

**DISTRICT OF COLUMBIA OFFICIAL CODE 2001 EDITION
DIVISION V. LOCAL BUSINESS AFFAIRS**

TITLE 32. LABOR.

CHAPTER 13. PAYMENT AND COLLECTION OF WAGES.

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§ 32-1301. Definitions.

Whenever used in this chapter:

- (1) "Employer" includes every individual, partnership, firm, association, corporation, the legal representative of a deceased individual, or the receiver, trustee, or successor of an individual, firm, partnership, association, or corporation, employing any person in the District of Columbia; provided, that the word "employer" shall not include the government of the United States, the government of the District of Columbia, or any agency of either of said governments, or any employer subject to the Railway Labor Act (45 U.S.C. § 151 et seq.).
- (2) "Employee" shall include any person suffered or permitted to work by an employer except any person employed in a bona fide executive, administrative, or professional capacity (as such terms are defined and delimited by regulations promulgated by the Council of the District of Columbia).
- (3) "Wages" mean monetary compensation after lawful deductions, owed by an employer for labor or services rendered, whether the amount is determined on a time, task, piece, commission, or other basis of calculation.
- (4) "Mayor" means the Mayor of the District of Columbia or his designated agent or agents.
- (5) "Working day" means any day exclusive of Saturdays, Sundays, or legal holidays.

§ 32-1302. When wages must be paid; exceptions.

Every employer shall pay all wages earned to his employees at least twice during each calendar month, on regular paydays designated in advance by the employer; provided, however, that an interval of not more than 10 working days may elapse between the end of the pay period covered and the regular payday designated by the employer, except where a different period is specified in a collective agreement between an employer and a bona fide labor organization; provided further, that where, by contract or custom, an employer has paid wages at least once each calendar month, he may lawfully continue to do so. Wages shall be paid on designated paydays in lawful money of the United States, or checks on banks payable upon demand by the bank upon which drawn.

§ 32-1303. Payment of wages upon discharge or resignation of employee and upon suspension of work; employer's liability for failure to make such payment.

Unless otherwise specified in a collective agreement between an employer and a bona fide union representing his employees:

- (1) Whenever an employer discharges an employee, the employer shall pay the employee's wages earned not later than the working day following such discharge; provided, however, that in the instance of an employee who is responsible for monies belonging to the employer, the employer shall be allowed a period of 4 days from the date of discharge or resignation for the determination of the accuracy of the employee's accounts, at the end of which time all wages earned by the employee shall be paid.
- (2) Whenever an employee (not having a written contract of employment for a period in excess of 30 days) quits or resigns, the employer shall pay the employee's wages due upon the next regular payday or within 7 days from the date of quitting or resigning, whichever is earlier.
- (3) When work of an employee is suspended as a result of a labor dispute, the employer shall pay to such employee not later than the next regular payday, designated under § 32-1302, wages earned at the time of suspension.
- (4) If an employer fails to pay an employee wages earned as required under paragraphs (1), (2), and (3) of this section, such employer shall pay, or be additionally liable to, the employee, as liquidated damages, 10 per centum of the unpaid wages for each working day during which such failure shall continue after the day upon which payment is hereunder required, or an amount equal to the unpaid wages, whichever is smaller; provided, however, that for the purpose of such liquidated damages such failure shall not be deemed to continue after the date of the filing of a petition in bankruptcy with respect to the employer if he thereafter shall have been adjudicated bankrupt upon such petition.

§ 32-1304. Unconditional payment of wages conceded to be due.

In case of a bona fide dispute concerning the amount of wages due, the employer shall give written notice to the employee of the amount of wages which he concedes to be due, and shall pay such amount, without condition, within the time required by §§ 32-1302 and 32-1303; provided, however, that acceptance by the employee of any payment made hereunder shall not constitute a release as to the balance of his claim. Payment in accordance with this section shall constitute payment for the purposes of complying with §§ 32-1302 and 32-1303, only if there exists a bona fide dispute concerning the amount of wages due.

§ 32-1305. Provisions of law may not be waived.

Except as herein provided, no provision of this chapter shall in any way be contravened or set aside by private agreement.

§ 32-1306. Enforcement, records and subpoenas.

- (a) The Mayor shall enforce and administer the provisions of this chapter and may hold hearings and otherwise investigate any violations of this chapter and institute actions for penalties provided hereunder. Any and all prosecutions of violations of this chapter shall be conducted in the name of the District of Columbia and by the Corporation Counsel or his assistants.
- (b) The Mayor shall have power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony and to take depositions and affidavits in any proceedings before him.
- (c) In case of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the Superior Court of the District of Columbia or any judge thereof, on application by the Mayor, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such Court or a refusal to testify therein.

§ 32-1307. Penalties.

- (a) Any employer who, having the ability to pay, willfully violates any provisions of § 32-1302 or § 32-1304 or who fails to comply with any other provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall for the 1st offense be punished by a fine of not more than \$300, or by imprisonment of not more than 30 days, or in the discretion of the court, by both such fine and imprisonment; and for any subsequent offense shall be punished by a fine of not more than \$1,000 or by imprisonment of not more than 90 days, or in the discretion of the court, by both such fine and imprisonment.
- (b) In addition to and apart from any other penalties or remedies provided for in this chapter, the Mayor shall assess and collect administrative penalties up to a maximum of \$300 for the first violation and up to a maximum of \$500 for each subsequent violation. The Mayor shall consider factors that include the history of previous violations by the employer, the administrative costs of the proceeding to collect, and the size of the employer's business, when determining the penalty to be imposed. In addition, the Mayor may assess more than one administrative penalty against an employer for the same adversely affected employee if the employer has violated more than one statutory provision of this chapter.
- (c) No administrative penalty may be collected unless the Mayor provides any person alleged to have violated any of the provisions of this section notification of the violation, notification of the amount of the administrative penalty to be imposed, and an opportunity to request an informal hearing. If a formal hearing is requested, the Mayor shall issue a final order following the hearing, containing a finding that a violation has or has not occurred. If an informal hearing is not requested, the person to whom notification of violation was provided shall transmit to the Mayor the amount of the penalty within 15 days following notification.

§ 32-1308. Employees' remedies.

- (a) Action by an employee to recover unpaid wages and liquidated damages may be maintained in any court of competent jurisdiction by any 1 or more employees for and in behalf of himself or themselves and other employees similarly situated, or such employee or employees may designate an agent or representative to maintain such action for and on behalf of all employees similarly situated. Any employee, or his representative, shall have the power to settle and adjust his claim for unpaid wages. Whenever the Mayor determines that wages have not been paid, as herein provided, and that such unpaid wages constitute an enforceable claim, the Mayor may, upon the request of the employee, take an assignment in trust for the assigning employee of such wages, and of any claim for liquidated damages, without being bound by any of the technical rules respecting the validity of any such assignments, may bring any appropriate legal action necessary to collect such claim and may join in one proceeding or action such claims against the same employer as the Mayor deems appropriate. Upon any such assignment the Mayor shall have power to settle and adjust any such claim or claims on such terms as he may deem just.
- (b) The court in any action brought under this section shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of the action, including costs or fees of any nature, and reasonable attorney's fees, to be paid by the defendant. Such attorney's fees, in the case of actions brought under this subsection by the Mayor, shall be deposited in the Treasury of the United States to the credit of the District of Columbia. The Mayor shall not be required to pay the filing fee or other costs or fees of any nature or to file bond or other security of any nature in connection with any action or proceeding under this chapter.

§ 32-1309. Mayor may delegate functions.

The Mayor is authorized to delegate to any agency of the government of the District of Columbia any function, power, or duty vested in or imposed upon him by this chapter.

§ 32-1310. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby.