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A BILL  
21-331

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To establish a minimum work week for building service employees, prohibit retaliation of the exercise of a right established by this act, to require an employer to post certain notices in the workplace, to authorize the Mayor to verify employer compliance, to establish penalties for a violation of this act, to provide for administrative action by the Mayor and by the Office of Administrative Hearings for violations of this act, and to authorize civil action for violations of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Building Service Employees Minimum Work Week Act of 2016”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Covered employee” or “building services employee” means an individual performing janitorial services, building maintenance services, or other services in or around a covered location to maintain the repair, cleanliness, and overall quality of the covered location.

(2) “Covered employer” means an individual, group of individuals, partnership, association, corporation, business trust, society, firm, company, joint stock company or other entity that at a covered location:

- (A) Directly employs a covered employee;
- (B) Contracts for the services of a covered employee; or
- (C) Subcontracts for the services of a covered employee.

31 (3) "Covered leave" means paid or unpaid temporary leave from work taken by a  
32 covered employee pursuant to:

33 (A) Federal or District law;

34 (B) An employee handbook; or

35 (C) A written request voluntarily initiated by the covered employee

36 (4) "Covered location" means an office building, commonly owned office park,  
37 or a commonly owned and managed group of buildings, with over 350,000 square feet of net  
38 rentable commercial office space. The term "covered location" excludes property owned or  
39 leased by a health-care facility licensed under the Health-Care and Community Residence  
40 Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law  
41 5-48; D.C. Official Code § 44-501 *et seq.*), and affiliated subsidiaries.

42 (5) "Minimum work week" means the minimum number of compensated hours  
43 provided to a covered employee in any work week including weeks in which the covered  
44 employee is taking covered leave.

45 (6) "Office park" means an area where a number of office buildings are  
46 together on landscaped grounds, including parking lots, parklike surroundings, and restaurants.

47 (7) "Work week" means a fixed regularly recurring period of 168 hours or 7  
48 consecutive 24 hour periods.

49 Sec. 3. Minimum work week.

50 (a) The minimum work week for a building services employee shall be 30 hours; except,  
51 that when an employee is taking covered leave, the leave shall count towards the 30 hour

52 minimum work week; provided, that at each covered location up to 20% of the work hours  
53 scheduled for employees engaged in cleaning service may be preserved for part-time employees  
54 with a minimum shift of 4 hours per night and 20 hours per week per employee for up to a total  
55 of 10 the part-time positions permitted per covered location.

56 Sec. 4. Prohibited acts.

57 It shall be a violation of this act for a covered employer to:

58 (1) Fail to provide a minimum work week as required by this act or a regulation  
59 issue pursuant to this act;

60 (2) Discharge, threaten, penalize, or in any other manner discriminate or retaliate  
61 against a covered employee because the covered employee has:

62 (A) Made, or is believed to have made, a complaint to the covered  
63 employer, the Mayor, the Attorney General for the District of Columbia, a federal employee, or  
64 District government employee that the covered employer has engaged in conduct that the  
65 covered employee, reasonably and in good faith, believes violates this act or a regulation issued  
66 pursuant to this act;

67 (B) Instituted, or will institute, a proceeding alleging a violation of this  
68 act;

69 (C) Provided information related to a possible violation of this act to the  
70 Mayor, the Attorney General for the District of Columbia, or a federal or District government  
71 employee;

72 (D) Testified, or will testify, in an investigation or proceeding being  
73 conducted pursuant to this act; or

74 (E) Exercised any other right protected by this act.

75 (3) Hinder the Mayor in the enforcement of this act, including by failing to:

76 (A) Admit the Mayor to a covered location;

77 (B) Make available any record required to be made or retained by this act;

78 or

79 (C) Post a summary or copy of this act and of any applicable regulation,  
80 as required by section 5.

81 Sec. 5. Posting requirements.

82 (a)(1) A covered employer shall post and maintain in a conspicuous place, a notice,  
83 which shall be prescribed by the Mayor and provided to each covered employer, that shall  
84 include excerpts or summaries of the pertinent provisions of this act and information about filing  
85 of a complaint pursuant the act.

86 (2) A covered employer shall post every notice required to be posted by this act  
87 in English and all languages spoken by employees with limited or no-English proficiency, as  
88 defined in section 2 of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-  
89 167, D.C. Official Code § 2-1931).

90 (b) A covered employer who fails to comply with the posting requirements of this section  
91 shall be subject to the penalty set forth in section 8.

92 Sec. 6. Mayor's authority.

93 The Mayor shall have the authority to:

94 (1) Investigate and ascertain the minimum workweek of a covered employee;

95 (2) Enter and inspect a covered location of a covered employer to:

96 (A) Inspect and copy any:

97 (i) Books;

98 (ii) Registers;

99 (iii) Payrolls; or

100 (iv) Other record the Mayor considers necessary or appropriate; or

101 (B) Question a covered employee to ascertain whether the covered

102 employer is in compliance with the requirements of this act;

103 (3) Require a covered employer to provide a sworn statement pertaining to the

104 employment of a covered employee regarding:

105 (A) Wages and hours; and

106 (B) Any other information pertaining to the employment of the covered

107 employee that the Mayor considers necessary or appropriate to carry out the purposes of this act;

108 and

109 (4) Following an admission of a violation by a respondent to a compliant,

110 conduct an audit or subpoena to determine if the rights of employees other than the complainant

111 have also been violated.

112 Sec. 7. Confidentiality of reported information.

113 To encourage reporting and protect personal information received pursuant to this act, the  
114 Mayor shall keep confidential, to the maximum extent authorized by law, the name and any other  
115 identifying information of a covered employee, or other person, reporting a violation of this act  
116 during the course of an investigation; provided, that with the authorization of the covered  
117 employee or other person, whichever is applicable, the Mayor may disclose the name of the  
118 covered employee or other person and such identifying information as necessary to conduct a  
119 hearing and enforce this act or other employee protection law.

120 Sec. 8. Penalties.

121 (a)(1) Except as provided in paragraph (2) of this subsection, a covered employer who  
122 willfully violates the posting requirements of section 5 shall be assessed a civil penalty not to  
123 exceed \$100 for each day that the employer fails to post the notice; provided, that the total  
124 penalty shall not exceed \$500.

125 (2) No liability for failure to post the notice shall arise under this section if the  
126 Mayor has failed to provide the notice required by section 5 to the covered employer.

127 (b)(1) A covered employer who fails to comply with any of the requirements of this act,  
128 other than the positing requirements of section 5, shall be subject to a fine of not more than  
129 \$5,000 for each violation for each day that the violation continues.

130 (2) For the purposes of this subsection, each violation of an employee's right  
131 provided by this act shall constitute a separate violation of this act.

132 (c)(1) Except as provided in paragraph (2) of this subsection, the Mayor shall assess an  
133 administrative penalty against a covered employer for a violation of this act. In assessing the

134 amount of the fine to be imposed pursuant to the following authorized penalties, the Mayor may  
135 consider factors the Mayor determines appropriate, including a covered employer's past history  
136 of violations of this act:

137 (A) For the first violation, a maximum fine of up to \$500; and

138 (B) For any subsequent violation, a maximum fine of up to \$1,000.

139 (2) No administrative penalty may be collected unless the Mayor provided a  
140 covered employer alleged to have violated this act:

141 (A) Notification of the violation;

142 (B) The amount of the administrative penalty that may be imposed; and

143 (C) An opportunity to request a hearing.

144 Sec. 9. Administrative action by the Mayor.

145 (a) Subject to the statute of limitations described in subsection (b) of this section, upon a  
146 request by a covered employee for administrative enforcement of this act in accordance with  
147 paragraph (2) of this subsection, the Mayor shall investigate and make an initial determination  
148 regarding the alleged violation.

149 (b)(1) Except as provided in paragraph (3) of this subsection, an aggrieved employee  
150 ("complainant") shall file a signed complaint against a covered employer for failure to provide a  
151 minimum work week with the Mayor no later than 3 years after the last date upon which the  
152 alleged violation occurred.

153 (2) A complainant may recover only those amounts that became lawfully due and  
154 payable within the 3-year period before the date the complaint was filed; except, that if the

155 alleged failure to provide a minimum work week is ongoing at the time of the filing of the  
156 complaint, the complainant may also seek recovery of those amounts that accrued during the  
157 pendency of the claim.

158 (3) The 3-year statute of limitations shall be tolled during any period that the  
159 covered employer had failed to provide the covered employee with actual or constructive notice  
160 of the covered employee's rights or on other equitable grounds.

161 (c) The complaint shall:

162 (1) Set forth the facts upon which it is based with sufficient specificity to  
163 determine that an allegation of failure to provide a minimum work week has been made;

164 (2) Meet other criteria required in this section, or by regulations issued pursuant  
165 to this act;

166 (3) Be sworn to as true by the complainant; and

167 (4) Include, or be attached thereto, the following information:

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

170 (B) Sufficient information to enable the Mayor to identify the covered  
171 employer through District records, such as the covered employer's:

172 (i) Name;

173 (ii) Business address;

174 (iii) Motor vehicle license plate number; or

175 (iv) Telephone number; and



176 (C) If not set forth in the statement of facts required by paragraph (1) of  
177 this subsection, an explanation of the alleged violations, which may include:

- 178 (i) The approximate or actual dates the violations occurred;
- 179 (ii) The estimated total amount of unpaid wages: and
- 180 (iii) An explanation of how the estimated total amount of unpaid  
181 wages was calculated.

182 (d) The Mayor may, as the Mayor determines necessary or appropriate, request that the  
183 complainant amend a complaint considered insufficient, including to:

- 184 (A) Cure technical defects or omissions;
- 185 (B) Clarify or amplify allegations; or
- 186 (D) More fully or adequately allege the charge set forth in the original  
187 complain.

188 (e)(1) The Mayor shall mail the complaint and the written notices described in paragraph  
189 (2) of this subsection to the covered employer or, if more than one, to each covered employer  
190 (“respondent”).

191 (2)(A) Notice to the respondent shall set forth the:

- 192 (i) Damages, penalties, and other costs for which the respondent  
193 may be liable;
- 194 (ii) Rights and obligations of the parties; and
- 195 (iii) Process for contesting the complaint.

196 (B) Notice to covered employees shall state that an investigation by the  
197 Mayor is being conducted and provide information on how covered employees may participate  
198 in the investigation.

199 (f)(1) Upon receipt of the notice required by subsection (e)(2)(B), the respondent shall  
200 post the notice in a conspicuous place for a period of at least 30 days.

201 (2) Within 20 days from the date the complaint and written notices are mailed, the  
202 respondent shall:

203 (A) Admit that the allegations in the complaint are true; or

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

206 (3) If a respondent admits the allegations, the Mayor shall issue an administrative  
207 order requiring the respondent to pay the unpaid wages due and, if any, other compensation,  
208 liquidated damages, and fine or penalty owed, and to cure the violation.

209 (4) If a respondent fails to respond to the allegations within 20 days as required by  
210 paragraph (2) of this subsection, the allegations in the complaint shall be deemed admitted and  
211 the Mayor shall issue an initial determination requiring the respondent to pay unpaid wages due  
212 and, if any, compensation, liquidated damages, and fine or penalty owed, and to cure violation.

213 (5)(A) The Mayor shall issue an initial determination within 120 days after the  
214 date the complaint is received. The initial determination shall contain:

215 (i) A brief summary of the evidence considered;

216 (ii) The findings of fact;

- 217 (iii) The conclusions of law;
- 218 (iv) An order detailing the amount owed by the respondent or other  
219 relief, if any;
- 220 (v) The process by which to appeal the Mayor's determination or  
221 to seek other relief; and
- 222 (vi) A preliminary determination as to whether the complainant is  
223 entitled to additional unpaid earned wages due to other District laws, including the Sick and Safe  
224 Leave Act of 2008, effective May 13, 2008 (D.C. Law 170152; D.C. Official Code § 32-131.01  
225 *et seq.*), the Living Wage Act of 2006, effective June 9, 2006 (D.C. Law 16-118; D. C. Official  
226 Code § 2-220.01), the Minimum Wage Revision Act of 1992, effective March 25, 1993 (D.C.  
227 Law 9-248; D.C. Official Code § 32-1001 *et seq.*), and An Act To provide for the payment and  
228 collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C.  
229 Official Code § 32-1301 *et seq.*).

230 (B) The initial determination shall be provided to both parties.

231 (C) If the Mayor fails to issue an initial determination within 120 days  
232 after the date the complaint is received, the complainant shall have a right to request a formal  
233 hearing before an administrative law judge.

234 Sec. 10. Conciliation of dispute.

235 (a)(1)The Mayor shall work with the parties in an attempt to conciliate a dispute pursuant  
236 to this act; provided, that any conciliation agreement entered into shall be between the  
237 respondent and the complainant, which shall be reproduced by the Mayor as an administrative

238 order (“CAO”).

239 (2) If the CAO is breached, the Mayor or the complainant may enforce the CAO  
240 pursuant to section 11.

241 Sec. 11. Administrative action by an administrative law judge.

242 (a) Within 30 days of the issuance of the initial determination or administrative order,  
243 other than an administrative order issued pursuant to section 10, either party may file for a  
244 formal hearing before an administrative law judge.

245 (b)(1) Except as provided in paragraph (2) of this subsection, an administrative law judge  
246 shall:

247 (A) Schedule a hearing within 30 days of the date a request for the  
248 hearing was filed;

249 (B) Provide notice to the parties of the time and place of the hearing;

250 and

251 (C) Upon conclusion of the hearing, issue an order based on the  
252 findings.

253 (2) The administrative law judge may grant each party one discretionary  
254 continuance due to hardship or a scheduling conflict of up to 15 days, and any other request for  
255 good cause only.

256 (c)(1) If a respondent does not appear after having received notice of the hearing pursuant  
257 to this section, the administrative law judge shall proceed to hear proof of the complaint and  
258 render judgment accordingly.

259 (2) If a complainant does not appear after having received notice of the hearing  
260 pursuant to this section, the administrative law judge shall dismiss the complaint without  
261 prejudice.

262 (d)(1) The parties may:

263 (A) Appear at the hearing with or without counsel;

264 (B) Submit evidence;

265 (C) Cross-examine witnesses;

266 (D) Obtain the issuance of subpoenas; and

267 (E) Otherwise be heard.

268 (2) Testimony taken at the hearing, or given and received by telephone, shall be  
269 under oath, and a transcript shall be made available at cost to any individual, unless the case is  
270 sealed.

271 (3) The burden of proof by a preponderance of the evidence shall rest upon the  
272 complainant, but shall shift to the respondent if:

273 (A) A respondent failed to keep records of a covered employee's schedule  
274 of hours and hours worked, or records of the covered employee's compensation provided to the  
275 covered employee are:

276 (i) Imprecise;

277 (ii) Inadequate;

278 (iii) Missing;

279 (iv) Fraudulently prepared or presented; or

280 (v) Substantially incomplete; and

281 (B) A complainant presents evidence to show, as a matter of just and  
282 reasonable inference, as determined by the judge, the hours the complainant was scheduled and  
283 amount of work done.

284 (4)(A) If the burden of proof shifts to the respondent pursuant to paragraph 3 of  
285 this subsection, the respondent shall present compelling evidence:

286 (i) Of an exemption from applicability of the minimum work week  
287 required by this act; and

288 (ii) To negate the reasonableness of the inferences drawn from the  
289 complainant's evidence.

290 (B) If the respondent fails to meet the burden of proof, as required by  
291 subparagraph (A) of this paragraph, the administrative law judge shall award damages to the  
292 complainant based on the complainant's evidence and may award approximate damages as  
293 necessary.

294 (e)(1) Within 30 days of the conclusion of the hearing, the administrative law judge shall  
295 issue:

296 (A) A decision setting forth a brief summary of the evidence considered,  
297 findings of fact, and conclusions of law; and

298 (B) An order detailing the determined relief.

299 (2)(A) Relief may include:

300 (i) All wages the covered employer would have paid the covered  
301 employee had the covered employer complied with this act;

302 (ii) Compensation;

303 (iii) Reasonable attorneys' fees and costs; and

304 (iv) Liquidated damages.

305 (B) An administrative law judge may award in liquidated damages an  
306 amount of up to treble the amount of owed wages.

307 (3) The decision and order of the administrative law judge shall be a final  
308 administrative ruling. It shall be enforceable in a court of competent jurisdiction and reviewable  
309 as provided by applicable law.

310 (f)(1) A respondent shall comply with the provisions of any order or conciliation  
311 agreement affording relief and shall furnish proof of compliance to the Mayor.

312 (2) If a respondent refuses or fails to comply with the administrative order or  
313 conciliation agreement, the Mayor or the complainant may record a lien and may sue in the  
314 Superior Court of the District of Columbia for a remedy, enforcement, or assessment or  
315 collection of a civil penalty; provided, that the Superior Court of the District of Columbia shall  
316 have no jurisdiction to adjudicate the merits of the underlying claim but shall be limited to  
317 enforcement of the administrative order or conciliation agreement.

318 (g)(1) The Mayor may, at the request of a covered employee, take an assignment in trust  
319 for the assigning employee of wages and join in a proceeding or action of such claims against the  
320 same covered employer as the Mayor considers appropriate.

321 (2)The Mayor shall have power to settle and adjust any such claim on the terms  
322 the Mayor considers just; provided, that no settlement for an amount less than the amount  
323 awarded by the administrative law judge shall be agreed to without the complainant's consent.

324 (3) The Mayor shall maintain regular contact with the complainant concerning  
325 the procedural status of any legal action brought under the assignment, and the complainant shall  
326 have the right to inquire about and receive information regarding the status of the legal action.

327 (h)(1) If a respondent fails to timely comply with an administrative order or conciliation  
328 agreement that has not been stayed, the Mayor shall:

329 (A) Assess an additional late fee equal to 10% of the total amount owed  
330 for each month any portion of the award and accrued late penalty remain unpaid;

331 (B) Require the respondent to post public notice of its failure to comply, in  
332 a form determined by the Mayor; and

333 (C) Consider any unpaid amount to be owed the District as past due  
334 restitution on behalf of a covered employee; and

335 (D) Suspend any licenses issued to the covered employer to do business  
336 in the District as set forth in subsection (i) of this section.

337 (2)(A) Penalty amounts, including civil penalties and late fees, and any wages,  
338 compensation, damages, interest, costs, or other fees awarded to a covered employee, or a  
339 representative of the covered employee, shall be a lien upon the real estate and personal property  
340 of the person who owes the foregoing.



341 (B) The lien shall take effect by operation of law on the day immediately  
342 following the due date for payment, and, unless dissolved by payment, shall as of that date be  
343 considered a tax due and owing to the District, which may be enforced through any procedure  
344 available for tax collection.

345 (i) The Mayor shall:

346 (1) Deny an application for a license to do business issued by the District if,  
347 during the 3-year period before the date of the application, the applicant admitted guilt or  
348 liability or had been found guilty or liable in any judicial or administrative proceeding of  
349 committing or attempting to commit a willful violation of this act; and

350 (2) Suspend any license to do business issued by the District if the licensee has  
351 failed to comply with an administrative order issued or conciliation agreement entered into  
352 pursuant to this act.

353 (3)(A) Upon learning of a licensee's alleged lack of compliance with an  
354 administrative order issued or conciliation agreement entered into pursuant to this act, subject to  
355 subparagraph (B) of this paragraph, the Mayor shall notify the licensee that its license shall be  
356 suspended in 30 days and remain suspended until the licensee provides proof that it is in  
357 compliance with the administrative order or conciliation agreement, whichever applies, including  
358 any requirements for accelerated payment, interest, or additional damages in the event of a  
359 breach.

360 (B) Before a license may be suspended, the Mayor shall provide the licensee the  
361 opportunity to have a hearing pursuant to the District of Columbia Administrative Procedure Act,  
362 effective October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

363 (j) Any person may be represented by counsel in any proceeding under this act. Any  
364 party, including corporate entities, as an alternative to counsel, may be assisted by a non-attorney  
365 authorized by that party in accordance with section 2835 of Title 1 of the District of Columbia  
366 Municipal Regulations (1 DCMR § 2835), except where such representation is prohibited by law  
367 or disallowed by the administrative law judge for good cause.

368 (k)(1) Any party may request that a subpoena be issued by the administrative law judge.

369 (2)(A) Witnesses summoned by subpoena shall be entitled to the same witness  
370 and mileage fees as are witnesses in proceedings in the Superior Court of the District of  
371 Columbia; provided, that fees payable to a witness summoned by subpoena issued at the request  
372 of a party shall be paid by that party.

373 (B) Within 10 days after service of a subpoena upon a person, the person  
374 may petition the administrative law judge to quash or modify the subpoena, which the  
375 administrative law judge shall grant, if the judge finds that:

376 (i) The subpoena requires appearance or attendance at an  
377 unreasonable time or place;

378 (ii) The subpoena requires production of evidence that does not  
379 relate to the matter at issue;

380 (iii) The subpoena does not describe with sufficient particularity  
381 the evidence to be produced;

382 (iv) Compliance with the subpoena would be unduly onerous; or

383 (v) The subpoena fails for other good reason.

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

389 (4) A person who fails or neglects to attend a proceeding to which the person was  
390 duly called to testify or refuses to answer any lawful inquiry or demand to produce records,  
391 documents, or other evidence, without good cause, may be fined by a court of competent  
392 jurisdiction not more than the amount set forth in section 101 of the Criminal Fine  
393 Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C.  
394 Official Code § 22-3571.01) (“Criminal Fine Proportionality Act”) or imprisoned not more than  
395 60 days, or both.

396 (5) A person who makes or causes to be made a false entry or false statement of  
397 fact in any report, account, record, or other document submitted to an administrative law judge  
398 pursuant to a subpoena or other order or who willfully mutilates, alters, or by any other means  
399 falsifies any documentary evidence may be fined by a court of competent jurisdiction not more  
400 than the amount set forth in the Criminal Fine Proportionality Act or imprisoned not more than

401 60 days, or both.

402 (1)(1)(A) In any action brought under this section, the administrative law judge shall  
403 allow a prevailing plaintiff to recover the costs of the action from the defendant, including costs  
404 or fees of any nature and reasonable attorney's fees.

405 (B) In an administrative order in favor of a covered employee and in any  
406 proceeding to enforce an administrative order, the court shall award to each attorney for the  
407 covered employee an additional judgment for costs, including reasonable attorney's fees.

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

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

417 (4) The Mayor shall not be required to pay the filing fee or other costs or fees of  
418 any nature or to file bond or other security of any nature in connection with any action or  
419 proceeding under this section.

420 Sec. 12. Civil action.

421 (a) A covered employee aggrieved by a violation of this act may bring a civil action in  
422 the Superior Court of the District of Columbia and may be awarded such legal or equitable relief  
423 as may be appropriate to effectuate the purposes of this act, including without limitation:

424 (1) Reinstatement;

425 (2) Payment of lost wages totaling not less than the hourly rate of pay due to the  
426 covered employee but for the violation multiplied by the number of hours below the minimum  
427 work week that the covered employee was provided each work week during which a violation  
428 occurred;

429 (3) Actual medical costs incurred by the covered employee as a result of the  
430 violation;

431 (4) Liquidated damages in the amount of \$100 per day for each day the violation  
432 continued; and

433 (5) Reasonable attorney's fees and costs of the action to be paid by the defendant  
434 to a prevailing plaintiff.

435 (b) (1) An action to recover damages under this act may be maintained in the Superior  
436 Court of the District of Columbia by one or more covered employees aggrieved by a violation of  
437 this act or on behalf of a covered employee or covered employees who are similarly situated as  
438 long as at least one of the covered employees has exhausted all administrative remedies.

439 (2)(A) For the purposes of this subsection, 2 or more covered employees are  
440 similarly situated if they:

441 (i) Are or were employed by the same employer, whether concurrently or

442 otherwise, at some point during the applicable statute of limitations period;

443 (ii) Allege one or more violations that raise similar questions as to  
444 liability; and

445 (iii) Seek similar forms of relief.

446 (B) Covered employees alleging violations of this act shall not be  
447 considered dissimilar under this subsection solely because their claims seek damages that differ  
448 in amount or their job titles, or other means of classifying them differ in ways that are unrelated  
449 to their claims.

450 (c)(1) Except as provided in paragraph (2) of this subsection, an action commenced for a  
451 violation of this act on or after the applicability of this act shall be commenced within 3 years  
452 after the cause of action accrued or of the last occurrence if the cause of action is continuous,  
453 whichever is later, or the cause of action shall be forever barred.

454 (2) The 3-year statute of limitations shall be tolled:

455 (A) From the date the covered employee files an administrative complaint  
456 with the Mayor until the Mayor notifies the covered employee in writing that the administrative  
457 complaint has been resolved or the administrative complaint is withdrawn by the covered  
458 employee;

459 (B) During any period that the covered employer has failed to provide the  
460 covered employee with actual or constructive notice of the covered employee's rights; or

461 (C) On other equitable grounds.

462 Sec. 13. Rules.

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

466           Sec. 14. Applicability.

467           (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved  
468 budget and financial plan.

469           (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in  
470 an approved budget and financial plan, and provide notice to the Budget Director of the Council  
471 of the certification.

472           (c)(1) The Budget Director shall cause the notice of the certification to be published in  
473 the District of Columbia Register.

474           (2) The date of publication of the notice of the certification shall not affect the  
475 applicability of this act.

476           Sec. 15. Fiscal impact statement.

477           The Council adopts the fiscal impact statement in the committee report as the fiscal  
478 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
479 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

480           Sec. 16. Effective date.

481           This act shall take effect following approval by the Mayor (or in the event of veto by the  
482 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
483 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

**ENGROSSED ORIGINAL**

484 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
485 Columbia Register.