Proposed Compromise Legislation on Tipped Minimum Wage and Related Issues

I. Study on incentivizing new retail stores and food establishments in Wards 7 and 8

Amendments to: The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*),

§ 2–218.01. Short title.

§ 2–218.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Agency" means an agency, department, office, board, commission, authority, or other instrumentality of the District government, with or without legal existence separate from that of the District government.

(1A) "Agency contracting officer" means the contracting officer of an agency or government corporation.

(1B) "Beneficiary" means a business enterprise that is the prime contractor or developer on a government-assisted project.

(1C) "Business enterprise" means a business entity organized for profit.

(1D) "Certified business enterprise" means a local business enterprise certified pursuant to part D of this subchapter [§ 2-218.31 et seq.].

(1E) "Certified joint venture" means a joint venture certified pursuant to § 2-218.39a.

(1F) "Certified equity participant" means a single-purpose legal entity created to participate in real estate development projects and includes members that are small investors or disadvantaged investors.

(1G) “Commercially useful function” means work performed by a certified business enterprise in a particular transaction that, consistent with industry practices and other relevant considerations, has a necessary and useful role in the transaction. The certified business enterprise shall be responsible for the execution of the work of the contract and carry out its responsibility by actually performing, managing, and supervising the work involved. The certified business enterprise shall be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the materials and installing (where applicable) and paying for the material itself.

(2) “Commission” means the District of Columbia Small and Local Business Opportunity Commission, established by § 2-218.21.

(3) “Department” means the Department of Small and Local Business Development, established by § 2-218.11.

(4) “Director” means the Director of the Department of Small and Local Business Development.

(5) “Disadvantaged business enterprise” means a business enterprise as described in § 2-218.33.

(5A) “Disadvantaged investor” means:

(A) A disadvantaged business enterprise pursuant to § 2-218.33; or

(B) A District-domiciled economically disadvantaged individual as determined by regulations promulgated by the Department.

(5B) “District gross receipts” means all income derived from any activity whatsoever from sources within the District, other than income a local business enterprise derives from an ownership or beneficial interest in other local business enterprises, whether compensated in the District or not, before the deduction of any expense whatsoever connected with the production of the income; provided, that the calculation of the income shall not include:

(A) The collection of federal or local taxes on motor vehicle fuel; or

(B) Fees retained by a retail establishment under § 8-102.03(b)(1).

(6) “District of Columbia Supply Schedule” or “DCSS” means the District of Columbia’s multiple award schedule procurement program for providing commercial products or services to District government agencies.

(7) “Economically disadvantaged individual” means an individual whose ability to compete in the free enterprise system is impaired because of diminished opportunities to obtain capital and credit as compared to others in the same line of business where such impairment is related to the individual’s status as socially disadvantaged. An individual is socially disadvantaged if the individual has reason to believe that the individual has been subjected to prejudice or bias because of his or her identity as a member of a group without regard to his or her qualities as an individual.

(8) “Enterprise zone” means:

(A) The area of the District designated as the District of Columbia Enterprise Zone under 26 U.S.C. § 1400); or

(B) An economic development zone designated by the Mayor and approved by the Council pursuant to §§ 6-1501 through 6-1504.

(9) “Expendable budget” means the total appropriated budget of an agency, reduced by such funding sources, object classes, objects, and other items, including any contract, the value of which does not lend itself to performance by a small or certified business enterprise, as shall be identified by the Department through rulemaking.

(9A) "Food establishment" shall have the same meaning as provided in section 2(5) of An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898 (30 Stat. 246; D.C. Official Code § 48-102(5)).

(~~9A~~ 9B) "Government-assisted project" means:

(A) A contract executed by an agency on behalf of the District or pursuant to statutory authority that involves District funds or, to the extent not prohibited by federal law, funds that the District administers in accordance with a federal grant or otherwise;

(B) A project funded in whole or in part by District funds;

(C) A project that receives a loan or grant from a District agency;

(D) A project that receives bonds or notes or the proceeds from bonds or notes issued by a District agency, including tax increment financing or payment in lieu of tax bonds or notes, but not including industrial revenue bonds.

(E) A project that receives District tax exemptions or abatements that are specific to the project and not to the nature of the entity undertaking the project, such as a religious institution or nonprofit corporation; or

(F) A development project conducted pursuant to a disposition under § 10-801.

(10) Repealed.

(11) "Joint venture" means a combination of property, capital, efforts, skills, or knowledge of 2 or more persons or businesses to carry out a single project.

(12) "Local business enterprise" means a business enterprise as described in § 2-218.31.

(12A) "Local manufacturing business enterprise" means a business enterprise as described in § 2-218.39.

(13) "Longtime resident business" means a business enterprise that has been continuously eligible for certification as a local business enterprise, as defined in § 2-218.31, for 20 consecutive years, or a small business enterprise, as defined in § 2-218.32, for 15 consecutive years.

(13A) "Material change" means a change in a business':

(A) Ownership;

(B) Address; or

(C) Size, if certified as a small business enterprise as defined in § 2-218.32.

(13B) "Qualified" means a business enterprise deemed by the Department to have the capability to perform the work that has been issued a certificate of registration issued pursuant to this subchapter.

(14) "Regional governmental entity" means an organization that represents the District and surrounding local or state governments.

(15) "Resident-owned business" means a local business enterprise owned by an individual who is, or a majority number of individuals who are, subject to personal income tax solely in the District of Columbia.

(16) "Small business enterprise" means a business enterprise as described in § 2-218.32.

(16A) "Small investor" means:

(A) A small business enterprise pursuant to § 2-218.32; or

(B) A District-domiciled individual with a net worth that does not exceed the limit set by the Department for investors.

(17) "Veteran-owned business enterprise" means a business enterprise as described in § 2-218.38.

§ 2–218.11. Establishment of the Department of Small and Local Business Development.

§ 2–218.12. Director of the Department of Small and Local Business Development.

§ 2–218.13. Functions of the Department.

(a)(1) It shall be the goal and responsibility of the Department to stimulate and foster the economic growth and development of businesses based in the District of Columbia, particularly certified business enterprises, with the intended goals of:

(A) Stimulating and expanding the local tax base of the District of Columbia;

(B) Increasing the number of viable employment opportunities for District residents; and

(C) Extending economic prosperity to local business owners, their employees, and the communities they serve.

(2) Through advocacy, business development programs, and technical assistance offerings, the Department shall seek to maximize opportunities for certified business enterprises to participate in:

(A) The District's contracting and procurement process;

(B) The District's economic development activities; and

(C) Federal and private sector business opportunities.

(3) The Department shall provide career training services to local business owners seeking to open a food establishment, including:

(A) Training on the opening and management of a food establishment;

(B) One-on-one small business enterprise coaching;

(C) Vocational training for individuals seeking employment and advancement in the food establishment industry; and

(D) Small business enterprise incubation.

(b) The Department shall administer part D of this subchapter except for those responsibilities assigned to another agency by this subchapter or through an order of the Mayor. The Director shall establish procedures and guidelines for the implementation of the programs established pursuant to part D of this subchapter. The Mayor shall not reassign a responsibility specifically assigned to the Department by this subchapter.

(c) Repealed.

(c-1) The Department shall have the authority to issue grants to local businesses (whether or not certified pursuant to this subchapter), community and neighborhood groups or other nonprofit organizations as necessary to effectuate the mission of the Department and the purposes of this subchapter.

(d) Repealed.

(e) The Department, in coordination with the agency contracting officer, shall have the authority, in reviewing participation by certified business enterprises, to disregard participation by a certified business enterprise when that certified business enterprise serves no commercially useful function in the performance of a contract.

§ 2–218.14. Transfers from the Office of Local Business Development to the Department of Small and Local Business Development.

New Section: Study on incentivizing new retail stores and food establishments in Wards 7 and 8.

(a) The Department shall enter into a contract with a non-governmental entity to conduct a study evaluating incentives for the development of new retail stores and food establishments in Wards 7 and 8. The study shall include:

(1) An assessment of the extent to which the following programs can be used to incentivize the development of new retail stores and food establishments in Wards 7 and 8:

(A) Washington Area Community Investment Fund;

(B) Certified Capital Companies Program;

(C) Work Opportunity Tax Credit; and

(D) Storefront Improvement Program.

(2) Recommendations to the Department regarding programs the agency may implement to incentivize the development of new retail stores and food establishments in Wards 7 and 8.

(3) Recommendations to the Council regarding legislative actions it may take to incentivize the development of new retail stores and food establishments in Wards 7 and 8.

(b) Within 180 days after the applicability date of the Tipped Wage Workers Fairness Amendment Act of 2018, as approved by the Committee of the Whole on October 2, 2018 (Committee print of Bill 22-913), the Department shall select a non-governmental contractor to conduct the study required pursuant to subsection (a) of this section.

(c) Within one year after the applicability date of the Tipped Wage Workers Fairness Amendment Act of 2018, as approved by the Committee of the Whole on October 2, 2018 (Committee print of Bill 22-913), the outside contractor shall submit the study required pursuant to subsection (a) of this section to the Council.

II. Sexual harassment training and policies.

Title 25, Chapter 2. Alcoholic Beverage Regulation Administration.

§ 25–201. Establishment of the Alcoholic Beverage Control Board — Appointment and responsibilities.
§ 25–202. Establishment of the Alcoholic Beverage Regulation Administration.
§ 25–203. Transfer of functions of Alcoholic Beverage Control Division of the Department of Consumer and Regulatory Affairs.
§ 25–204. Board — Functions and duties.
§ 25–204.01. Board — Open meetings.
§ 25–205. Board record-keeping responsibilities.
§ 25–206. Board member qualifications; term of office; chairperson; conflict of interest.
§ 25–207. ABRA Director and staff.
§ 25–208. Office of the General Counsel.
§ 25–209. Community resource officer.
§ 25–210. ABRA funding.

§ 25–211. Regulations.
§ 25–212. New licensee and general public orientation class.

New Section: § 25–213. Mandatory sexual harassment training.

(a)(1) ABRA shall create a sexual harassment training course ("training") for employees of businesses with ABRA licenses covered by § 25-113(b)-(e) ("covered businesses"). ABRA may conduct the training itself or certify community organizations to conduct such training that meets the requirements of this section.

(2) ABRA shall consult with groups representing victims, workers, and employers to create the training.

(3) The training shall be conducted in person.

(4) The training shall include how to respond to, intervene in, and prevent sexual harassment by coworkers, management, and patrons.

(b)(1) Employees of covered businesses shall receive the training according to the following schedule:

(A) Each employee shall receive the training within 90 days of hire, unless the employee has taken the training within the past two years.

(B) Employees of a covered business hired before the applicability date of this section shall have two years from the applicability date of this section to take the training.

(C) Managers must take the training at least once every 2 years.

(2) Members of the public may take the training for a fee.

(c) ABRA shall maintain records of each person who has taken the training for at least five years.

(d) All covered businesses shall:

(1) By July 1, 2019, file with ABRA a policy outlining how employees can report instances of sexual harassment to covered businesses' management and to the Office of Human Rights.

(2) By July 1, 2019, distribute the sexual harassment policy to employees and post the policy in their workplaces at all times;

(3) Beginning on the effective date of this section, document instances of sexual harassment reported to the covered business's management, including whether the reported harasser was a patron, non-managerial employee, or manager.

(4) Beginning July 1, 2019, and annually thereafter, report to ABRA and to the Office of Human Rights the number of instances of harassment reported to management and the total number of reported harassers who were patrons, non-managerial employees, or managers.

(e) Covered businesses that violate this section, or that employ employees who have not completed the training requirements in subsection (b) of this section, shall be subject to a fine under Chapter 8 of this title as a secondary tier violation.

III. Reports, Paystubs, notification to employees

§ 32–1007.01. Reporting.

The Mayor shall submit biannually a report to the Council regarding any audits or inspections conducted related to compliance with this subchapter or any regulation issued pursuant to this subchapter. Each report shall include:

(1) The number of employers inspected for compliance due to complaints received, **including pursuant to the reporting system established pursuant to section 6(a-2) of An Act to** provide **for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1306(a-2)),** categorized by size of the employer based on the number of employees;

(2) The number of employers inspected for compliance as a result of a random audit, categorized by size of the employer based on the number of employees;

(3) The number of violations, by type of violation; and

(4) An explication of the actions the Mayor took pursuant to § 32-1011 against each employer charged with violating this subchapter or any regulation issued pursuant to this subchapter, including a list of fines assessed against the employer.

§ 32–1008. Duties of employers; open records.

(a)(1) 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 3 years or the prevailing federal standard at the time the record is created, which shall be identified in rules issued pursuant to this chapter, whichever is greater, a record of:

(A) The name, address, and occupation of each employee;

(B) A record of the date of birth of any employee under 19 years of age;

(C) The rate of pay and the amount paid each pay period to each employee;

(D) The precise times worked each day and each workweek by each employee, except for employees who are not paid on an hourly basis and who are exempt from the minimum wage and overtime requirements under § 32-1004(a); and

(E) Any other records or information as the Mayor shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this subchapter or of the regulations issued under this subchapter.

(2)(A) Any records shall be open and made available for inspection or transcription by the Mayor, the Mayor's authorized representative, or the Office of the Attorney General upon demand at any reasonable time. An employer shall furnish to the Mayor, the Mayor's authorized representative, or the Office of the Attorney General on demand a sworn statement of records and information upon forms prescribed or approved by the Mayor or Attorney General.

(B) No employer may be found to be in violation of subparagraph (A) of this paragraph unless the employer had an opportunity to challenge the Mayor or Attorney General's demand before a judge, including an administrative law judge.

(b) (1) Every employer shall furnish to each employee at the time of payment of wages an itemized statement showing the:

(A) Date of the wage payment;

(B) Gross wages paid;
(C) Deductions from and additions to wages, including a separate item for gratuities;
(D) Net wages paid;
(E) Hours worked during the pay period; and
(F) Any other information as the Mayor may prescribe by regulation.

(2) For the purpose of this subsection, the term "wage" includes gratuities.

(c) Every employer, except as specified in § 32-1008.01, shall furnish to each employee at the time of hiring, and whenever any of the information contained in the written notice changes, a written notice in English; provided, that if the Mayor has made a sample template available in a language other than English that the employer knows to be the employee's primary language or that the employee requests, the employer shall furnish the written notice to the employee in that other language also. The notice required by this subsection shall contain:

(1) The name of the employer and any "doing business as" 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: by the hour, shift, day, week, salary, piece, commission, any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances, or overtime rate of pay, exemptions from overtime pay, living wage, exemptions from the living wage, the applicable prevailing **wages**, **and the structure of any tip pool, consistent with the requirements of section 3(g)(1)(B) [§32-1003(g)(1)(B)];**

(5) The employee's regular payday designated by the employer in accordance with § 32-1302; and

(6) Any such other information as the Mayor considers material and necessary.

(d)(1)(A) Within 90 days after February 26, 2015, and within 30 days of any change to the information contained in the prior written notice, an employer, except in those instances where notice is provided pursuant to § 32-1008.01, shall furnish each employee with an updated notice containing the information required under subsection (c) of this section in English and in any additional language required by subsection (c) of this section.

(B) To show proof of compliance with these notice requirements, an employer shall retain either copies of the written notice furnished to employees that are signed and dated by the employer and by the employee acknowledging receipt or electronic records demonstrating that the employee received and acknowledged the notice via email or other electronic means.

(2) If an employer fails to comply with this subsection or subsection (c) of this section, the failure shall constitute evidence weighing against the credibility of the employer's testimony regarding the rate of pay promised.

(3) The period prescribed in § 32-1308(c) shall not begin until the employee is provided all itemized statements and written notice required by this section.

(e) The Mayor shall make available for employers a sample template of the notice within 60 days of February 26, 2015. On or before February 26, 2017, the Mayor also shall publish online a translation of the sample template in any languages required for vital documents pursuant to § 2-1933. The Mayor shall also publish online translations of the sample template in any additional languages the Mayor considers appropriate to carry out the purposes of this section.

IV. Tip Portal

§ 32–1009.01. ~~Notice requirements for tipped wages~~ Reporting requirements for employers of employees who receive gratuities.

(a)(1) An employer who employs an employee who is paid in accordance with § 32-1003(f) shall submit a quarterly **earnings** ~~wage~~ report within 30 days **after** ~~of~~ the end of each quarter to the Mayor certifying that the employee was paid **at least** the required minimum wage**, including gratuities pursuant to section 3 [§ 32–1003].**

(2) Each quarterly report shall provide the employee's wages, gratuities, and total earnings information for each week an employee worked.

(b)(1) The Mayor shall create an Internet-based portal for online reporting of the quarterly **earnings** ~~wage~~ reports required by subsection (a) of this section.

(A) As of January 1, 2021, the portal must accept quarterly earnings reports filed electronically directly by payroll service companies.

(2)(A) An employer shall submit its quarterly **earnings** reports online unless the employer claims that online reporting creates a hardship, in which case the employer shall submit its reports in hard-copy form.

(B) As of January 1, 2023, all employers covered by this section must use a payroll service that allows for automatic filing of the quarterly earnings reports required under this section.

(3) The Mayor shall provide reporting requirements training to educate employers about the reporting requirements and use of the Internet-based portal.

(c) The Mayor shall:

(1) Perform random reporting audits after each quarterly report deadline to ensure compliance **with section 3(f) [§ 32-1003(f)], and focus investigations on employers covered under this section that do not use Internet-based payroll services;** and

(2) Submit a quarterly report to ~~the Secretary to~~ the Council of the compliance data collected.

V. Evaluation Taskforce

New Section: Tipped Wage Worker Task Force

(a)(1) There is established the Tipped Wage Worker Task Force ("Task Force") to evaluate the effect of the Tipped Wage Worker Fairness Amendment Act of 2018. The Task Force shall be comprised of the following members:

(A) The Director of Employment Services;

(B) Two representatives of the restaurant industry, one appointed by the Mayor and one appointed by the Chairman of the Council;

(C) Two representatives of restaurant worker community, one appointed by the Mayor and one appointed by the Chairman of the Council; and

(D) Two researchers with experience in workforce issues or economic analysis from non-governmental organizations, one appointed by the Mayor and one appointed by the Chairman of the Council.

(2) Members nominated under provisions (b)(1)(B) through (D) shall be approved by the Council.

(3) Each member shall serve without compensation, except that members may receive reimbursement for expenses incurred in the service of the Task Force.

(4) The Department of Employment Services shall provide administrative support for the Task Force, including contracting support.

(5) The Task Force, by majority vote shall, develop a request for proposals and enter into a contract with a non-governmental entity ("contractor") to conduct a study evaluating the impact of the Tipped Wage Workers Fairness Amendment Act of 2018, on each industry sector affected, which shall compare the following statistics from the calendar year preceding the effective date of the Act and the year in which the study is completed:

(A) The number of employees in each industry sector affected;

(B) The median and mean hourly compensation received by employees in each industry sector affected;

(C) The median and mean annual compensation received by employees in each industry sector affected;

(D) The number of businesses and the number of individual establishments operating in the District in each industry sector affected; and

(E) The number of women and minority-owned businesses operating in each industry sector affected.

(6) The Task Force shall not meet until ten years after the effective date of the Tipped Worker Wage Fairness Act of 2018.

(7) Within three months after its first meeting, the Task Force shall select the contractor.

(8) The contractor shall submit the study required pursuant to subsection (a) of this section to the Council no more than six months after being awarded the contract.

(9) The Task Force shall dissolve once the contractor submits the study to the Council.

VI. Wage Theft Hotline and Website, Complaints

§ 32–1306. Enforcement, records and subpoenas.

(a)(1) The Mayor shall enforce and administer the provisions of this chapter, the Living Wage Act, the Sick and Safe Leave Act, and the Minimum Wage Revision Act, including by conducting sua sponte and complaint-initiated investigations into whether violations have occurred, holding hearings, and instituting actions for penalties. Any and all prosecutions of violations of this chapter, the Living Wage Act, the Minimum Wage Revision Act, or the Sick and Safe Leave Act undertaken in court shall be conducted in the name of the District of Columbia by the Office of the Attorney General.

(2)(A) The Attorney General, acting in the public interest, including the need to deter future violations, may bring a civil action in a court of competent jurisdiction against an employer or other person violating this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the

Living Wage Act for restitution or for injunctive, compensatory, or other authorized relief for any individual or for the public at large. Upon prevailing in court, the Attorney General shall be entitled to:

(i) Reasonable attorneys' fees and costs;

(ii) Statutory penalties equal to any administrative penalties provided by law; and

(iii) On behalf of an aggrieved employee:

(I) The payment of back wages unlawfully withheld;

(II) Additional liquidated damages equal to treble the back wages unlawfully withheld; and

(III) Equitable relief as may be appropriate.

(B) The Attorney General shall not in any action brought pursuant to this section be awarded an amount already recovered by an employee.

(a-1) The Mayor shall encourage reporting pursuant to this section by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or other person reporting a violation reporting a violation during the course of any investigation; provided, that with the authorization of such person, the Mayor may disclose ~~the employer or person's~~ **his or her** name and identifying information as necessary to conduct a hearing and enforce this chapter or other employee protection laws, including the Living Wage Act, the Minimum Wage Revision Act, or the Sick and Safe Leave Act.

(a-2) (1) The Mayor shall create a reporting system to receive reports from the public of violations of provisions of this act, the Living Wage Act, the Sick and Safe Leave Act, and the Minimum Wage Revision Act.

(2) The reporting system shall:

(A) Be accessible to the public by internet and telephone 24 hours each day and 7 days each week for the entire calendar year; and

(B) Allow for anonymous reporting.

(3) The Mayor shall review all reports collected on the reporting system on a weekly basis.

(4) Pursuant to the investigative authority conferred in subsection (a) of this section, the Mayor may investigate whether violations reported through the reporting system established by this subsection have occurred.

(b)(1) 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.

(2) The Attorney General shall have the power to investigate whether there are violations of this chapter, the Living Wage Act, the Sick and Safe Leave Act, or the Minimum Wage Revision Act, and 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 connection with any such investigation.

(c) A person to whom a subpoena authorized by this section has been issued shall have the opportunity to move to quash or modify the subpoena in the Superior Court of the District of Columbia. In case of failure of a person to comply with any subpoena lawfully issued under this section, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of the Superior Court of the District of Columbia, or any judge thereof, upon application by the Mayor or the Attorney General, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the Court or a refusal to testify therein.

(d)(1) Every employer subject to any provision of this chapter or of any regulation or order issued pursuant to this chapter shall make, keep, and preserve, for a period of not less than 3 years, or the prevailing federal standard at the time the record is created, which shall be identified in rules issued pursuant to this chapter, whichever is greater, a record of:

(A) The name, address, and occupation of each employee;

(B) A record of the date of birth of an employee under 19 years of age;

(C) The rate of pay and the amount paid each pay period to each employee;

(D) The precise time worked each day and each workweek by each employee, except for employees who are not paid on an hourly basis and who are exempt from the minimum wage and overtime requirements under § 32-1004(a); and

(E) Any other records or information as the Mayor may prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this chapter.

(2)(A) Pursuant to the investigative authority conferred upon the Mayor and the Attorney General in subsections (a) and (b)(2) of this section, respectively, and notwithstanding any other provision of law, any records an employer maintains pursuant to the requirements of this act, the Living Wage Act, the Sick and Safe Leave Act, and the Minimum Wage Revision Act shall be open and made available for inspection or transcription by the Mayor, the Mayor's authorized representative, or the Office of the Attorney General upon demand at any reasonable time. An employer shall furnish to the Mayor, the Mayor's authorized representative, or the Office of the Attorney General on demand a sworn statement of records and information upon forms prescribed or approved by the Mayor or Attorney General.

(B) No employer may be found to be in violation of subparagraph (A) of this paragraph unless the employer had an opportunity to challenge the Mayor or Attorney General's demand before a judge, including an administrative law judge.

(e)(1) Every employer shall furnish to each employee at the time of payment of wages an itemized statement showing the:

(A) Date of the wage payment;

(B) Gross wages paid;

(C) Deductions from and additions to wages, **including a separate item for gratuities;**

(D) Net wages paid;

(E) Hours worked during the pay period; and

(F) Any other information as the Mayor may prescribe by regulation.

(2) For the purpose of this subsection, the term "wage" includes gratuities

§ 32–1308.01. Administrative actions on employee complaints.

(a) When an employee requests administrative enforcement of this chapter, the Minimum Wage Revision Act, the Living Wage Act, and the Sick and Safe Leave Act, the Mayor shall investigate and make an initial determination regarding alleged violations. A physically or electronically signed complaint for non-payment of earned wages shall be filed with the Mayor, no later than 3 years after the last date upon which the violation of this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act is alleged to have occurred or the date on which the employer provided the complainant with actual or constructive notice of the employee's rights, whichever is later.

(b) If the alleged non-payment of earned wages violation is ongoing at the time of the filing of the complaint, the complaint may also seek recovery of amounts that accrue after the filing of the complaint. With regard to amounts that were due at the time the complaint was filed, an aggrieved employee may recover only those amounts that became lawfully due and payable within the 3-year period before the date the complaint was filed. This period is tolled during any period that the employer fails to provide the complainant with actual or constructive notice of the employee's rights or on other equitable grounds.

(1) The complaint shall set forth the facts upon which it is based with sufficient specificity to determine both that an allegation of non-payment of earned wages has been made and that the other criteria stated in this section have been met.

(2) In addition to the other requirements of the complaint set forth in this section, the complaint shall be sworn**, but need not be notarized,** and shall include or attach the following information:

(A) The complainant's name, address, and telephone number (or alternate address or telephone number if the complainant desires);

(B) Sufficient information to enable the Mayor to identify the employer through District records, such as the employer's name, business address, license plate number, or telephone number; and

(C) An explanation of the alleged violations, which may include the approximate or actual dates the violations occurred, the estimated total dollar amount of unpaid wages, and an explanation of how the total estimated amount of unpaid wages was calculated.

(3) The Mayor shall request additional information from the complainant to:

(A) Amend a charge deemed insufficient;

(B) Cure technical defects or omissions;

(C) Clarify or amplify allegations; or

(D) Ensure that any violations related to or arising out of the subject matter set forth or attempted to be set forth in the original charge are adequately alleged in the complaint

(c)(1) The Mayor shall serve the complaint and a written notice to each respondent upon completion. The written notice shall set forth the damages, penalties and other costs for which the respondent may be liable, the rights and obligations of the parties, and the process for contesting the complaint.

(2) The Mayor shall also include an additional notice to employees stating that an investigation is being conducted and providing information to employees on how they may participate in the investigation. Upon receipt of service, the respondent shall post this additional notice for a period of at least 30 days.

(3) Within 20 days of the date the complaint and written notice are served, the respondent shall:

(A) Admit that the allegations in the complaint are true and pay to complainant any unpaid wages or compensation and liquidated damages owed and pay to the Mayor any fine or penalty assessed; or

(B) Deny the allegations in the complaint and request that the agency make an initial determination regarding the allegations in the complaint.

(4) If a respondent admits the allegation, the Mayor shall issue an administrative order requiring the respondent to provide relief, including the payment of any back wages unlawfully withheld, liquidated damages equal to the amount of unpaid wages, reasonable attorney fees and costs, and other legal or equitable relief as may be appropriate, including reinstatement in employment, and other injunctive relief, and which may include statutory penalties. The Mayor or Attorney General may also proceed with an audit or subpoena to determine if the rights of employees other than the complainant have also been violated.

(5) If a respondent denies the allegations, the respondent must notify the Mayor of that decision and may provide any written supporting evidence within 20 days of the date the complaint is served.

(6) If a respondent fails to respond to the allegations within 20 days of the date the complaint is served, the allegations in the complaint shall be deemed admitted and the Mayor shall issue an initial determination requiring the respondent to provide relief including the payment of any back wages unlawfully withheld, liquidated damages equal to treble the amount of unpaid wages, statutory penalties, reasonable attorney fees and costs, other legal or equitable relief as may be appropriate, including reinstatement in employment, and other injunctive relief.

(7) The Mayor shall issue an initial determination within 60 days after the date the complaint is served. The initial determination shall set forth a brief summary of the evidence considered, the findings of fact, the conclusions of law, and, where the Mayor finds in favor of the complainant, the initial determination shall require the respondent to provide relief, including the payment of any back wages unlawfully withheld, liquidated damages equal to treble the amount of unpaid wages, statutory penalties, reasonable attorney fees and costs, and other legal or equitable relief as may be appropriate, including reinstatement in employment, and other injunctive relief. The initial determination shall be provided to both parties and set forth the losing party's right to appeal under this section or to seek other relief available under this chapter.

(8) In addition to determining whether the complainant has demonstrated that the employer has violated one or more provisions of this chapter, or the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act, by applying the presumption required by § 32-1305(b), the Mayor shall make an initial determination of whether the complainant is entitled to additional unpaid earned

wages due to other District laws such as the Living Wage Act, the Sick and Safe Leave Act, or the Minimum Wage Revision Act.

(9) If the Mayor fails to issue an initial determination within 60 days of the serving of a complaint, the complainant shall have a right to request a formal hearing before an administrative law judge.

(10)(A) Upon issuance of an initial determination or administrative order, not issued as a result of conciliation, the Mayor shall notify the parties, by certified mail, of their right to file for a formal hearing before an administrative law judge pursuant to subsection (e) of this section.

(B) If a party does not timely file for a formal hearing before an administrative law judge pursuant to subsection (e) of this section, the initial determination shall be deemed a final administrative order and shall be enforceable pursuant to subsection (g) of this section.

(d)(1) The Mayor shall work with the parties in an attempt to conciliate. Any conciliation agreement shall be between the respondent and the complainant and shall be reduced to an administrative order requiring the respondent to pay any unpaid wages, compensation, liquidated damages, and fine or penalty owed and requiring the respondent to cure any violations.

(2) When an administrative order issued as a result of a conciliation agreement is subsequently breached, the Mayor or the complainant may enforce the administrative order pursuant to this section.

(e)(1) Within 30 days of the issuance of the initial determination or an administrative order, not issued as a result of conciliation, or within 30 days of receiving notice of a right to file for a formal hearing before an administrative law judge under this subsection, whichever is later, a party may file for a formal hearing before an administrative law judge. If the initial determination was not issued within the 60-day period specified in subsection (c)(7) of this section, a complainant may file for a formal hearing before an administrative law judge. An administrative law judge shall conduct a hearing to determine whether a violation of this chapter or the Minimum Wage Revision Act, the Living Wage Act, or the Sick and Safe Leave Act has occurred. The hearing shall be scheduled within 30 days of a request, except that the administrative law judge may grant each party one discretionary continuance due to hardship or scheduling of up to 15 days. The administrative law judge may grant any other request for continuance only for good cause.

(2) The administrative law judge shall have the authority to administer oaths, issue subpoenas, compel the production of evidence, receive evidence, and consolidate 2 or more complaints into a single hearing where such complaints involve sufficiently similar allegations of fact to justify consolidation.

(3) All parties shall appear at the hearing, with or without counsel, and may submit evidence, cross-examine witnesses, obtain issuance of subpoenas, and otherwise be heard. Testimony taken at the hearing shall be under oath, and a transcript shall be made available at cost to any individual unless the case is sealed. Testimony may also be given and received by telephone.

(4) The burden of proof by a preponderance of the evidence shall rest upon the complainant, but shall shift to the respondent when the following conditions are met:

(A) A respondent failed to keep records of an employee's hours worked, or records of compensation provided to an employee are imprecise, inadequate, missing, fraudulently prepared or presented, or are substantially incomplete; and

(B) A complainant presents evidence to show, as a matter of just and reasonable inference, the amount of work done or the extent of work done or what compensation is due for the work done.

(5) Where the conditions in paragraph 4(A) and (B) of this subsection are met, the respondent must present compelling evidence of the precise amount of work performed and exact compensation promised or present compelling evidence to negate the reasonableness of the inferences drawn from the complainant's evidence. If the respondent fails to meet this burden, the administrative law judge shall award damages based on the complainant's evidence and may award approximate damages where necessary.

(6) If a respondent does not appear after receiving notice of a hearing pursuant to this section, the administrative law judge shall proceed to hear proof of the complaint and render judgment accordingly. If, after receiving notice of a hearing pursuant to this section, the complainant does not appear, the administrative law judge shall dismiss the complaint without prejudice.

(f)(1) At the conclusion of the hearing, the administrative law judge shall issue a decision setting forth a brief summary of the evidence considered, findings of fact and conclusions of law, and an order detailing the relief determined appropriate to the parties and their representatives within 30 days of the hearing.

(2) Appropriate relief shall include the payment of any back wages unlawfully withheld, liquidated damages equal to treble the amount of unpaid wages, statutory penalties, reasonable attorney fees and costs, and other legal or equitable relief as may be appropriate, including reinstatement in employment, and other injunctive relief.

(3) The decision and order shall be considered a final administrative ruling, enforceable in a court of competent jurisdiction, and reviewable as provided by applicable law.

(g)(1) Respondents shall comply with the provisions of any order or conciliation agreement affording relief and shall furnish proof of compliance to the Mayor as specified in the order. If the respondent refuses or fails to comply with the administrative order or conciliation agreement, the Mayor or the complainant may record a lien and may sue in the Superior Court of the District of Columbia for a remedy, enforcement, or assessment or collection of a civil penalty.

(2) The Superior Court of the District of Columbia shall have no jurisdiction to adjudicate the merits of the underlying claim, but is limited to enforcement of the administrative order or conciliation agreement.

(3) The Mayor may, at the request of an employee, take an assignment in trust for the assigning employee of such wages and join in a proceeding or action such claims against the same employer as the Mayor considers appropriate, and the Mayor shall have power to settle and adjust any such claim or claims on such terms the Mayor may consider just; provided, that no settlement for an amount less than the amount awarded by the administrative law judge shall be agreed to without the complainant's consent. The Mayor shall maintain regular contact with the complainant concerning the procedural status of any legal actions brought under the assignment and the complainant shall have the right to inquire about and receive information regarding the status of the enforcement action.

(h) If a respondent fails to timely comply with an administrative order or conciliation agreement that has not been stayed, the Mayor shall:

(1) Assess an additional late fee equal to 10% of the total amount owed for each month any portion of the award and any already accrued late penalty remains unpaid;

(2) Require the respondent to post public notice of their failure to comply in a form determined by the Mayor; and

(3) Consider any unpaid amount to be owed the District as past due restitution on behalf of an employee and suspend any licenses issued to do business in the District as set forth in subsection (i) of this section. Penalty amounts, including civil and criminal penalties and late fees, and any wages, damages, interest, costs, or fees awarded to an employee or representative shall be a lien upon the real estate and personal property of the person who owes them. The lien shall take effect by operation of law on the day immediately following the due date for payment, and, unless dissolved by payment, shall as of that date be considered a tax due and owing to the District, which may be enforced through any and all procedures available for tax collection.

(i) The Mayor shall:

(1) Deny an application for any license to do business issued by the District if, during the 3-year period before the date of the application, the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing or attempting to commit a willful violation of this chapter, the Minimum Wage Revision Act, the Living Wage Act, or the Sick and Safe Leave Act, or any other District, federal, or state law regulating the payment of wages. This subparagraph shall not apply to any person whose final administrative adjudication or judicial judgment or conviction was entered before February 26, 2015; and

(2) Suspend any license to do business issued by the District if the licensee has failed to comply with an administrative order or conciliation agreement issued under this section. Once alerted to an alleged lack of compliance, the Mayor shall notify the business that its license will be suspended in 30 days until

the business provides proof that it is in full compliance with the administrative order or conciliation agreement, including any requirements for accelerated payment, interest, or additional damages in the event of a breach. Before the license suspension, the business will have an opportunity to request a hearing to be held pursuant to the Administrative Procedure Act.

(j) The administrative remedies established in this chapter shall be in addition to any other criminal, civil, or other remedies established by law that may be pursued to address violations of this chapter and shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to abate a violation or to seek compensation for damages suffered.

(k) Any person may be represented by counsel in any proceeding under this chapter. Any party, including corporate entities, as an alternative to counsel, may be assisted by a non-lawyer authorized by that party in accordance with 1 DCMR § 2835, except where such representation is prohibited by law or disallowed by the administrative law judge for good cause.

(l)(1) Any party may request that a subpoena be issued by the administrative law judge. Witnesses summoned by subpoena shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the Superior Court of the District of Columbia. Fees payable to a witness summoned by subpoena issued at the request of a party shall be paid by that party.

(2) Within 10 days after service of a subpoena upon any person, the person may petition the administrative law judge to quash or modify the subpoena. The administrative law judge shall grant the petition if he or she finds that the subpoena:

(A) Requires appearance or attendance at an unreasonable time or place;

(B) Requires production of evidence that does not relate to the matter; or

(C) Does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(3) In the case of refusal to obey a subpoena, the administrative law judge or any party may seek enforcement of a subpoena issued under the authority of this chapter by filing a petition for enforcement in a court of competent jurisdiction. In the enforcement proceeding, the court may award to the party prevailing in the enforcement proceeding all or part of the costs and attorney's fees incurred in obtaining the enforcement order.

(4) Any person who fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, without good cause, may be fined by a court of competent jurisdiction not more than the amount set forth in § 22-3571.01 or imprisoned not more than 60 days, or both.

(5) Any person who makes or causes to be made any false entry or false statement of fact in any report, account, record, or other document submitted to the administrative law judge pursuant to its subpoena or other order, or who willfully mutilates, alters, or by any other means falsifies any documentary evidence, may be fined by a court of competent jurisdiction not more than the amount set forth in § 22-3571.01 or imprisoned not more than 60 days, or both.

(m)(1) The administrative law judge, in any action brought under this section shall, in addition to any administrative order awarded to the prevailing plaintiff, allow costs of the action, including costs or fees of any nature, and reasonable attorney's fees, to be paid by the defendant. In any administrative order in favor of any employee under this section, and in any proceeding to enforce an administrative order, the court shall award to each attorney for the employee an additional judgment for costs, including attorney's fees computed pursuant to the matrix approved in *Salazar v. District of Columbia*, 123 F.Supp.2d 8 (D.D.C. 2000), and updated to account for the current market hourly rates for attorney's services. The administrative law judge shall use the rates in effect at the time the determination is made.

(2) If the fees remain unpaid to the attorney at the time of any subsequent review, supplementation, or reconsideration of the fee award, the administrative law judge shall update the award to reflect the hours actually expended and the market rates in effect at that time. No reduction shall be made from this rate, or from the hours actually expended, except upon clear and convincing evidence that the reduction will serve the remedial purposes of this law.

(3) Costs shall also include expert witness fees, depositions fees, witness fees, juror fees, filing fees, certification fees, the costs of collecting and presenting evidence, and any other costs incurred in connection with obtaining, preserving, or enforcing the administrative order.

(4) The District 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 section.

(n) Appeals of any order issued under this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act shall be made to the District of Columbia Court of Appeals.

VII. Amendments to tipped minimum wage; notification to employees

§ 32–1002. Definitions.

For the purposes of this subchapter:

(1) The term "bartender" means an employee who:

(A) Receives gratuities;

(B) Is classified in the broad occupation category of "bartenders," or subsequent equivalent category or broad occupation, as defined in the U.S. Bureau of Labor Statistics' Standard Occupational Classification system; and

(C) Works in a food or beverage establishment.

(1A) The term "employ" includes to suffer or permit to work.

(2) The term "employee" includes any individual employed by an employer, except that this term shall not include:

(A) Any individual who, without payment and without expectation of any gain, directly or indirectly, volunteers to engage in the activities of an educational, charitable, religious, or nonprofit organization;

(B) Any lay member elected or appointed to office within the discipline of any religious organization and engaged in religious functions; or

(C) Any individual employed as a casual babysitter, in or about the residence of the employer.

(3) The term "employer" includes the District of Columbia government, any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States government.

(3A) The term "food or beverage establishment" means an establishment operating under an on-premises retailer's license, described in D.C. Official Code § 25-113(b)-(e).

(4**)** The term "gratuities" means voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered.

(5) The term "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent or representative, including the Department of Employment Services.

(6) The term "occupation" means any occupation, service, trade, business, industry, or branch or group of occupations or industries, or employment or class of employment, in which employees are gainfully employed.

(6A) The term "office building" means any commercial property where the primary functions are the transaction of administrative, business, civic, or professional services, including properties where handling goods, wares, or merchandise, in limited quantities, is accessory to the primary occupancy or use. The term "office building" does not include libraries, museums, or universities.

(7) The term "regular rate" means all remuneration for employment paid to, or on behalf of, the employee, but shall not be considered to include the items set forth in the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 207(e)(1), (2), (3), (4), (5), (6), and (7). Extra compensation paid as described in § 207(e)(5), (6), and (7) shall be creditable toward overtime compensation.

(7A) The term "security officer" shall have the same meaning as provided in section 2100 of Title 17 of the District of Columbia Municipal Regulations.

(7B) The term "server" means an employee who:

(A) Receives gratuities.

(B) Is classified in the broad occupation category of "waiter or waitress," or subsequent equivalent category or broad occupation, as defined in the U.S. Bureau of Labor Statistics' Standard Occupational Classification system; and

(C) Works in a food or beverage establishment.

(8) The term "wage" means compensation due to an employee by reason of the employee's employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, including allowances as may be permitted by any regulation issued under §§ 32-1003 and 32-1006.

(9) The term "Washington metropolitan region" means the area consisting of the District of Columbia, Montgomery, and Prince George's Counties in Maryland, Arlington and Fairfax Counties and the Cities of Alexandria, Fairfax and Falls Church in Virginia.

(10) The term "working time" means all the time the employee:

(A) Is required to be on the employer's premises, on duty, or at a prescribed place;

(B) Is permitted to work;

(C) Is required to travel in connection with the business of the employer; or

(D) Waits on the employer's premises for work.

Interpretations of what constitutes working time shall be made in accordance with Title 29 of the Code of Federal Regulations, Part 785, Hours Worked Under the Fair Labor Standards Act of 1938, as amended, except that references to interpretations of the Portal-to-Portal Act shall have no force and effect.

§ 32–1003. Requirements.

(a)(1) Except as provided in subsection (h) of this section, as of January 1, 2005, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $6.60 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act (29 U.S.C. § 206 et seq.) ("Fair Labor Standards Act"), plus $1, whichever is greater.

(2) Except as provided in subsection (h) of this section, as of January 1, 2006, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $7 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.

(3) Except as provided in subsection (h) of this section, as of July 1, 2014, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $9.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.

(4) Except as provided in subsection (h) of this section, as of July 1, 2015, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $10.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.

(5)(A) Except as provided in subsection (h) of this section and subparagraph (B) of this paragraph, the minimum hourly wage required to be paid to an employee by an employer shall be as of:

(i) July 1, 2016: $11.50;

(ii) July 1, 2017: $12.50;

(iii) July 1, 2018: $13.25;

(iv) July 1, 2019: $14.00; and

(v) July 1, 2020: $15.00.

(B) If the minimum wage set by the United States government pursuant to the Fair Labor Standards Act ("U.S. minimum wage") is greater than the minimum hourly wage currently being paid pursuant to subparagraph (A) of this paragraph, the minimum hourly wage paid to an employee by an employer shall be the U.S. minimum wage plus $1.

(6)(A) Except as provided in subsection (h) of this section, beginning on July 1, 2021, and no later than July 1 of each successive year, the minimum wage provided in this subsection shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of $.05.

(B) Repealed.

(b) A person shall be employed in the District of Columbia when:

(1) The person regularly spends more than 50% of their working time in the District of Columbia; or

(2) The person's employment is based in the District of Columbia and the person regularly spends a substantial amount of their working time in the District of Columbia and not more than 50% of their working time in any particular state.

(c) No employer shall employ any employee for a workweek that is longer than 40 hours, unless the employee receives compensation for employment in excess of 40 hours at a rate not less than 1 1/2 times the regular rate at which the employee is employed.

(d) All workers with disabilities shall be paid at a rate not less than the minimum wage, except in those instances where a certificate has been issued by the United States Department of Labor that authorizes the payment of less to workers with disabilities under § 214(c) of the Fair Labor Standards Act [29 U.S.C. § 214(c)].

(e) No employer shall be deemed to have violated subsection (c) of this section if the employee works for a retail or service establishment and:

(1) The regular rate of pay of the employee is in excess of 11/2 times the minimum hourly rate applicable to the employee under this subchapter; and

(2) More than 1/2 of the employee's compensation for a representative period (not less than 1 month) represents commissions on goods or services.

(f)(1) **The minimum hourly wage required to be paid by an employer to an employee who receives gratuities but who is not a server or bartender shall:**

(A) Be $5.00 as of July 1, 2019; and

(B) Increase annually thereafter by $1.40 until the employee's wage equals the minimum hourly wage set under subsection (a) of this section, at which point an employee covered by this paragraph shall receive the minimum hourly wage prescribed by subsection (a) of this section.

(2) The minimum hourly wage required to be paid by an employer **to a server or bartender** shall**:**

(A) Be $4.45 as of July 1, 2019;

(B) Be $5.00 as of July 1, 2020;

(C) Beginning on July 1, 2021, and no later than July 1 of each successive year, increase in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of $.05.

(3) Notwithstanding paragraphs (2) and (3) of this subsection, where, during a given workweek, the sum of an employee's gratuities plus the wage paid pursuant to this subsection is less than the wage prescribed under subsection (a) of this section multiplied by the number of hours the employee worked, the employer shall pay the difference to the employee.

(4) No employee, other than servers and bartenders, may be paid pursuant to this subsection after July 1, 2030.

(f-1) The Mayor shall publish in the District of Columbia Register, on the Department of Employment Services website, and make available to employers in a bulletin, the adjusted minimum hourly wage to be paid by an employer to an employee pursuant to subsections (a)(5) and (6) and (f) of this section at least 30 days before an increase is scheduled to go into effect.

(g) Subsection (f) of this section shall not apply to an employee who receives gratuities, unless:

(1) The employer has provided the employee with notice of the following, included in the notice furnished pursuant to section 9(c) [§32-1008(c)]:

(A) The provisions of subsection (f) of this section; **and**

(B) If gratuities are pooled, the employer's pooling structure, including the calculation of any payments that the employee will receive as a percentage of total gratuities or sales;

(2) If the employer uses tip pooling, the employer has posted the pooling structure pursuant to section 10(a) [§ 32-1009(a)]; and

(3) All gratuities received by the employee have been retained by the employee, except that this provision shall not be construed to prohibit the pooling of gratuities among employees who customarily receive gratuities.