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3 Chairman Phil Mendelson

  
Councilmember Vincent Orange

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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 2<sup>nd</sup> 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;

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

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

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

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

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

98                   Sec. 3. Section 2 of An Act to provide for the payment and collection of wages in the  
99 District of Columbia, approved August 3, 1956 (70 Stat 976, D.C. Official Code § 32-1302), is  
100 amended by striking the phrase “Every employer shall pay all wages earned to his employees at  
101 least twice during each calendar month, on regular paydays designated in advance by the  
102 employer;” and inserting the phrase “Every employer shall pay all wages earned to his  
103 employees on regular paydays designated in advance by the employer and at least twice during  
104 each calendar month, except that all bona fide administrative, executive, and professional  
105 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**

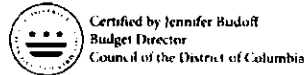


**Jennifer Budoff**  
Budget Director

**FISCAL IMPACT STATEMENT**

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

**FROM: Jennifer Budoff, Budget Director**



**DATE: January 29, 2015**

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

**TYPE: Emergency**

**REQUESTING OFFICE: Chairman Phil Mendelson**

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**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**

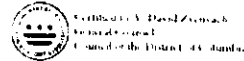
This legislation will not impact spending.



**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.