

AN ACT

Bill 20-1012

**Emergency
Declaration
Res. 20-720
20 DCStat 4656**

**Codification
District of
Columbia
Official Code
2001 Edition**

To amend, on an emergency basis, the Wage Theft Prevention Amendment Act of 2014 to clarify who may bring an action on behalf of an employee, when a general contractor and subcontractor or a general contractor or temporary staffing firm will be jointly and severally liable for violations, and how the Mayor shall make certain information available to employers, to revise criminal penalties for violations of the act, to authorize the Mayor to issue rules, and to repeal a retroactive applicability provision.

**Wage Theft
Prevention
Correction
and
Clarification
Emergency
Amendment
Act of 2014**

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Wage Theft Prevention Correction and Clarification Emergency Amendment Act of 2014”.

Sec. 2. The Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157), is amended as follows:

(a) Section 2 is amended as follows:

(1) Subsection (b)(2) is amended as follows:

(A) Strike the phrase “(5) When the employer is a subcontractor alleged to have failed to pay an employee any wages earned, the subcontractor and the general contractor shall be jointly and severally liable to the subcontractor’s employees for violations of this act, the Living Wage Act, and the Sick and Safe Leave Act.” and insert the phrase “(5) When the employer is a subcontractor found to have failed to pay an employee any wages earned, the subcontractor and the general contractor shall be jointly and severally liable to the subcontractor’s employees for violations of this act, the Living Wage Act, and the Sick and Safe Leave Act, except as otherwise provided in a contract between the contractor and subcontractor in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157).” in its place.

(B) Strike the phrase “(6) When a temporary staffing firm employs an employee who performs work on behalf of or to the benefit of another employer pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing firm and the employer shall be jointly and severally liable for violations of this act, the Living Wage Act, and the Sick and Safe Leave Act to the employee and to the District.” and insert the phrase “(6) When a temporary staffing firm employs an employee who performs work on behalf of or to the benefit of another employer pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing firm and the employer shall be jointly and severally liable for violations of this act, the Living Wage Act, and the Sick and Safe Leave Act to the employee

and to the District, except as otherwise provided in a contract between the temporary staffing firm and the employer in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157).” in its place.

(2) Subsection (e)(1) is amended to read as follows:

“(1) Subsection (a) is amended to read as follows:

“(a)(1) Any employer who negligently fails to comply with the provisions of this act or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall be fined:

“(A) For the first offense, an amount per affected employee of not more than \$2,500;

“(B) For any subsequent offense, an amount per affected employee of not more than \$ 5,000.

“(2) Any employer who willfully fails to comply with the provisions of this act or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall:

“(A) For the first offense, be fined not more than \$5,000, or imprisoned not more than 30 days, or both; or

“(B) For any subsequent offense, be fined not more than \$10,000, or imprisoned not more than 90 days, or both.

“(3) The fines set forth in paragraphs (1) and (2) of this subsection shall not be limited by section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).”.

(3) Subsection (g) is amended by striking the phrase “or any entity a member of which is aggrieved by a violation of this act, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act”.

(4) A new subsection (j) is added to read as follows:

“(j) A new section 10b is added to read as follows:

“Sec. 10b. Rules.

“The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.”.

(b) Section 3 is amended as follows:

(1) Subsection (c)(1)(A) is amended by striking the phrase “3 years or whatever the prevailing federal standard is, whichever is greater” and inserting the phrase “3 years or the prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is greater,” in its place.

(2) Subsection (e)(3) is amended to read as follows:

“(3) A new subsection (c) is added to read as follows:

“(c) The Mayor shall make copies or summaries of this act publicly available on the District government’s website or some other appropriate method within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157). An employer shall not be liable for failure to post notice if the Mayor has failed to provide to the employer the notice required by this section.”.

(3) Subsection (g)(4) is amended by striking the phrase “3 years or whatever the prevailing federal standard is, whichever is greater” and inserting the phrase “or the prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is greater,” in its place.

(4) Subsection (i) is amended as follows:

(A) Strike the phrase “(c) When the employer is a subcontractor alleged to have failed to pay an employee any wages earned, the subcontractor and the general contractor shall be jointly and severally liable to the subcontractor’s employees for violations of this act.” and insert the phrase “(c) When the employer is a subcontractor found to have failed to pay an employee any wages earned, the subcontractor and the general contractor shall be jointly and severally liable to the subcontractor’s employees for violations of this act, except as otherwise provided in a contract between the contractor and subcontractor in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157).”.

(B) Strike the phrase “(f) When a temporary staffing firm employs an employee who performs work on behalf of or to the benefit of another employer pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing firm and the employer shall be jointly and severally liable for violations of this act to the employee and to the District.” and insert the phrase “(f) When a temporary staffing firm employs an employee who performs work on behalf of or to the benefit of another employer pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing firm and the employer shall be jointly and severally liable for violations of this act to the employee and to the District, except as otherwise provided in a contract between the temporary staffing firm and the employer in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157).”.

(c) Section 7 is repealed.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).