

DC DEPARTMENT OF EMPLOYMENT SERVICES

OFFICE OF WAGE-HOUR COMPLIANCE



2022 ACCRUED SICK AND SAFE LEAVE ACT STUDY

Acronym List

ASSLA – Accrued Sick and Safe Leave Act of 2008

BLS – Bureau of Labor Statistics

DCHR – Department of Human Resources

DCPS – District of Columbia Public Schools

DLCP – Department of Licensing and Consumer Protection

DOES – Department of Employment Services

ESL – Employee Sick Leave

ESSLA – Earned Sick and Safe Leave Amendment Act of 2013

OAG – Office of the Attorney General

OWH – Office of Wage-Hour

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Executive Summary

From September 7 - 25, 2023, Bayne Limited Liability Company (Bayne) conducted a web-based survey (N=1,022), three roundtables, and one semi-structured interview with District of Columbia Government officials. The research was conducted in order to support Section 16 of the Accrued Sick and Safe Leave Act of 2008 (ASSLA), which requires the District to conduct an annual audit of a sample of District businesses to evaluate (1) businesses' compliance with the posting requirements, and (2) whether companies are using staffing patterns to circumvent the intention of ASSLA, and the Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA).

Additionally, the research sought to identify any impact ASSLA and ESSLA have had on the private sector and gauge the overall effectiveness of the District's efforts to enforce compliance. The research team conducted more in-depth research into the childcare industry, as well as the construction, cosmetology, education, and security industries, in order to evaluate whether industry-specific factors impacted compliance.

The survey included three optional demographic questions and one required eligibility question. Depending on each respondent's answers, the online survey would present either employee-track questions, business-track questions, or a statement regarding the qualifications for participating in the survey. The employee track included 13 questions, and the business track included 20 questions.

The sampling frame consisted of owners and representatives of businesses that operated in the District during 2022 and individuals who were employed in the District during 2022. The survey was distributed via email and SMS messaging to a database of District businesses compiled from the District of Columbia Paid Family Leave database and a list of registered voters acquired from the District of Columbia Board of Elections. Additional efforts to increase participation included utilizing community listservs and social media-based outreach. The survey was distributed to more than 50,000 contacts.

Overall, the survey yielded 1,022 responses. Out of these, 70 were ineligible to complete the survey because they did not own, manage, or work for a business or organization in the District in 2022. Another 216 participants started the survey but did not answer every question. In sum, there were 736 complete responses.

Roundtable participants were recruited through a question at the end of the survey. The purpose of the roundtables was to gain a better understanding of ASSLA compliance in the focus industries and assess if there were unique challenges in each industry that impacted companies' ability to comply with the law.

The research team conducted a semi-structured interview with a representative from the Department of Employment Services (DOES).

Key Findings

Survey Results

- There is a gap between employer and employee reporting of paid leave benefits and compliance with posting the ASSLA/ESSLA poster in the workplace.
- ASSLA/ESSLA had either no impact or a positive impact on employee performance and turnover and a negligible or negative impact on business profitability.
- Nearly half (49%) of the employee respondents did not know that District law requires companies to offer paid leave for stalking, domestic violence, or abuse under ASSLA/ESSLA.

Roundtables

- Employees expressed a universally strong lack of knowledge about ASSLA across all industries and expressed confusion regarding how ASSLA applies to and impacts their employers' leave policies.

Staff Interviews

- DOES took action to address the 2020 audit recommendations by continuing robust partnerships with a variety of professional associations and trade organizations representing employers and employees, as well as engaging in direct outreach to employers and employees through special initiatives.

Recommendations

1. Revisit ASSLA poster requirements for hybrid/remote work environments.

-
2. Increase outreach to ensure workers are aware of their rights to use leave in stalking, abuse, or domestic violence situations.

Introduction

Background

The Accrued Sick and Safe Leave Act of 2008

In March 2008, the District of Columbia (DC) Council passed the Accrued Sick and Safe Leave Act of 2008 (ASSLA), which required employers to provide Personal Time Off (PTO) to all employees who spend at least 50% of their work time in the District. After going through the mandatory congressional review process and being signed by former Mayor Adrian Fenty, the law became applicable on November 13, 2008.

ASSLA requires that employers provide a certain amount of accrued paid leave to their employees based on business size¹:

- An employer with 100 or more employees must provide 1 hour of paid leave for every 37 hours worked, not to exceed 7 days per year;
- An employer with 25 to 99 employees must provide 1 hour of paid leave for every 43 hours worked, not to exceed 5 days per year; and
- An employer with 24 or fewer employees must provide 1 hour of paid leave for every 87 hours worked, not to exceed 3 days per year.

Under the original ASSLA, businesses were not required to provide paid leave to independent contractors, full-time students who work less than 24 hours per week at the college or university that they attend, healthcare workers who participate in premium pay programs, tipped restaurant employees, or employees who work less than 1,000 hours per year.

Furthermore, while employees began accruing sick leave from the first day of employment, they were not eligible to use their sick leave until after completing their first year of employment.

¹ Note: Employers are not required to have separate “sick leave” and “personal leave” policies. They can combine all leave types into one policy, as long as it meets the minimum requirements specified in ASSLA.

ASSLA allows workers to use their mandated leave to care for themselves or a family member. For the purposes of ASSLA, a family member is defined as a spouse or domestic partner, parent, parent of a spouse, children or grandchildren, spouses of children, siblings, and the spouses of siblings.

Under ASSLA, a worker's unused sick leave is carried over from year to year, but employers are not required to pay a worker more than the maximum amount of sick leave allowed for that year, in that year.

The Earned Sick and Safe Leave Amendment Act of 2013

In February 2013, the DC Council passed the Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA). The law became effective on February 22, 2014, and modified ASSLA in a number of significant ways. ESSLA reduced the probationary period for use of sick leave from 12 months to 90 days. It also extended protection to employees working in restaurants and bars who receive tips, commissions, or other gratuities, and receive a base wage that is below the DC minimum wage.

Objectives & Additional Research Questions

The primary purpose of this study is to comply with Section 16 of ASSLA, which requires an audit of a sample of DC businesses to determine their compliance with posting requirements and whether companies are utilizing staffing patterns to circumvent ASSLA's intent. The two primary objectives of this study were to:

1. Gauge the compliance level of DC-based businesses with the requirement to post a notice advising employees about ASSLA.
2. Determine if businesses are using staffing patterns to circumvent the intent of the law.

Additionally, this study seeks to accomplish the following secondary objectives:

1. Assess the economic impact of ASSLA on the private sector.
2. Determine whether DOES and other agencies are adequately protecting workers' rights and enforcing ASSLA's provisions.
3. Provide additional insights about compliance in five focus industries (construction, childcare, education, cosmetology, and security).

4. Determine if there are significant differences between employee and employer perspectives of both the law and employer compliance levels.

Methodology

To achieve the objectives and answer the research questions mentioned in the previous section, Bayne used a multi-faceted approach to collect information. These methods included:

- A web-based survey for both DC businesses and employees.
- Three roundtables with employees from the targeted industries.
- A semi-structured interview with a District official.

Bayne developed a web-based survey that included questions for both employees and business owners or executives (Appendix A). The survey included three optional demographic questions that captured racial identity, gender identity, and age. Respondents were then required to self-certify as an owner or manager of a District-based business in 2022 or that they were employed for more than 90 days in the District in 2022. Participants that asserted that neither condition applied to them were routed to a disqualification page and not allowed to continue the survey.

Participants who self-certified as employees were then asked 13 questions that gathered information about their employment, pay, allotted leave, knowledge of their rights, and compliance of their employer.

Participants who self-certified as business owners or representatives were then asked 19 questions and one (1) follow-up question that gathered information about their business, knowledge of the law, and compliance with the law. The follow-up question was only asked if the relevant question received a specific response.

The survey was initially distributed through email and text message. DOES provided a spreadsheet that contained approximately 6,000 valid email addresses and 10,000 phone numbers. Each contact received email invitations on Mondays and Thursdays of each week between September 7 and September 22, 2023. A corresponding text message was also sent twice weekly to those business contacts whose primary number was connected to a mobile device. The project team also contacted over 40,000 registered DC voters to solicit their participation in the survey.

The research team also hosted three roundtables to conduct a more thorough analysis of the five focus industries (daycare, construction, education, cosmetology, and security).

The roundtable questions (Appendix B) were developed based on the purpose of the study, feedback from the survey, and insights from conversations with DOES staff. Each focus group was conducted using a combination of predetermined questions and an opportunity for free-flowing, open discussion.

Participants were recruited and identified through two methods. Survey participants who identified themselves as employees were asked if they were interested and willing to participate in a roundtable. Participants were also recruited via listservs and social media ads.

The research team conducted a semi-structured interview with a representative from DOES. The purpose of the interview was to gain a better understanding of the agency's role in enforcing ASSLA, how the agency collaborates and communicates on ASSLA-related matters, and the official's perception of the District's ASSLA enforcement efforts.

Survey Results

Bayne developed a survey that included questions for both employers and employees about their workplace experiences in 2022 (Appendix A). The survey included three optional demographic questions that captured racial identity, gender identity, and age. Participants who self-certified as employees were asked 13 required questions that gathered information about their employment, pay, allotted leave, knowledge of their rights, and compliance of their employer. Employers were asked 20 questions (19 and one follow up question) that gathered information about their businesses, knowledge of the law, and compliance with the law. Both the employers and the employees were asked to provide contact information if they were willing to participate in roundtables.

The survey was initially distributed through email. DOES provided a spreadsheet that contained approximately 6,000 email addresses of DC business owners. Each contact received an email invitation the week of September 11, 2023, and had two weeks to complete the survey.

While 1,022 people completed the survey, only 236 qualified as self-certified employers and 716 qualified as self-certified employees. Seventy respondents did not certify as either an employee or employer and were not allowed to continue the survey. While self-employed business owners with no employees are not subject to ASSLA, their information is included in this report to reflect the full survey response and to provide more insight into businesses in the District.

This section of the report delivers the results of the online survey to evaluate compliance with the requirements of ASSLA and the perceived economic impact of such compliance.

Business Perspective

The sample size for business owners and operators was 236. Business characteristics — such as number of employees, years of operation, and revenue — were used to develop a profile for the businesses reflected in the sample. Figure 1 shows a broad distribution of businesses, with construction (49), wholesale trade (21), other (20), accommodation and food services (18), and professional, scientific, and technical services (16) being most prevalent.

The survey captured a broad range of businesses and their years in operation (Figure 2). There was a fairly even number of business respondents that have been in operation for 1-4 years (27%), 5-9 years (32%), and 10-19 years (33%), and 8% of respondents indicated they have been in operation for 20 years or more. Fifty-six (56) respondents did not answer this question.

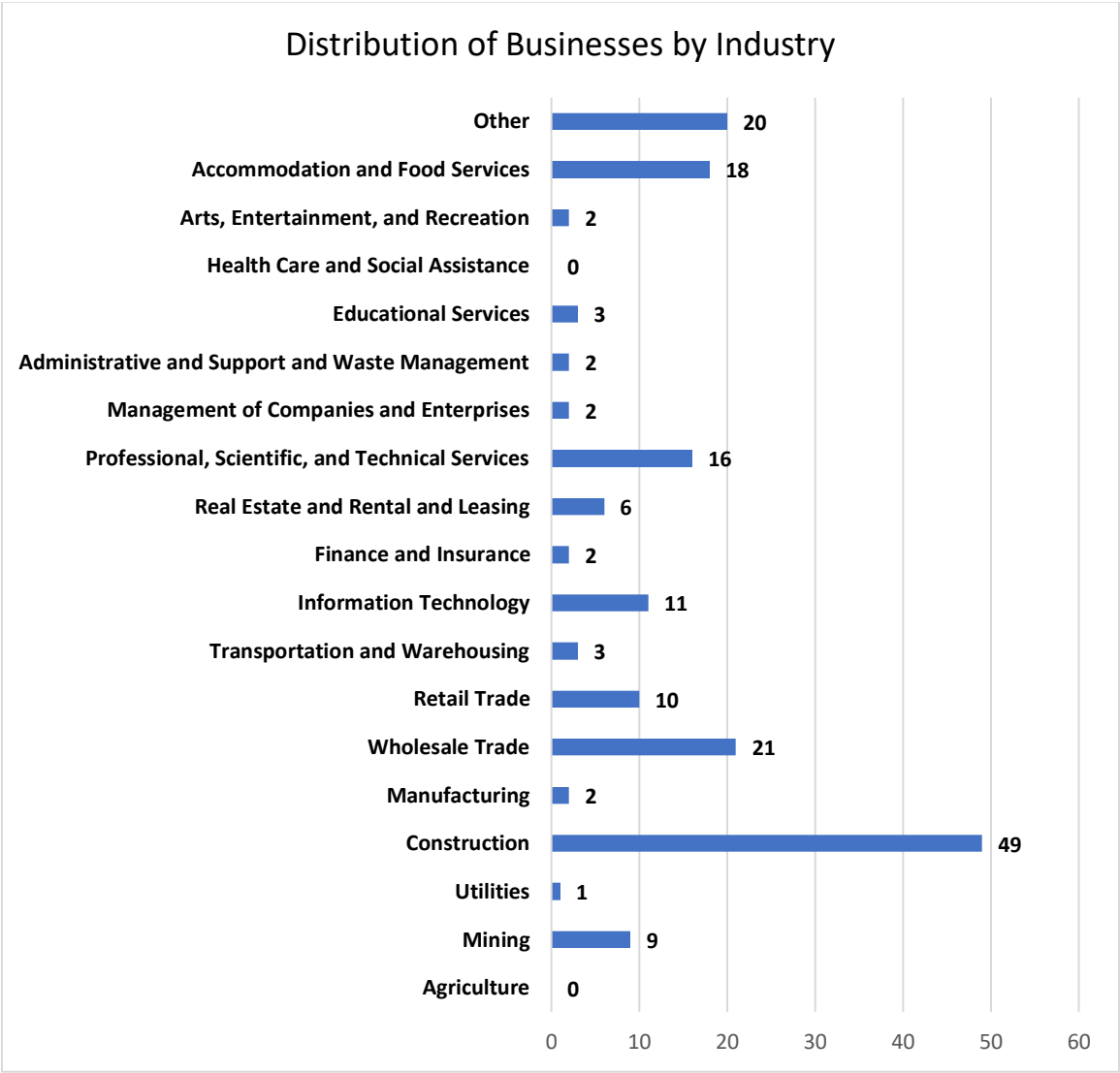


Figure 1: Distribution of Businesses Surveyed

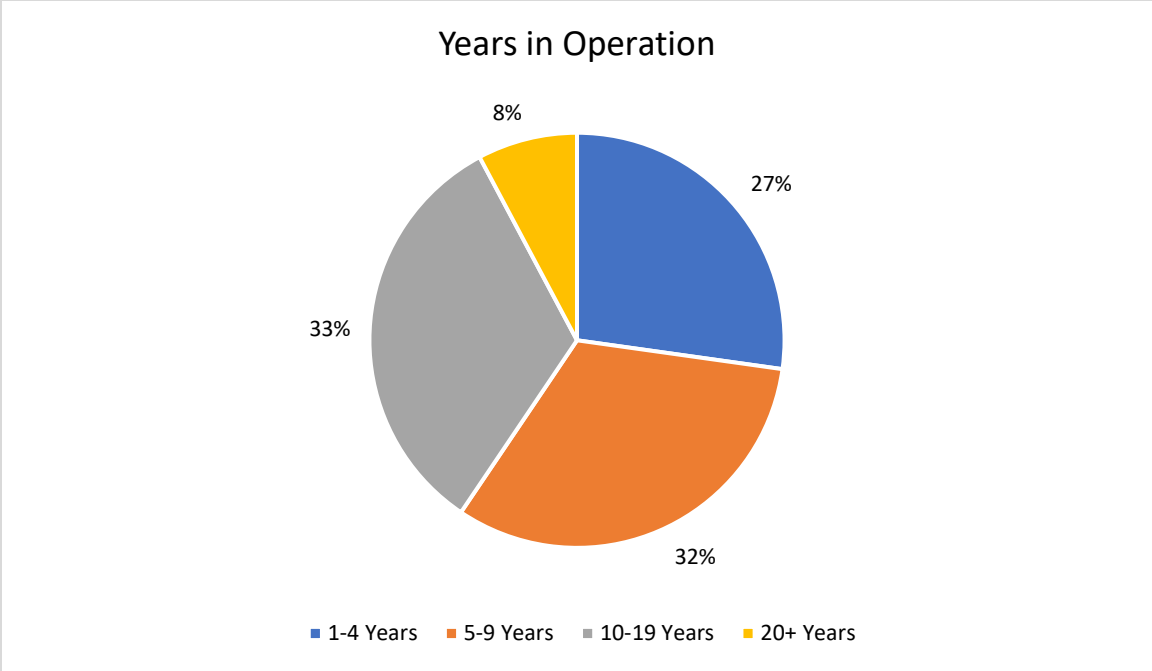


Figure 2: Years in Operation of Businesses Surveyed

The majority of businesses that responded to the survey have between 1 and 24 employees (48%) or 25-99 employees (35%) (Figure 3).

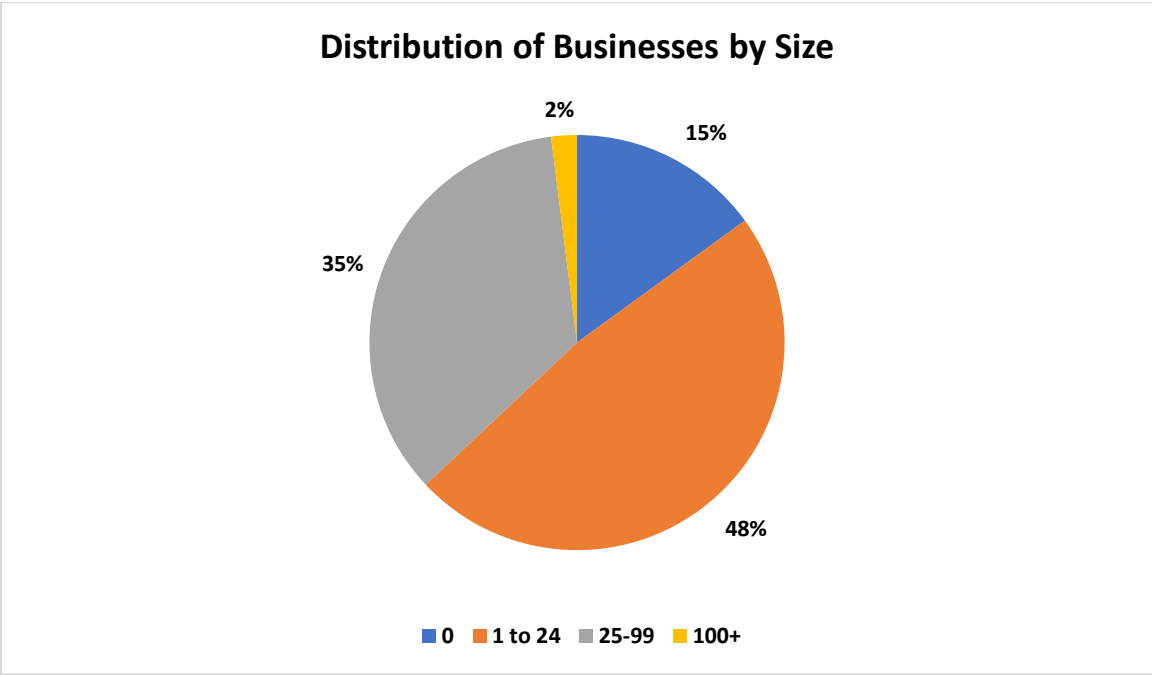


Figure 3: Size of Businesses Surveyed

Forty-two percent (42%) of businesses surveyed reported earning less than \$1 million annually, while 55% earned between \$1 million and \$25 million annually (Figure 4).

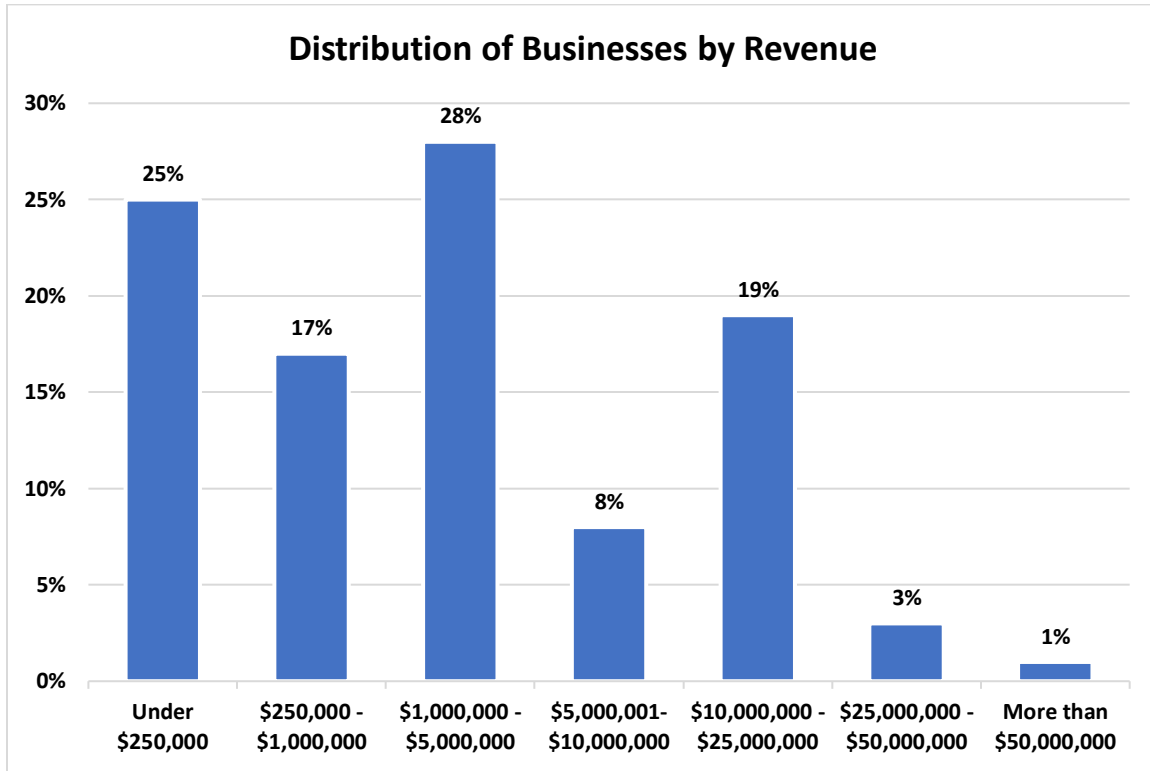


Figure 4: Revenue of Businesses Surveyed

Overall, the typical employer respondent was a business of 1-24 employees, in operation for 10 years and earning between \$1 million - \$5 million annually.

Compliance with ASSLA/ESSLA

Most employers surveyed (84%) were aware that tipped employees in the District should be paid \$8/hour. Only 69% displayed the leave law in their workplaces. The most common way employers learned about ASSLA/ESSLA was from the DC Government website (41%).

Employer respondents offered relatively high rates for leave benefits at 85%. Fifteen percent (15%) of respondents offered no leave benefits to employees (Figure 5). (These results indicate a continued increase in overall leave rates since 2019. The overall leave rates reported in the 2019 and 2020 ASSLA reports were 51.79% and 74.6%, respectively.) The most common leave benefits offered in 2022 were paid vacation leave (45%), undesignated leave or paid time off (34%), and paid sick days (31%).

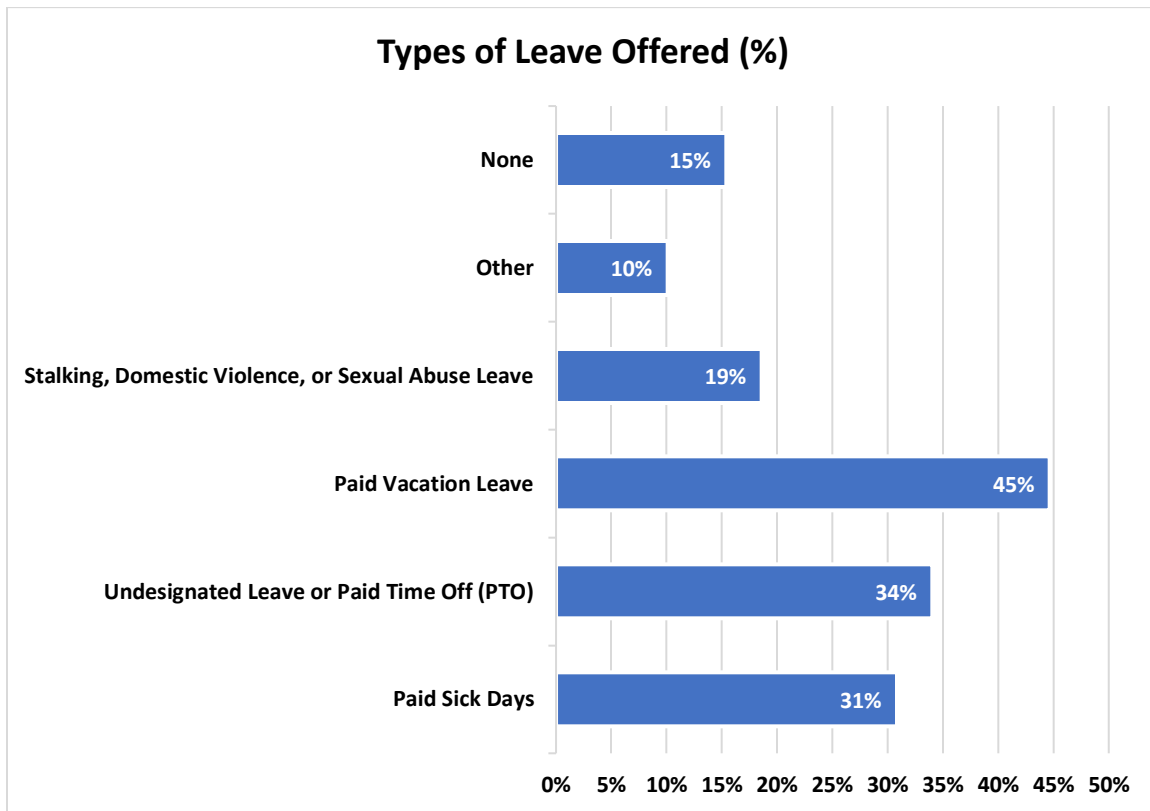


Figure 5: Types of Leave Benefits Offered by Employers Surveyed

The larger the business, the more generous the paid leave. All of the business owners with 25 or more employees reported offering paid leave benefits, compared to 85% in workplaces with 1-24 employees. The trend in the 2019 and 2020 ASSLA reports indicated that the longer a business had been operating, the more likely it would offer paid leave, but this was not the case in 2022, as many employers operating for fewer years offered paid leave (Figure 7). A positive trend this survey reveals is that more employers seem to be offering paid leave benefits; in the

2019 ASSLA report, 27% of employers responded that they offered no leave benefits, compared to 21% in 2020, and 15% in 2022.

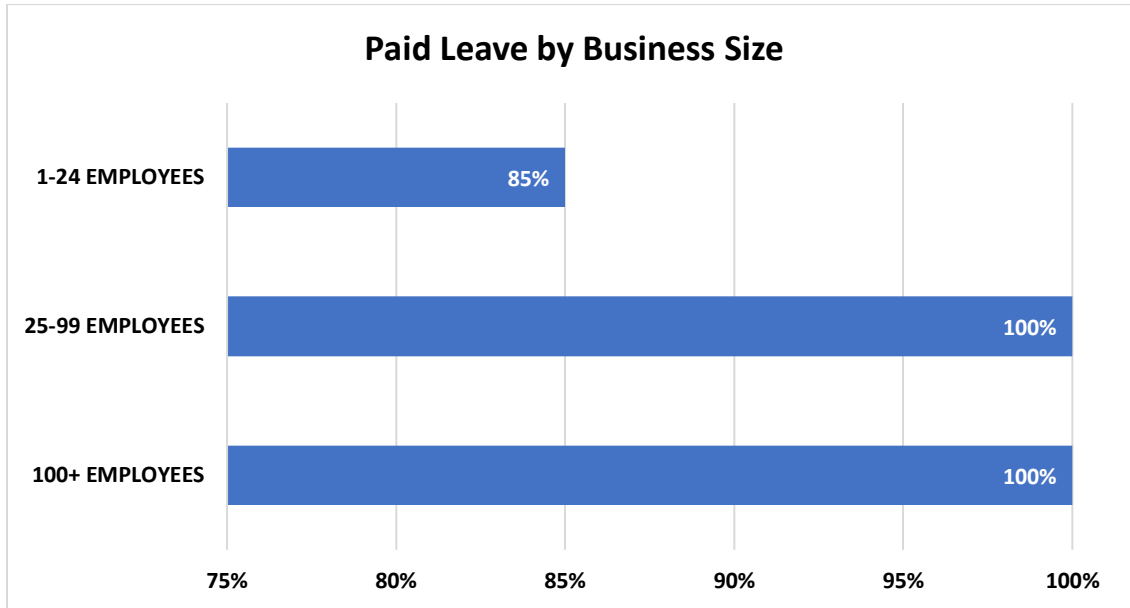


Figure 6: Paid Leave by Business Size

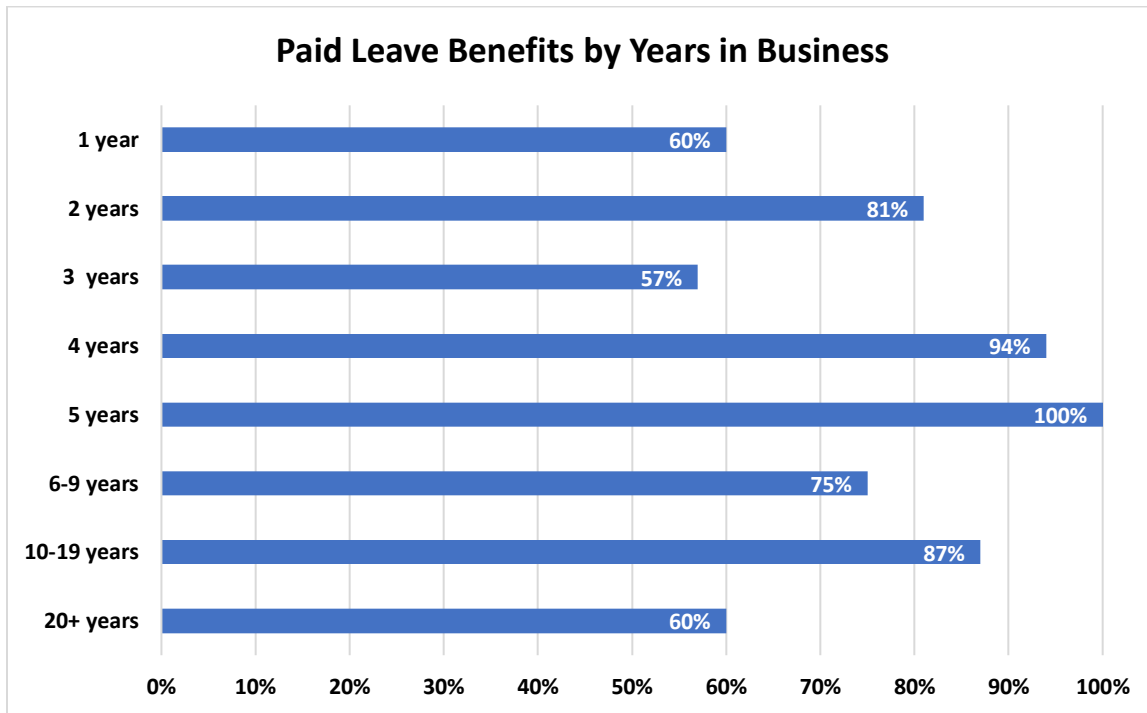


Figure 7: Paid Leave Benefits by Years in Business

In the 2019 and 2020 ASSLA reports and in this study, display of the ASSLA/ESSLA poster in the workplace correlated with the size of the business (Figure 8) and with the number of years in operation (Figure 9). The four (4) businesses employing 100+ people displayed the poster, and 96% of businesses employing 25-99 employees displayed the poster compared to only 74% for smaller businesses. Younger businesses were just as likely as more established businesses to have displayed the poster. Businesses operating for three years boasted the highest rate at 100%. Surprisingly, the businesses operating for 20 or more years had the second lowest compliance rate, 46%. More than half of the respondents who did not post the ASSLA/ESSLA poster did not reach out to DC Government to find out more; 40% noted that it wasn't necessary because they're self-employed, and 33% said they did not know a poster was available. Compared with previous years, compliance is better, but still far from perfect. In the 2019 ASSLA report, 51% of employers reported that they had not displayed the poster, compared to 75% in 2020, and 71% in 2022.

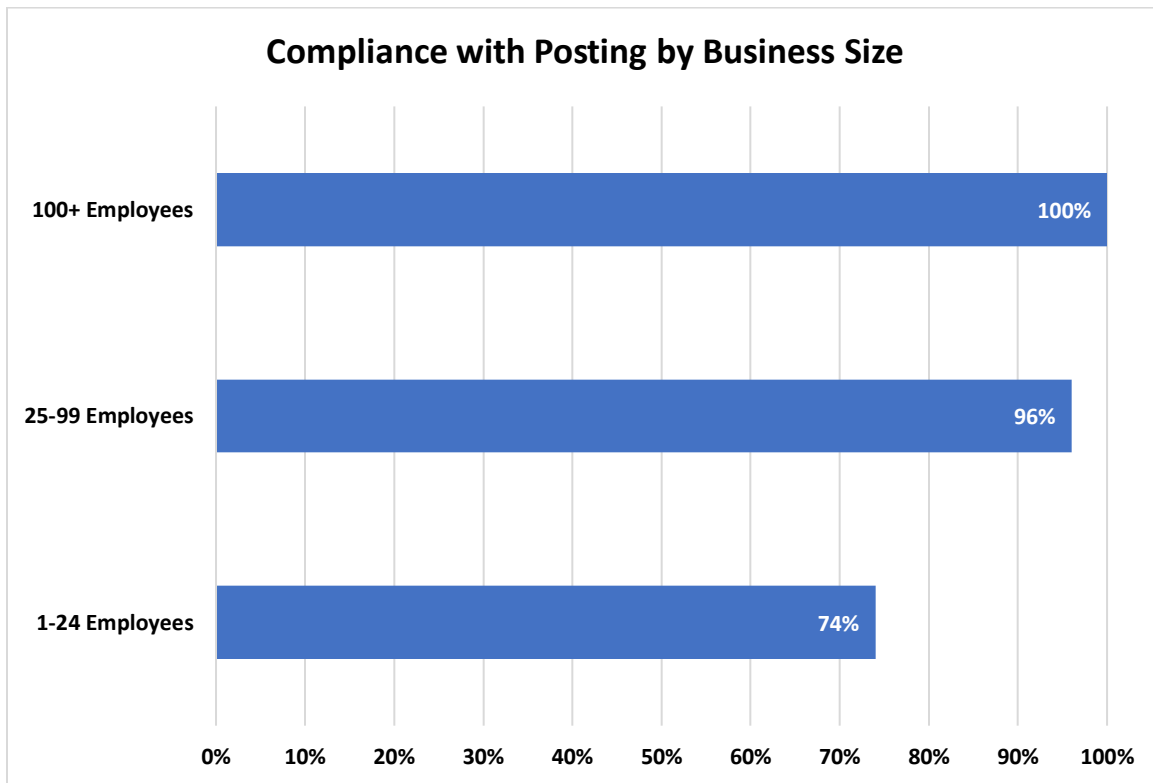


Figure 8: Compliance with Posting by Business Size

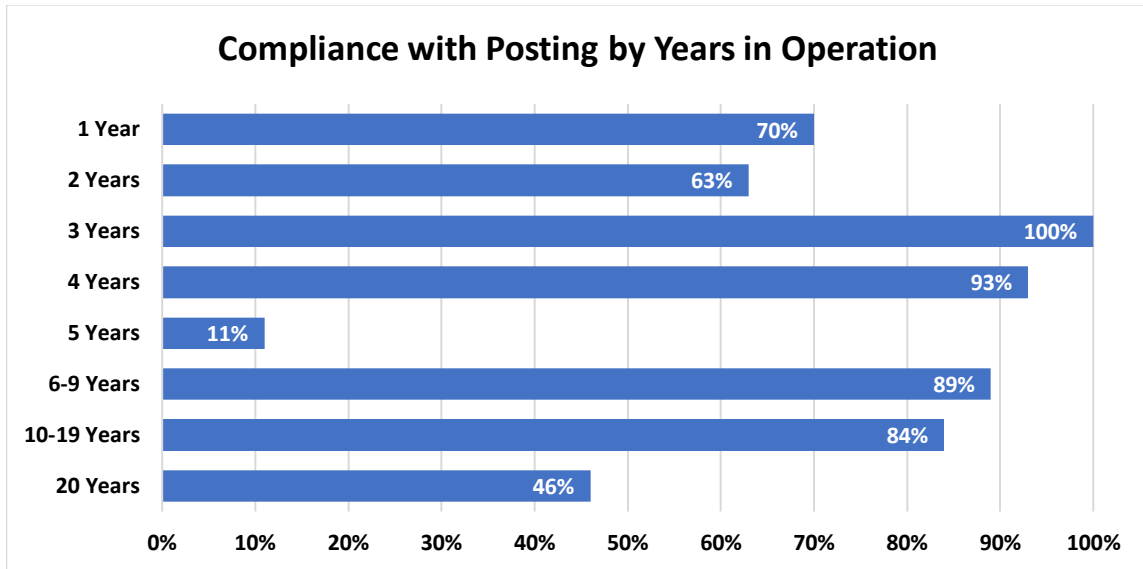


Figure 9: Compliance with Posting by Years in Operation

As noted in Figure 10, 41% of the employers surveyed made no changes to their employees' salaries, benefits, and bonuses to offset the possible negative impact of ASSLA/ESSLA, but over a third reduced employees' salaries, benefits, and bonuses (35%). In the 2020 ASSLA report, only 13% of employers reported reducing benefits to offset ESSLA/ASSLA, so this year's survey shows a significant change from prior years.

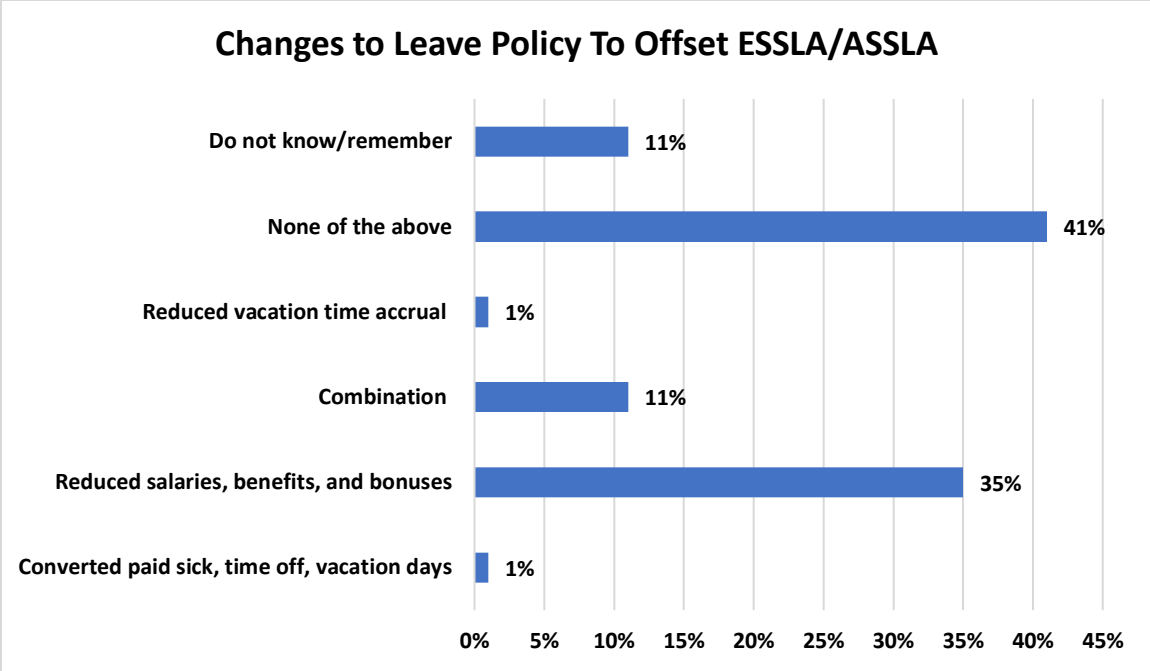


Figure 10: Changes to Leave Policy to Offset ESSLA/ASSLA

Economic Impact of ASSLA

Three survey questions asked employers to assess ASSLA/ESSLA’s impact on employee performance, turnover, and business profitability. Most employers surveyed either did not know if the leave laws had an impact or felt the laws had no impact on employee performance or turnover: 69% did not know or recorded no impact on performance; 56% did not know or recorded no impact on employee turnover; and 52% did not know or recorded no impact on profitability. Most employers either did not know or felt the laws had no impact on their profitability; however, 41% of respondents felt the laws decreased profitability compared to only 7% who felt it increased their profitability (Figure 13).

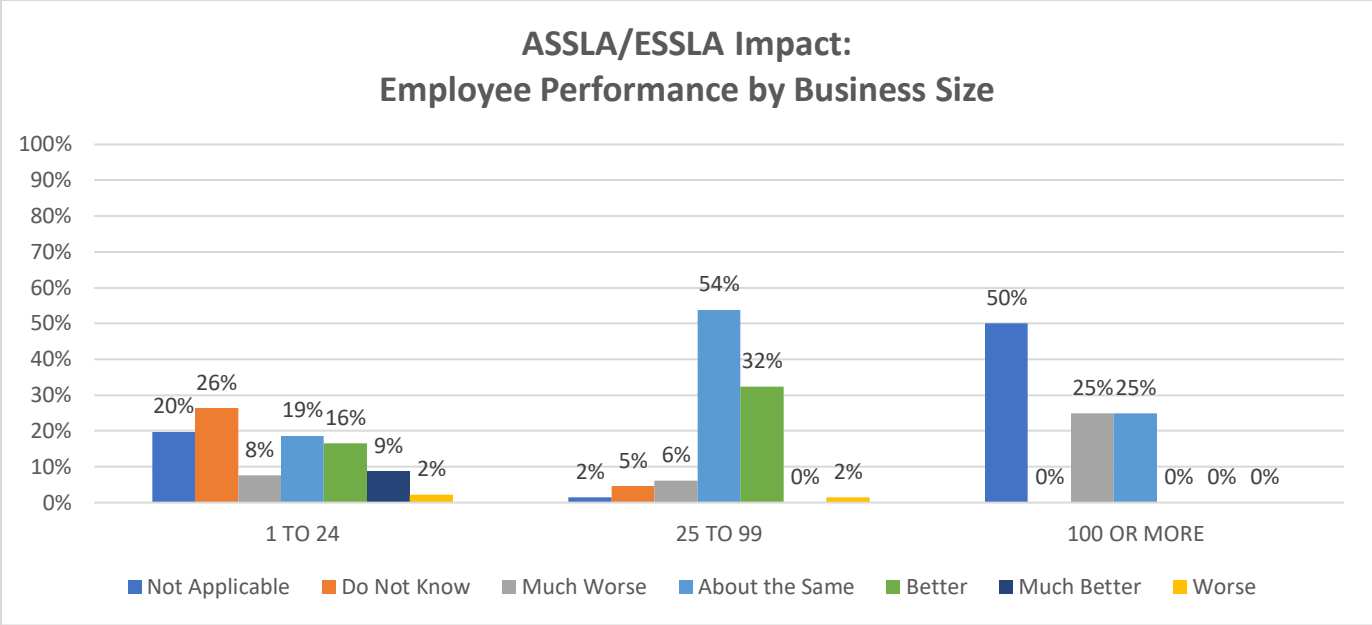


Figure 11: ASSLA/ESSLA Impact: Employee Performance by Business Size

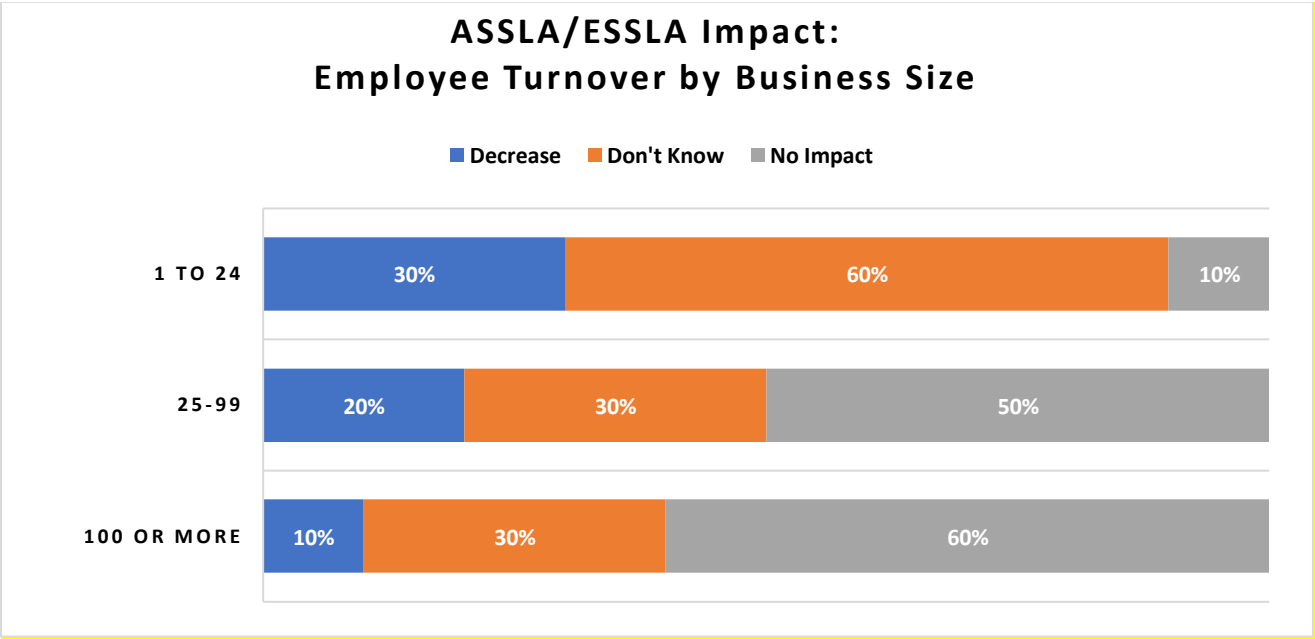


Figure 12: ASSLA/ESSLA Impact: Employee Turnover

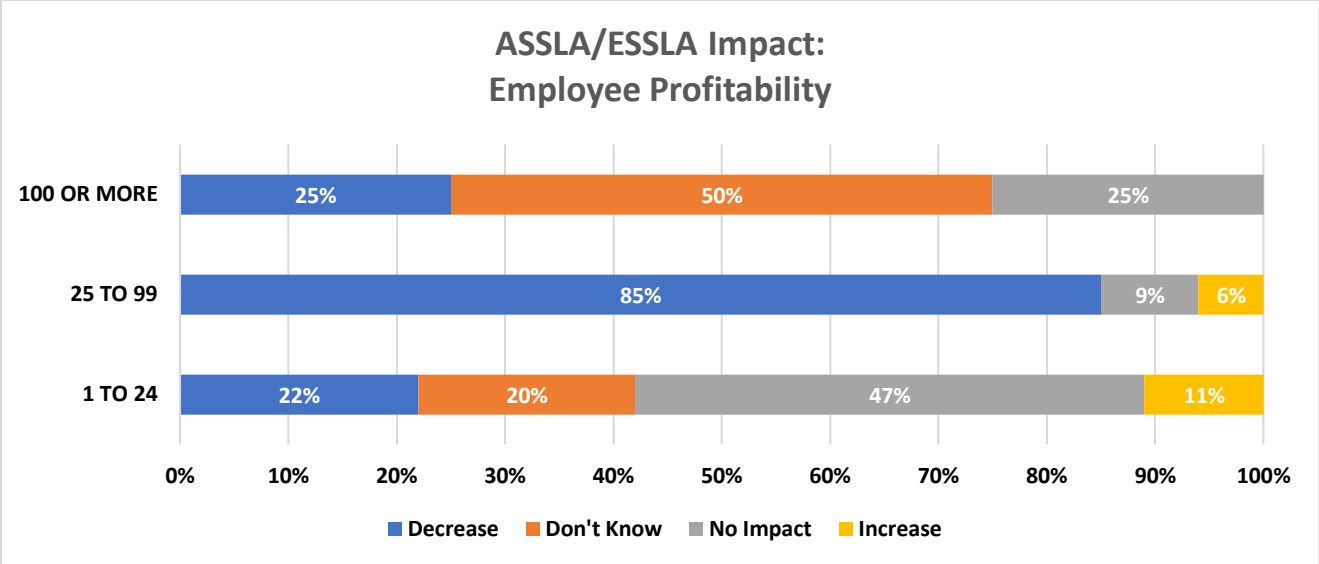


Figure 13: ASSLA/ESSLA Impact: Profitability

Close to half of employers surveyed reported that they changed their leave policy (45%) and put measures in place to offset any negative impact of ASSLA/ESSLA (47%); the most common change involved reducing employee salaries, raises, and bonuses (35%). In the 2020 ASSLA report, only 16% made changes in 2019 and 18% in 2020; only 4% of respondents implemented measures to offset ASSLA/ESSLA in 2019 and only 7% in 2020.

Employee Perspective

The respondents represented a cross-section of the employment landscape. As shown in Figure 14, the largest number of responses came from Professional, Scientific, and Technical Services (79); Health Care and Social Assistance (52); Retail Trade (47); and Construction (46).

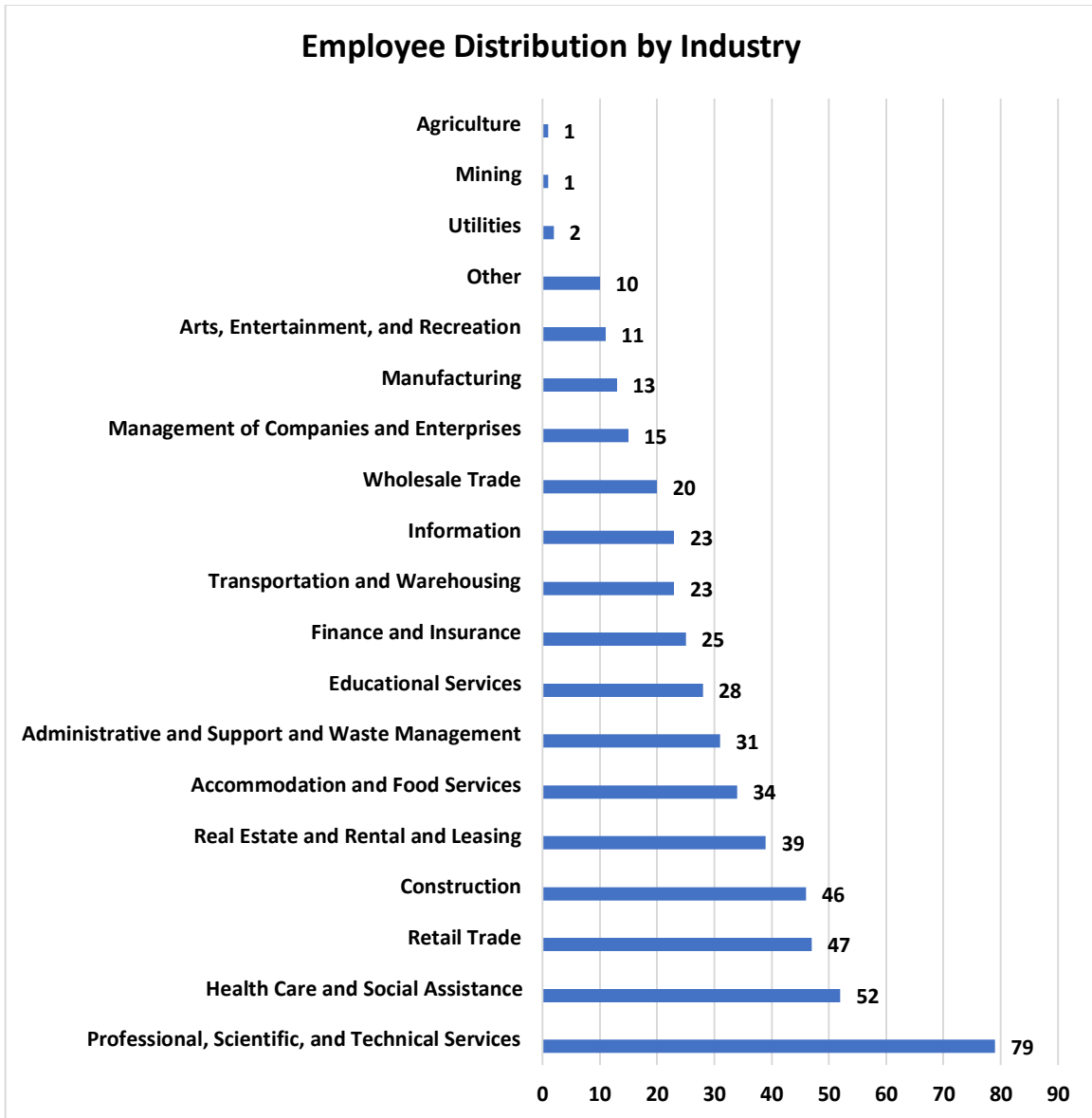


Figure 14: Distribution of Industries for Employees Surveyed

Just under half (44%) of the respondents were paid bi-weekly (Figure 15); 82% received itemized statements when they were paid.

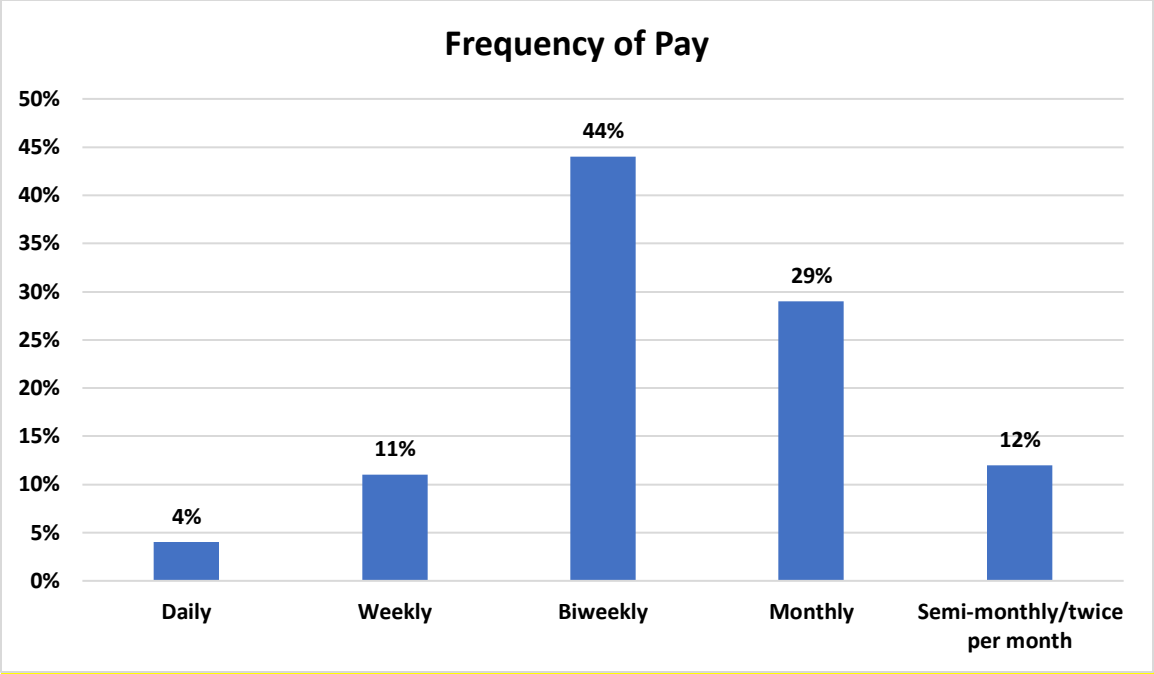


Figure 15: Frequency of Surveyed Employees' Pay

Compliance with ASSLA

While most employees surveyed (81%) knew that tipped employees were supposed to receive at least \$8.00/hour standard pay, 112 (19%) did not know. Close to half of the respondents (49%) did not know that their employer was required to offer paid leave for absences associated with stalking, domestic violence, or abuse. Most employees indicated that their employer offered paid leave (90%). Forty-one percent (41%) of respondents noted that the requirements for ASSLA/ESSLA were not displayed at their worksite. Furthermore, 56% of respondents reported that they performed work for which they were not paid; most often, (43%) were asked to start work early or stay late, and they were not paid or were not paid correctly (Figure 16). In fact, 33% of employers surveyed noted that they had docked employee salary or benefits 6-10 times in the year.

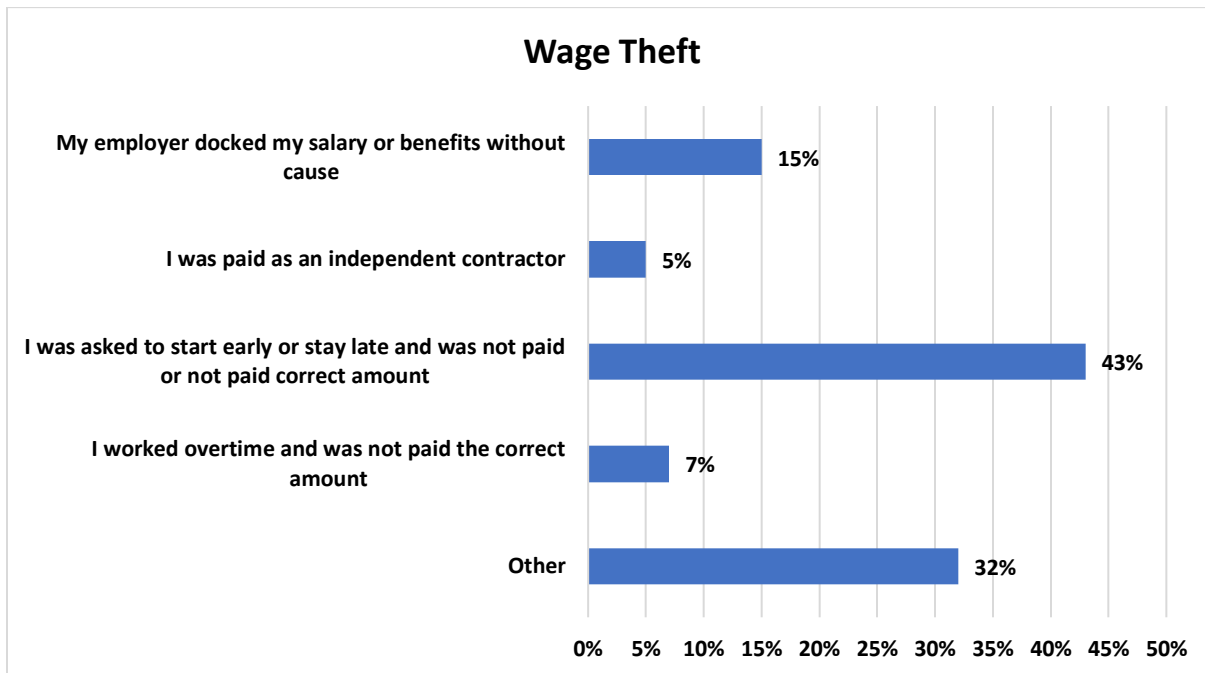


Figure 16: Wage Theft Reported by Employees Surveyed

The percentage of employees reporting that they performed work for which they were not paid also increased dramatically. According to the prior ASSLA reports, it was less than 1% in 2019 and 7% in 2020. In the 2022 survey, 56% of surveyed employees claimed to have experienced wage theft. Relatedly, the number of employees reporting that they received an itemized statement of their earnings each pay day declined, from 98% in 2019 to 94% in 2020, and to 82% in 2022.

Focus Industries

Among the five (5) focus industries for this report – construction, cosmetology, daycare, education, and security — an average of 70% of employers reported offering paid leave, while 78% of employees reported receiving paid leave (Figures 17 and 18, respectively). Employers from the focus industries represented 21% of total employer respondents, and employees from focus industries represented 15% of total employee respondents. Only 59% of employees from the focus industries reported that their job offered paid leave, whereas 83% of employers from the focus industries reported that they offered paid leave. However, owners and employees of cosmetology and security businesses did not respond to the survey. Between the employers and the employees who responded, the construction industry emerged as the industry most likely to offer paid leave benefits, and the security industry the least.

Employers in the construction industry offered the following: paid sick leave (6), paid vacation leave (7), undesignated leave or paid time off (12), paid sick and vacation leave and stalking leave (3), paid sick and vacation leave and undesignated leave or paid time off (3), other (3), and none (10). While 77% of employers reported that they offered paid leave, construction workers who responded to the survey indicated that 96% of their jobs offered paid leave benefits. Owners of daycare and education services both reported leave benefit rates of 67%; daycare workers and educators reported rates of 88% and 67%, respectively. In the daycare industry, owners offered either paid sick leave or paid sick and vacation leave and undesignated leave or paid time off. In education, owners offered paid sick leave and stalking, domestic violence, or abuse leave. No owners of a cosmetology or security business responded to the survey; however, employees in those industries did respond, with 83% of cosmetologists and 56% of security guards indicating their jobs offered paid leave benefits.

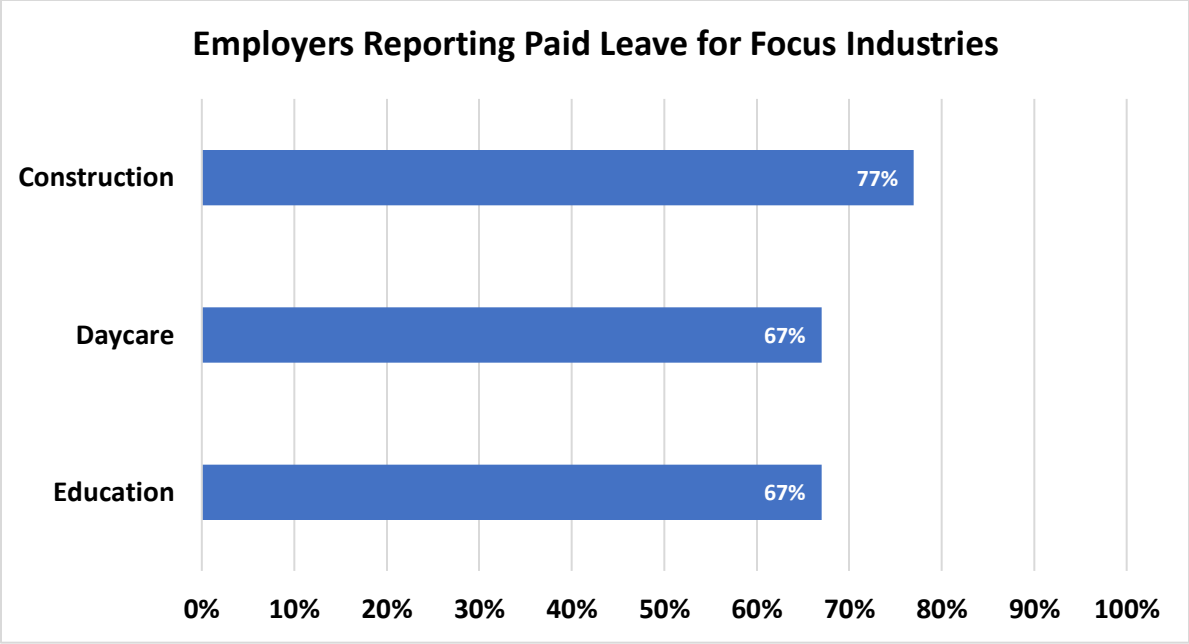


Figure 17: Employers' Reporting of Paid Leave for Focus Industries²

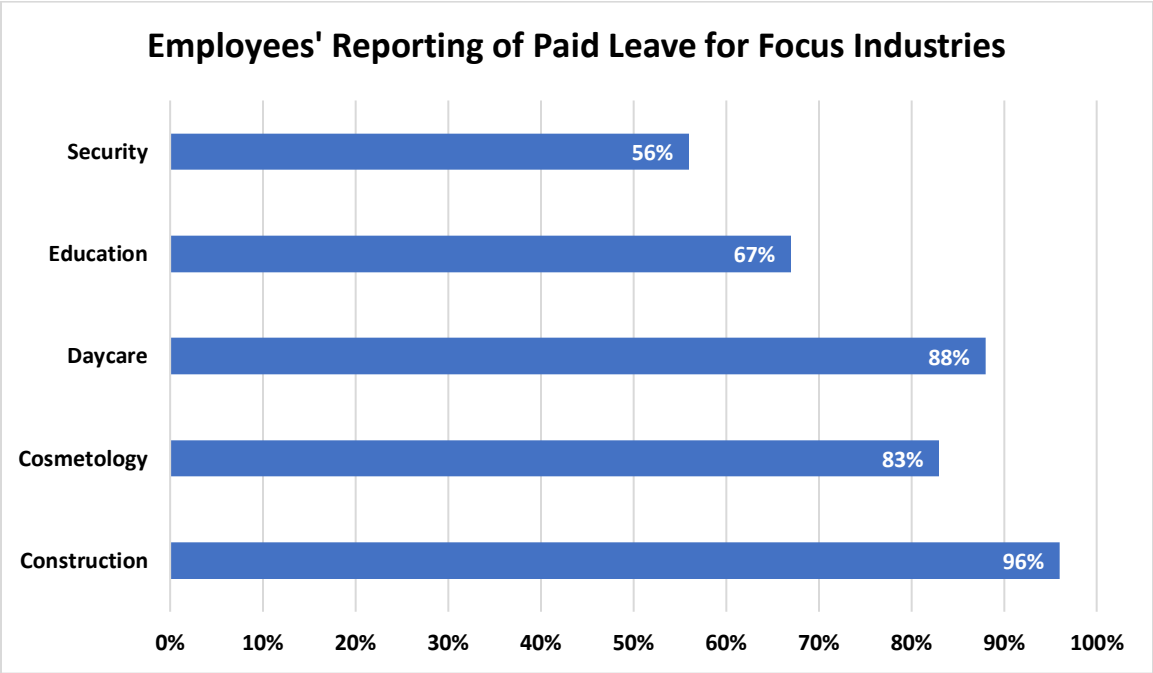


Figure 18: Employees' Reporting of Paid Leave for Focus Industries

² Note: There were no employer respondents from the security and cosmetology industries.

Comparing the survey data to national data compiled by the Bureau of Labor Statistics (BLS) is difficult because there were few or no respondents in some of the focus industry categories. Nevertheless, the BLS reported that in March 2022, 86% of full-time employees had paid sick leave; 70% at smaller workplaces and 91% at larger workplaces³.

Key Findings

There is a gap between employer and employee reporting of paid leave benefits and compliance with posting the ASSLA/ESSLA poster in the workplace. Data generated from the employee survey suggests that compliance with ASSLA/ESSLA provisions may be lower than businesses reported. According to 41% of employee respondents, the poster was not displayed at their worksites, while 69% of employer respondents indicated that they did post the poster. While 10% of employee respondents indicated that their job did not offer paid leave benefits, 15% of employers reported that they did not offer any benefits.

ASSLA/ESSLA had either no impact or a positive impact on employee performance and turnover and a negligible or negative impact on business profitability. When asked about the laws' impact on employee performance, 68% of employer respondents noted "about the same," or "not applicable," or "do not know." When asked about employee turnover, 56% of employer respondents noted "no impact" or "do not know;" yet, many more employers felt that the laws decreased versus increased turnover (29% versus 15%). With regard to business profitability, 59% of employer respondents noted "no impact" or "do not know;" however, 36% of respondents felt their profitability had decreased due to the implementation of the laws.

Nineteen percent (19%) of employee respondents did not know that District law requires that tipped employees receive at least \$8.00/hour pay. Forty-nine percent (49%) of employee respondents did not know that District law requires companies to offer paid leave for stalking, domestic violence, or abuse

³ Bureau of Labor Statistics, U.S. Department of Labor, *The Economics Daily*, 86 percent of full-time employees had access to sick leave benefits in March 2022 at <https://www.bls.gov/opub/ted/2022/86-percent-of-full-time-employees-had-access-to-sick-leave-benefits-in-march-2022.htm> (visited October 03, 2023).

under ASSLA/ESSLA. Finally, 56% of employee respondents wrote that they performed work for which they were not paid or were not paid correctly.

OWH Investigations

The Office of Wage-Hour Compliance (OWH) claims data shows that the agency investigated 23 ASSLA claims in 2022, and assessed \$1,093.88 in back wages, assessed \$2,093.88 in damages, and assessed \$1,900 in penalties for wage theft. OWH conducted 82 ASSLA site visits in 2022 and found no poster violations. In addition, OWH initiated 853 audit notices regarding employee sick leave (ESL), sent 942 ESL survey letters, and received 141 survey responses.

Roundtables

Overview

Three roundtable discussions were conducted with employees and one business owner in the span of two weeks in late September 2023. Participants represented four industry sectors: 1) childcare, which is made up of daycare and early childcare education employees; 2) construction; 3) education services, which includes public school and public charter school educators and administrators; and 4) professional, scientific, and technical services.

The roundtables comprised a total of seven individuals and were held via virtually. Initially, 21 people were invited to participate in 2 scheduled roundtables based on their industries and their indication of a willingness to participate. Three individuals signed up to take part in each; however, of the original six who signed up, only three participated. After another call for participants, three more individuals responded and indicated their willingness to participate. The construction industry had the smallest turnout with only one employer. The largest turnout came from the education services industry. One participant came from outside the five focus areas (professional, scientific, and technical services).

The discussions revealed key findings and trends across industries as it relates to employee knowledge of ASSLA, company implementation, and access to benefits and policies, as well as personal experiences in utilizing leave. All employees were limited in their knowledge of ASSLA and expressed confusion

between company benefits and the benefits/policies available to them under ASSLA and federal laws. The overall findings revealed that most participants were not knowledgeable about ASSLA regulations. Three of the seven participants were at least familiar with ASSLA but did not possess comprehensive knowledge. One business owner and a former business owner had more knowledge of ASSLA compared to those who worked in employee roles. Most participants were made aware of leave policies through their initial onboarding. They reported receiving an employee manual/handbook. They also reported that most information regarding leave policy is buried within their organization's website and is often difficult to find. One respondent from the childcare industry reported that requesting leave on short notice can be difficult given staffing shortages at their facility. Another in the same industry conveyed that leave with notice is often granted with no issues.

All participants were interested in receiving ASSLA education and information, preferably from the District Government through emails or banners on public transportation and in metro stations. Participants recommended that the District Government share ASSLA information so that employees can better understand their rights. In addition, the participants gave valuable insights on the underlying challenges across industries and shed light on their experiences with their employers. In conclusion, participants recommended tools, resources, and processes to improve the District Government's communications to employers, as the participants did not feel they knew enough about ASSLA from their employers.

Introduction

Roundtables were utilized to understand employee and employer perspectives beyond what a survey alone can assess. Our goal was to elicit and understand employees' insights directly and navigate towards common experiences and patterns. The exploratory questions for these interviews and discussions were intentionally crafted to understand varying perspectives based on differing conditions and were also centered on understanding where existing challenges in policy applications and navigation may exist.

Methodology

Three roundtables were conducted over a period of two weeks (on September 21, 22 and 27, 2023) with groups of two to three people, totaling seven participants across four industries. The challenge faced was that four to seven participants per group were expected based on initial feedback regarding roundtable interest gleaned from the survey. Three participants signed up for each roundtable; however, only two attended. After a third call for participants, three more individuals attended the last roundtable. We sent reminder emails to those who signed up. Most of the participants (five) were employees; one was a business owner, and one was unemployed, but was a previous business owner and served as a consultant in education services. The majority of the participants identified as female; one participant identified as male.

Participants were identified through one mechanism: the survey. In the survey, they indicated availability and interest in taking part in a roundtable. Late evening and Saturday options were offered for participants to avoid interrupting the workday. The sessions were hosted virtually. The audio of each session was recorded, and information was captured by transcription software. Participants were made aware that the sessions were being recorded for transcription purposes. Participants were assured that this process was confidential, and no participant's name would be included in the report.

The roundtable discussions were undertaken to 1) assess employees' familiarity with ASSLA, 2) assess compliance levels in the focus industries, and 3) assess ways the District Government can better support workers in the District and ensure employees are getting access to their legally mandated paid leave.

Key Findings

All employees and the employer participating confirmed that information about ASSLA is provided at a minimum via hard copies of employee handbooks upon an initial hire and/or is made accessible to employees via the company's human resources websites. However, they acknowledged that information can be difficult to find on the websites. In addition, there is a lack of specific education about ASSLA in general.

Employees expressed a universally strong lack of knowledge about ASSLA across all industries and expressed confusion regarding how ASSLA applies to and impacts their employers' leave policies. Some employees of District of Columbia Public Schools (DCPS) noted issues with leave and pay.

Childcare Industry and Education Services

Because of a low number of roundtable participants, individuals were not grouped according to industry. In the second and third roundtables, two-thirds of the participants came from the early childcare or education services industry. One participant was unemployed but had worked in education and previously owned an education services consulting business. One of the four participants in these industries identified as a male. All who were employed were employed between four (4) and 40 years.

Two participants worked in education (one DCPS employee, one DC Charter school employee). DCPS handles its own HR and personnel matters. At least one organization, a DC public charter school, used commercial software to track and manage leave.

In terms of the visibility of leave policies, i.e., posters, all of the participants reported that their employers did not post any ASSLA materials in visible locations. Based on employee feedback from the roundtable, most employees do not receive ongoing education, training, or information about amendments to ASSLA regulations. Most employees received initial information through access to online company portals, hard copies in company handbooks, and general information displayed around worksites. There does not seem to be continued training and updates to ensure employees across this sector are well informed about their companies' leave policies or what is required under ASSLA.

General knowledge of ASSLA by employees across the childcare and education services industries was very limited. Most relied on what was initially provided by employers as part of their onboarding packets and/or information emailed to them. Others were completely unaware of ASSLA and unfamiliar with what specific leave policies were available to them as part of their jobs. During the roundtable, the facilitator read two general statements from ASSLA to assess their familiarity with their ASSLA rights (see Appendix B). Half of the employees in the above industries who attended the roundtables responded that they had never heard of ASSLA. None were aware of specific ASSLA and ESSLA provisions regarding domestic abuse or tipped workers.

None of the participants had issues to report, although the business owners believe that new businesses do need more clarification on the policies and non-punitive support to encourage implementation.

DISTRICT GOVERNMENT INTERVIEWS

Overview

To understand and determine whether DOES and other agencies are adequately protecting workers' rights and enforcing ASSLA's provisions, our team conducted a semi-structured interview with a representative from OWH. The virtual interview with OWH was conducted on Friday, September 7, 2023, from 1:00 to 1:30 pm EST.

The session was recorded, and information was captured by the facilitator, who took notes and who also had the ability to review the session recording to assess accuracy. The agency representative was made aware in advance that the session was being recorded and was reminded at the start of the interview session.

Questions were also provided to the OWH representative in advance to allow for adequate preparation.

The questions focused on understanding and assessing the following:

1. The foundation of each agency's work with ASSLA.
2. Intergovernmental collaboration around ASSLA.
3. ASSLA enforcement processes.
4. How well each agency's support of ASSLA was going.

Introduction

Foundationally, DOES is responsible for the enforcement of the District's sick and safe leave laws. DOES is mandated by law to enforce ASSLA and serves as the law's primary enforcer. DOES therefore coordinates all audits and investigations and ensures that District businesses adhere to the law. DOES interfaces with different agencies for different aspects of enforcement.

DOES Interview

The following are lessons learned and key takeaways from the interview.

Roles, Relationships, and Collaboration with Other Agencies

DOES is the primary enforcer of ASSLA and works to coordinate all audits and investigations, and makes sure businesses adhere to the law. In addition, DOES is responsible for leading the District's efforts in educating employers and employees about ASSLA. DOES interfaces with several District agencies, primarily the District of Columbia Department of Human Resources (DCHR), the Office of the Attorney General (OAG), the Department of Licensing and Consumer Protection (DCLP), and the Office of Administrative Hearings (OAH).

DCHR is responsible for ensuring that as an employer, the District Government's paid leave policies are compliant with the law. Most frequently, DOES engages with DCHR in a consultative role, ensuring that the District's intermittent workers (employees who are employed on an irregular or occasional basis) are receiving proper leave benefits.

OAG enforces ASSLA through its own investigations and litigation. In addition, OAG holds subpoena authority to investigate cases unilaterally. OAG enforces actions and can initiate their own investigations and civil actions.

DOES works with DCLP to ensure business compliance and conduct license investigations.

DOES works closely with the business community, advocates, and other District agencies to ensure that ASSLA education is taking place, and that both employees and employers understand the requirements under the law.

Key Findings

DOES

The 2020 ASSLA report included two recommendations for DOES to consider for potential action. The first recommendation suggested strengthening communication efforts with business owners and employees. The second recommendation encouraged DOES to develop employer and employee training tools.

DOES took action to address these recommendations by continuing robust partnerships with a variety of professional associations and trade organizations representing employers and employees, as well as engaging in direct outreach to employers and employees through special initiatives.

Connecting with these groups afforded DOES consistent opportunities throughout the year to participate in structured training and information sessions to directly educate employers and employees on provisions of ASSLA. Written training material is easy to understand, includes knowledge checks, contains organizational contact information, and is made available to participants.

In 2022, OWH conducted sick leave and policy compliance audits based on industry specific North American Industry Classification System (NAICS) codes. OWH also surveyed employees to confirm their understanding of employer sick leave policies. Additionally, wage theft complaint data was used to guide on-site visits to businesses to inspect compliance with mandatory postings of ASSLA information.

OWH correlates its effectiveness with the low number of ASSLA claims and compliance levels determined during ASSLA audits. Additionally, OWH leadership regularly convenes internal roundtables to go over program staff recommendations and to maintain two-way communication that is vital to a healthy, well-run organization.

Agency Performance and Processes

The District of Columbia has some of the strongest wage laws in the country and serves as an example for other jurisdictions. Sick leave is guaranteed for all DC employees regardless of part-time or full-time

status. The agency focuses on being proactive, responsive, transparent, and accessible to employers and employees. When conducting investigations, DOES provides notices to employees, so everyone is aware an active investigation is ongoing. Also, complaints can come in as formal complaints or can be submitted anonymously.

OWH uses a strategic approach to determine in which employer-specific industries to conduct targeted sick leave audits and compliance policy reviews. In 2022, OWH focused on law firms, day care/education facilities, restaurant and other hospitality employers, and the construction industry. OWH sent notices to employers that fell within these industries and surveys to a random sampling of employees of the businesses audited. Surveying employees was an initiative OWH undertook because of the infrequent level of non-compliance found in previous audits.

OWH leverages employer and employee data housed within DOES. Data integrity is key for developing and executing strategic and creditable audit plans. According to OWH, the office has database system access controls, and processes and procedures in place to ensure audit data and audit findings are not modified or deleted. OWH is aware of environmental vulnerabilities to data systems and periodically trains staff on cyber and data security protocols, as well as regulatory compliance matters. The agency's efforts in these areas align with data management and business best practices.

Currently, DOES has strong processes in place that are operating well. Correlating the effectiveness of ASSLA education/information initiatives should be substantiated by a periodic formal program assessment.

Public Education Efforts

OWH utilizes a variety of methods to inform and communicate with various stakeholder communities. Partnerships with a leading association of human resources professionals, a consortium of payroll processing services providers, and the regional trade association representing restaurants and the foodservice industry in the Washington, DC metropolitan area have afforded DOES opportunities to directly educate employers. Through a regular monthly meeting with a trade association, DOES provides updates on wage laws (including ASSLA) and enforcement efforts to an audience of union staff and members.

OWH initiated ASSLA Day in 2022, holding informational webinars for employers and employees from the restaurant, construction, and home health industries. They also identified newly licensed businesses to invite to ASSLA Day through a partnership with DLCP.

Recommendations

Based on findings from the survey, roundtables and interviews, the research team developed the following recommendations for the agency.

Recommendation #1: Revisit ASSLA poster requirements for hybrid/remote work environments.

With the acceleration of hybrid work in the last few years, it is likely that employees who work remotely will not have access to ASSLA workplace postings. We recommend that DOES explore additional types of posting requirements in order to ensure that remote workers are aware of their rights under ASSLA. Potential solutions may include requiring business owners to include ASSLA documents in onboarding materials, making them available via digital storage or requiring employers to send an annual notice to employees about their rights.

Recommendation #2: Ensure workers are aware of their rights to use leave in abuse and/or stalking situations.

It is clear from the results of this study that many workers are unaware of their right to paid leave in abuse and stalking situations. We recommend that DOES increase its education efforts to inform employers and employees of this requirement. This could include using public service announcements, direct mail , or outdoor advertising to increase awareness.

Study Limitations

The survey allowed both employers and employees to self-certify that they were eligible to participate. The research team did not have a way to verify that respondents did in fact meet one of the two requirements for participation in the survey. While we believe that this survey iteration and report can serve as a strong base upon which future efforts are expanded, it should be noted that the current method does leave at least some risk of selection bias and sampling error. Survey data is also subject to misreported errors.

This study gauged compliance with the ASSLA's leave requirements by identifying businesses that failed to provide leave altogether. ASSLA guidelines also stipulate the amount of paid leave that should accrue based on the number of employees a business maintains. It is possible that a higher percentage of businesses would not be compliant if this was factored. Further research is needed in order to evaluate businesses' compliance with the ASSLA's leave accrual guidelines.

The study also did not distinguish between self-employed business owners with no employees and business owners with employees. Self-employed business owners with no employees are not subject to ASSLA regulations.

Additionally, BLS did not disaggregate data by industry, so we were unable to compare the industry findings in this study with national industry data.

APPENDIX A: Survey Questions and Responses

Demographic Questions

1. With which racial and ethnic group do you identify?		
	Response Percent	Response Count
American Indian or Alaska Native	16%	165
Hispanic, Latino, or Spanish origin	14%	141
White	30%	305
Asian	6%	63
Middle Eastern or North African	3%	27
Black, African American	27%	271
Native Hawaiian or Other Pacific Islander	1%	1
Another race or ethnicity not listed above	2%	23
African	1%	10
Caribbean	0	2
Other (please specify)	2%	23

2. With which gender identity do you most identify?		
	Response Percent	Response Count
Female	55%	556
Male	43%	437
Transgender Female	1%	2
Transgender Male	1%	2
Non-Binary/Non-Conforming	1%	6
Not Listed	0	0
Prefer not to answer	1%	12

3. Which statement best describes you?

	Response Percent	Response Count
I was employed in the District of Columbia for more than 90 days in 2022.	70%	714
I own or manage a business or organization that was operational in the District of Columbia for more than 90 days.	23%	236
Neither of the Above.	7%	70

Employee Specific Questions (Based on response to Number 4)

1. Did your compensation include tips?		
	Response Percent	Response Count
Yes	58%	341
No	42%	244

2. [If YES to Question 1] What portion of your income do you receive in the form of tips?		
	Response Percent	Response Count
As much as 10%	80%	468
As much as 25%	11%	63
As much as 50%	8%	44
As much as 75%	1%	5
As much as 100%	1%	5

3. Are you aware that District law requires tipped employees to receive standard pay of at least \$8.00/hour?		
	Response Percent	Response Count
Yes	81%	473
No	19%	112

4. Did you get paid in cash?		
	Response Percent	Response Count
Yes	48%	282
No	52%	303

5. How frequently did you get paid?		
	Response Percent	Response Count
Daily	4%	21
Weekly	11%	62
Bi-weekly/every two weeks	51%	331
Monthly	26%	171
Other (please specify) e.g. "semi-monthly"	11%	71

6. Did you receive a statement that includes an itemized account of your earnings each time you got paid?		
	Response Percent	Response Count
Yes	82%	482
No	18%	103

7. During 2022, did you perform work that you were not paid for?		
	Response Percent	Response Count
Yes	56%	329
No	44%	256

8. During 2022, did you experience any of the following? (Select all that apply)		
	Response Percent	Response Count
I worked overtime and either was not paid at all or was not paid the correct amount.	7%	43
I was asked to start work early or stay at work late and was either not paid at all or was not paid the correct amount.	43%	251
I was an employee but paid as an independent contractor.	5%	29
My employer docked my salary or benefits without cause.	15%	90
Other (please specify)	33%	193

9. Are you aware that companies operating in DC are required to offer employees paid leave for work absences associated with domestic violence or abuse in accordance with the Accrued Sick and Safe Leave Act of 2008 (ASSLA) and Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA)?		
	Response Percent	Response Count
Yes	51%	301
No	49%	284

10. Were the requirements of ASSLA/ESSLA displayed at your worksite?

	Response Percent	Response Count
Yes	59%	346
No	41%	239

11. Did your job offer paid leave?

	Response Percent	Response Count
Yes	90%	525
No	10%	60

12. Which industry did you work in during 2022?

	Response Percent	Response Count
Agriculture	1%	1
Mining	1%	1
Utilities	1%	2
Construction	8%	46
Manufacturing	1%	13
Wholesale Trade	3%	20
Retail Trade	8%	47
Transportation and Warehousing	4%	23
Information	4%	23
Finance and Insurance	4%	25
Real Estate and Rental and Leasing	7%	39
Professional, Scientific, and Technical Services	14%	79
Management of Companies and Enterprises	3%	15
Administrative and Support and Waste Management	5%	31
Educational Services	5%	28
Health Care and Social Assistance	9%	50
Arts, Entertainment, and Recreation	2%	11
Accommodation and Food Services	6%	34
Other (please specify)	13%	12

Business Owner Survey Questions

1. What is the primary industry of your business?		
	Response Percent	Response Count
Agriculture	0	0
Mining	5%	9
Utilities	1%	1
Construction	26%	49
Manufacturing	1%	2
Wholesale Trade	11%	21
Retail Trade	5%	10
Transportation and Warehousing	2%	3
Information	6%	12
Finance and Insurance	1%	2
Real Estate and Rental and Leasing	3%	6
Professional, Scientific, and Technical Services	11%	20
Management of Companies and Enterprises	1%	2
Administrative and Support and Waste Management	1%	2
Educational Services	2%	3
Health Care and Social Assistance	0	0
Arts, Entertainment, and Recreation	1%	2
Accommodation and Food Services	11%	20
Other (please specify) daycare 3 2%	11%	21

2. How many years has your company operated in DC?		
	Average	Response Count
Years	6	186

3. How many employees are currently on your business's payroll?		
	Response Percent	Response Count
0	15%	28
1 - 24	48%	91
25 - 99	35%	65
100 or more	2%	4

4. What was the annual revenue for your business in 2022?

	Response Percent	Response Count
Under \$250,000	25%	47
\$250,000-\$1,000,000	17%	32
\$1,000,001 - \$5,000,000	28%	52
\$5,000,001 - \$10,000,000	8%	15
\$10,000,001-\$25,000,000	19%	35
\$25,000,001-\$50,000,000	3%	5
More than \$50,0000,000	1%	2

5. Did any of your employees earn tips?

	Response Percent	Response Count
Yes	55%	103
No	45%	85

6. Were you aware that District law requires tipped employees to receive standard pay of at least \$8.00 per hour?

	Response Percent	Response Count
Yes	84%	157
No	16%	31

7. Did you employ dedicated human resources personnel or use a third-party benefits administrator?

	Response Percent	Response Count
Yes	62%	116
No	38%	72

8. Were you aware that companies operating in DC are required to offer employees paid leave for work absences associated with domestic violence or abuse in accordance with the DC Accrued Sick and Safe Leave Act of 2008 (ASSLA)?

	Response Percent	Response Count
Yes	86%	161
No	14%	27

9. [If Yes to Question 8] How did your company obtain information about ASSLA/ESSLA? (Sselect all that apply)

	Response Percent	Response Count
Social media	27%	51
Community event	22%	41
Webinar	6%	12
A DC Government website	41%	77
ASSLA advertisement	17%	31
Other (please specify)	19%	35

10. Did you post requirements of ASSLA and the DC Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA), in a prominent location where all employees can see it?

	Response Percent	Response Count
Yes	69%	130
No	31%	58

11. ([If No to Question 10]) Have you ever contacted DC Government to obtain a poster or to learn about ASSLA/ESSLA?

	Response Percent	Response Count
Yes	53%	99
No	47%	89

12. [If No to Question 10] Why not?

	Response Percent	Response Count
Not necessary	40%	35
Did not know it was possible	33%	29
Unfamiliar with ASSLA	11%	10
Other (please specify)	17%	15

**13. Which of the following benefits did you offer to some or all employees?
(Select all that apply)**

	Response Percent	Response Count
Paid sick days	31%	58
Undesignated leave or Paid Time Off (PTO)	34%	64
Paid vacation leave	35%	84
Stalking, domestic violence, or sexual abuse leave	19%	35
Other (please specify)	10%	19
None of the above	15%	29

14. In 2022, how often was it necessary for your company to dock an employee's wages or benefits (or make any similar reduction)?

	Response Percent	Response Count
0	55%	103
1-5	7%	13
6 - 10	33%	62
11 - 15	5%	10
16 or more	1%	1

15. Did you make changes to your business's leave policy in 2022?

	Response Percent	Response Count
Yes	45%	84
No	55%	104

16. How do you believe the requirements of ASSLA/ESSLA have impacted employee performance?

	Response Percent	Response Count
Much better	5%	9
Better	19%	36
About the same	29%	54
Worse	2%	3
Much worse	6%	12
Do not know	16%	30
Not applicable	23%	44

17. What impact has ASSLA/ESSLA had on your business's employee turnover?

	Response Percent	Response Count
Increased	15%	28
Decreased	29%	54
No impact	41%	80
I do not know	14%	26

18. What impact has ASSLA/ESSLA had on your business's profitability?

	Response Percent	Response Count
Increased	7%	14
Decreased	41%	77
No impact	36%	68
I do not know	15%	29

19. Has your business put measures in place to offset any negative impact ASSLA/ESSLA may have?

	Response Percent	Response Count
Yes	47%	88
No	53%	100

20. (If Yes to Question 19) What measures have you put in place to offset any negative impact ASSLA/ESSLA may have on your business?

	Response Percent	Response Count
Reduced vacation time accrual	1%	1
Converted Paid Vacation Time Paid Time Off or Paid Sick Days	1%	2
Reduced salaries, raises, or bonuses	35%	66
Combination of the above	11%	21
None of the above	41%	77
Do not know/Do not remember	11%	21

APPENDIX B: ROUNDTABLE QUESTIONS

The following questions were utilized during all roundtable sessions. These questions were broken down into four sections. First, the facilitator focused on understanding the employees' company landscapes and knowledge of ASSLA, then the conversations transitioned into usage of ASSLA and leave during 2022. To assess and understand the employees' depth and knowledge of ASSLA, two statements were read. Finally, employees were asked about how they would like to learn more about ASSLA and to recommend ways to enhance their learning and experiences as feedback for the District.

ROUNDTABLE QUESTIONS

Company or Workplace

1. How does your company manage HR and payroll?
2. Does your company provide you with education and educational materials on ASSLA and other materials about leave (paid-family leave, etc.)?
3. Are ASSLA, sick leave, or paid-leave policies and materials visible and easy to access in company systems?

Personal Leave Experiences

4. For how long were you employed in 2022? (Status)
5. How well-versed are you about ASSLA?
6. Did you experience any difficulties in requesting leave under ASSLA?

Two Statements:

Let me know: 1) If you were aware of these components of ASSLA, and 2) Have you personally had this statement in support of leave or were impacted by it in some form or a case of usage by other employees at your organization?

Statement 1: Companies operating in DC are required to offer employees paid leave for work absences associated with domestic violence or abuse in accordance with the Accrued Sick and Safe Leave Act of 2008 (ASSLA) and Earned Sick and Safe Leave Amendment Act of 2013(ESSLA).

Statement 2: While the amendments do not alter the amount of leave to which an employee is entitled under the Act, the Earned Sick and Safe Leave Amendment Act of 2013 does make significant changes to leave accrual, access, and retention, strengthens the Act's anti-retaliation provisions, increases enforcement mechanisms and penalties, including a private right of action, creates new recordkeeping requirements, and extends its coverage to tipped and temporary employees. As such, employers should review and revise their paid leave policies as necessary to comply with these new leave requirements.

Other Questions:

7. Have you ever reached out to the District Government in support of or filed a complaint due to issues of leave and payment? What happened? Which agency? How was it handled?
8. What resources, tools, or additional information would you like made available to better prepare and support you and your understanding of ASSLA?
9. How can these resources be most effectively communicated to you? How can it improve?
10. Do you have any additional recommendations for how the District Government can better support employees when it comes to ASSLA or any matters of leave and wage theft by employers?
11. Are there any patterns or concerns you are seeing that are common issues in your industry as it relates to ASSLA or leave in general?

APPENDIX C: AGENCY INTERVIEW QUESTIONS

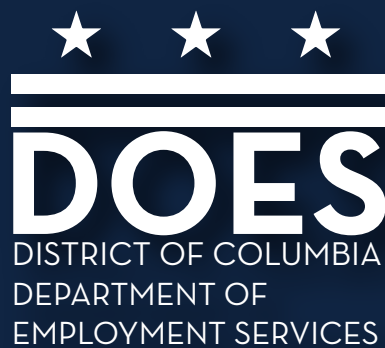
Accrued Sick and Safe Leave Act (ASSLA) Study Interview

Interviewee: Mr. Daniel King, Associate Director, Office of Wage & Hour Division, DOES

Interviewer: Trinette Smith-Campbell, contracted through Bayne LLC

Interview Date and Time: September 7, 2023 @ 2 pm (Via Zoom)

1. What actions has OWH taken to address the two recommendations identified in the 2020 Accrued Sick and Safe Leave Act Study Report.
 - Recommendation #1: Strengthen communication efforts with business owners and employees.
 - Recommendation #2: Develop employer and employee training tools.
2. Please identify industry specific, business owner focused, ASSLA education/information campaigns OWH conducted in calendar year 2022.
3. Please identify industry specific, employee focused, ASSLA education/information campaigns OWH conducted in calendar year 2022.
4. What processes and partnerships does OWH have in place to educate or inform newly formed businesses about ASSLA laws and enforcement programs?
5. How does OWH assess the effectiveness of the ASSLA education/information campaigns?
6. Did OWH conduct sick leave audits in 2022? If so, how many per industry group?
7. With respect to ASSLA compliance and enforcement activities, OWH leverages data and trends to identify problematic industries.
 - a. In 2022, what emerging trends or continuing themes did OWH identify for action?
 - b. What processes does OWH use to maintain the integrity of the data?
8. In 2022, did OWH conduct internal program self-assessments of the ASSLA program? If not, when was the last self-assessment, what were the findings, and what changes were implemented to address findings?



DC DEPARTMENT OF EMPLOYMENT SERVICES

OFFICE OF WAGE-HOUR COMPLIANCE

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