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4 Chairman Phil Mendelson at
5 the request of the Mayor
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9 A BILL
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13 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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17 To amend, on an emergency basis, the Wage Theft Prevention Amendment Act of 2014 to
18 clarify when certain provisions shall take effect, who may bring an action on behalf of an
19 employee, amend criminal penalties, clarify when amounts in a special fund may be used,
20 authorize the Mayor to issue rules, and clarify how the Mayor shall make certain
21 information available to employers.
22 .

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

26 Sec. 2. The Wage Theft Prevention Amendment Act of 2014, enacted on September 19,
27 2014 (D.C. Act 20-426; 61 DCR 10157), is amended as follows:

28 (a) Section 2 is amended as follows:

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

30 (A) Strike the phrase “(5) When the employer is a subcontractor alleged to
31 have failed to pay an employee any wages earned, the subcontractor and the general contractor
32 shall be jointly and severally liable to the subcontractor’s employees for violations of this act, the
33 Living Wage Act, and the Sick and Safe Leave Act.” and insert the phrase “(5) When the

34 employer is a subcontractor found to have failed to pay an employee any wages earned, the
35 subcontractor and the general contractor shall be jointly and severally liable to the
36 subcontractor's employees for violations of this act, the Living Wage Act, and the Sick and Safe
37 Leave Act, except as otherwise provided in a contract between the contractor and subcontractor
38 in effect on the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on
39 September 19, 2014 (D.C. Act 20-426; 61 DCR 10157)." in its place.

40 (B) Strike the phrase "(6) When a temporary staffing firm employs an
41 employee who performs work on behalf of or to the benefit of another employer pursuant to a
42 temporary staffing arrangement or contract for services, both the temporary staffing firm and the
43 employer shall be jointly and severally liable for violations of this act, the Living Wage Act, and
44 the Sick and Safe Leave Act to the employee and to the District." and insert the phrase "(6)
45 When a temporary staffing firm employs an employee who performs work on behalf of or to the
46 benefit of another employer pursuant to a temporary staffing arrangement or contract for
47 services, both the temporary staffing firm and the employer shall be jointly and severally liable
48 for violations of this act, the Living Wage Act, and the Sick and Safe Leave Act to the employee
49 and to the District, except as otherwise provided in a contract between the temporary staffing
50 firm and the employer in effect on the effective date of the Wage Theft Prevention Amendment
51 Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157)." in its place.

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

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

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

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

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

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

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

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

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

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

72 (5) A new subsection (j) added to read as follows:

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

74 “Sec. 10b. Rules.

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

78 (b) Section 3 is amended as follows:

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

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

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

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

89 (3) Subsection (i) is amended as follows:

90 (A) Strike the phrase “(c) When the employer is a subcontractor alleged to
91 have failed to pay an employee any wages earned, the subcontractor and the general contractor
92 shall be jointly and severally liable to the subcontractor’s employees for violations of this act.”
93 and insert the phrase “(c) When the employer is a subcontractor found to have failed to pay an
94 employee any wages earned, the subcontractor and the general contractor shall be jointly and
95 severally liable to the subcontractor’s employees for violations of this act, except as otherwise
96 provided in a contract between the contractor and subcontractor in effect on the effective date of

97 the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act
98 20-426; 61 DCR 10157).”.

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

110 (c) Section 7 is repealed.

111 Sec. 3. Fiscal impact statement.

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

115 Sec. 4. Effective date.

116 This act shall take effect following approval by the Mayor (or in the event of veto by the
117 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
118 90 days, as provided for emergency acts of the Council of the District of Columbia in section

119 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788,

120 D.C. Official Code § 1-204.12(a)).