. Ut mattis enim nec nisi. Ut quam. Pellentesque lobortis vehicula risus.

Etiam massa erat, tempor et, elementum fringilla, partentetque ac, odio. Cras sed felis. Aliquam erat volutpat. Etiam tristique. Donec pellentesque, nulla semper adipiscing faucibus, nibh augue semper sapien, eget feugiat dui massa et urna. Nullam ac arcu. Quisque interdum. Morbi tristique sagittis arcu. Phasellus euismod ante eget risus. Nam conwallis rutum augue. Pellentesque placerat ultrices tellus.

Ut lacinia. Sed aliquet diam et odio. Nunc ultrices pretium urna. Sed risus velit, nonummy eget, suscipit at, sagittis in, tortor. Quisque risus. Duis porta. Nunc blandit, augue et nonummy ultrices, lacus justo tristique nibh, eu vestibulum turpis metus leucis ipsum. Morbi neque. Quisque augue. Etiam euismod noncum metus. Aliquam auctor libero non nisi.

Pellentesque habitant morbi tristique senectus et netus et malesuada fames ac turpis egestas. Nullam justo lectus, lobortis id, pharetra eu, pulvinar ac, nibh. Sed hendrerit pretium urna. Vivamus ut ipsum eget justo adipiscing adipiscing. Donec lectus arcu, interdum eget, malesuada a, euismod sed, sapien. Proin imperdiet, nulla sit amet mattis adipiscing, enim nibh condimentum metus, sit amet lacinia tortor ante eget magna. Mauris eget enim ac ante luctus ultrices. Integer eu nunc eget tellus laculis vestibulum. Suspendisse potenti. Aenean aliquam mauris id turpis.

Your Sincerely,
Daniel Brady

100 Long St, Brisbane, QLD, Australia
Tel: 123 131 222 Fax: 123 131 223



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Answer:

You may create your own version to clearly state what your company needs. You do not have to use the exact Notice of Hire template on our website.

The template that is provided is just a template. It may be used as a guideline of what the Notice of Hire must include. Employers who choose to create their own Notices of Hire must be sure to include the required information on all Notices of Hire to all of their employees.





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The notice must include the following:

- Name of the employer and any “doing business as” (DBA) names used by the employer
- Physical address of the employer’s main office or principal place of business, and a mailing address if different
- Telephone number of the employer
- Employee’s rate of pay and the basis of that rate, including:
 - Rate by the hour, shift, day or week (whichever is applicable)
 - Salary, piece rate or commission (whichever is applicable)
 - Any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances
 - Overtime rate of pay or exemptions from overtime pay
 - Living wage or exemptions from the living wage
 - Any applicable prevailing wages
- Employee’s regular pay day designated by the employer





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ADDITIONAL INFORMATION

For the complete text of the Wage Theft Prevention Amendment Act of 2014,
please visit: www.does.dc.gov

Or download the Act at:

<http://lims.dccouncil.us/Download/31203/B20-0671-SignedAct.pdf>

For questions or concerns, please contact the
D.C. Office of Wage-Hour at **202-671-1880**.

or

Email: OWH.ASK@dc.gov

Office hours:

8:30 a.m. to 4:30 p.m. – Monday through Thursday

9:30 a.m. to 4:30 p.m. – Friday

