

A BILL

25-56

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend Title 25 of the District of Columbia Official Code to clarify that a licensed establishment can only be held liable for injury and damages if it knowingly serves, sells, or delivers an alcoholic beverage to a person under 21 years of age or to a person that is visibly-exhibiting signs of intoxication and is the proximate cause of the individual’s injury or damage, to limit civil action of third parties except for minors under 18 years of age, and to create a new type of manager’s license endorsement; to amend Title 28 of the District of Columbia Official Code to exclude service charges from sales for the purposes of calculating rent pursuant to a commercial tenancy; to amend The Tipped Wage Workers Fairness Amendment Act of 2018 to require a public education campaign regarding the District of Columbia Tip Credit Elimination Act of 2022; to amend An Act To provide for the payment and collection of wages in the District of Columbia to permit online workplace training for managers; to amend the Fair Meals Delivery Act of 2022 to modify the requirements of third-party meal delivery platforms and to require the Mayor to study the working conditions of food delivery workers and submit a report on the study to the Council no later than July 1, 2025.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Restaurant Revitalization and Dram Shop Clarification Amendment Act of 2024”.

**TITLE I. TITLE 25 AND TITLE 28 AMENDMENTS.**

Sec. 101. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-101 is amended by adding a new paragraph (26A) to read as follows:

32           “(26A) ‘Intoxicated’ means a condition in which a person has consumed enough  
33 alcoholic beverages to visibly affect their manner, disposition, speech, muscular movement, or  
34 general appearance of behavior.”.

35           (b) Section 25-113.01 is amended by adding a new subsection (h) to read as follows:

36           “(h)(1) A licensee under a manufacturer’s license class A, B, or C or a retailer’s license  
37 class A, B, C/R D/R, C/H, D/H, C/T, D/T, C/N, D/N, C/X, D/X, C/B and D/B shall be permitted  
38 to obtain a manager’s license endorsement from the Board to satisfy the requirements of § 25-  
39 701(a) and register up to 5 employees as Board-approved managers.

40           “(2)(A) The minimum annual cost for a manager’s license endorsement, including  
41 the 5 employees authorized in paragraph (1) of this subsection, shall be \$390.

42           “(B) The holder of a manager’s license endorsement shall be permitted to  
43 add more than the 5 employees authorized in paragraph (1) of this subsection to the endorsement  
44 at an additional annual cost of \$130 for each employee position added to the endorsement over  
45 the 5 employees authorized in paragraph (1) of this subsection.

46           “(3) The holder of a manager’s license endorsement shall be permitted to add or  
47 replace managers on a form provided by ABCA.”.

48           (c) Chapter 7 is amended as follows:

49           (1) The table of contents for Subchapter IX is amended by adding a new section  
50 designation 25-787 to read as follows:

51           “§ 25-787. Civil Liability for the Sale of Alcoholic Beverages to Minors and Intoxicated  
52 Persons.”.

53 (2)Chapter 7 is amended by adding a new section 25-787 to read as follows:

54 “§ 25-787. Civil Liability for the Sale of Alcoholic Beverages to Minors and Intoxicated  
55 Persons.

56 “(a)(1) Except as provided in paragraph (2) of this subsection, no licensee shall be civilly  
57 liable to an injured person or the person’s estate for any injury to the individual or damage to any  
58 property because of the intoxication of a person due to the sale, service, or delivery of an  
59 alcoholic beverage to the person.

60 “(2)(A) An injured person shall have a civil cause of action against a licensee  
61 when:

62 “(i) It is proven that the licensee knowingly sold, served or delivered an  
63 alcoholic beverage to a person under 21 years of age or to a person who was intoxicated; and

64  
65 “(ii) The sale, service, or delivery of the alcoholic beverage was the  
66 proximate cause of the person’s injury or damage; provided, that the cause of action is  
67 commenced within 2 years after such sale, service, or delivery.

68 “(B) For purposes of this subsection, the term “knowingly” means the licensee  
69 knew or should have known a relevant fact.

70 “(b) Upon the death of any party, the right of action shall survive pursuant to § 12-101.

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72           “(c)The injured person, or the injured person’s legal representative, may commence a civil  
73 action in the Superior Court of the District of Columbia against the licensee who sold, served, or  
74 delivered the alcoholic beverage to the intoxicated person.

75           “(d) Evidence sufficient to establish that a person was intoxicated as described in  
76 subsection (a) of this section shall be based upon the totality of the circumstances present at the  
77 time of sale, service, or delivery of the alcoholic beverage to the person.

78           “(e) A licensee shall not be civilly liable for a person’s subsequent off-premises  
79 consumption of alcoholic beverages unless the person was visibly intoxicated based upon the  
80 totality of the circumstances at the time the alcoholic beverage was sold, served, or delivered to  
81 the person by the licensee.

82           “(f) No civil action may be brought under this section by the person to whom the  
83 alcoholic beverage was sold, served, or delivered who caused the injury at issue in the claim, or  
84 by his or her estate, legal guardian, or dependent, unless the person to whom the alcoholic  
85 beverage was sold, served, or delivered was under 18 years of age.

86           “(g) This section clarifies the standard of liability for injury or damages of a licensed  
87 establishment for knowingly selling to, serving, or delivering an alcoholic beverage to a person  
88 under 21 years of age or who is visibly intoxicated as defined in § 25-101(26A) and supersedes  
89 the common law standard. To the extent that the common law standard of liability conflicts with  
90 this section, this section controls.

91           “(h) This section shall apply only to causes of action that accrue after the effective date of  
92 this section.”.

93           Sec. 102. Part II of Article 2A of Subtitle I of Title 28 of the District of Columbia Official  
94 Code is amended as follows:

95           (a) The table of contents for Part II is amended by adding a new section designation to read  
96 as follows:

97           “§ 28:2A-222. Service Charge Exclusion.”.

98           (b) A new section is 2A-222 is added to read as follows:

99           § 28:2A-222. Service Charge Exclusion.

100           “(a) Absent any language to the contrary in a lease for a commercial tenancy, service  
101 charges shall not constitute sales for the purposes of calculating percentage or other rent for the  
102 property leased. If there is any ambiguity in lease language concerning the inclusion of service  
103 charges in calculating rent payable for commercial property leased, there shall be a presumption  
104 that service fees are not to be included in the calculation.

105           “(b) For purposes of this section, the term “service charge” means any mandatory fee  
106 paid as a percentage of the total cost of the food or beverages if the food or beverages are served  
107 to fewer than 11 persons and the fee is used to pay base wages or tips of the employees of the  
108 vendor.”.

109           **TITLE II. WAGE LAW AMENDMENTS.**

110           Sec. 201. The Tipped Wage Workers Fairness Amendment Act of 2018, effective  
111 December 13, 2018 (D.C. Law 22-196; D.C. Official Code *passim*), is amended by adding a new  
112 section 4a (to be codified at D.C. Official Code §32-163) to read as follows:

113 “Sec. 4a. Public awareness campaign regarding the elimination of the tipped  
114 minimum wage.

115 “(a) No later than 180 days after October 1, 2024, the Mayor shall launch a  
116 campaign to raise awareness and educate the public about changes to the tipped minimum wage  
117 brought about by the District of Columbia Tip Credit Elimination Act of 2022, effective  
118 February 23, 2023 (D.C. Law 24-281; D.C. Official Code § 32-1003).

119 “(b) The campaign in subsection (a) shall:

120 “(1) Include the preparation of written and electronic materials that state in  
121 plain language the changes brought about by the District of Columbia Tip Credit Elimination  
122 Act of 72 2022, effective February 23, 2023 (D.C. Law 24-281; D.C. Official Code § 32-1003);

123 “(2) Ensure that workers, residents, businesses, tourists, and other interested  
124 parties are aware of the changes brought about by the District of Columbia Tip Credit  
125 Elimination Act of 2022, effective February 23, 2023 (D.C. Law 24-281; D.C. Official Code §  
126 32-1003), and what consumers and businesses can expect in terms of implementation and any  
127 changes to existing practices and behaviors; and

128 “(3) Be conducted in English and any non-English language spoken by a  
129 limited or no-English proficient population that constitutes 3% or 500 individuals, whichever is  
130 less, of the population impacted, or expected to be impacted, of the changes brought about by the  
131 District of Columbia Tip Credit Elimination Act of 2022, effective February 23, 2023 (D.C. Law  
132 82 24-281; D.C. Official Code § 32-1003).”.

133           Sec. 202. Section 6a(b) of An Act To provide for the payment and collection of wages,  
134 effective December 13, 2018 (D.C. Law 22-196; D.C. Official Code § 32-1306.01(b)), is  
135 amended by striking the phrase “attend in-person” and inserting the phrase “attend either in-  
136 person or online” in its place.

137           **TITLE III. FAIR MEALS DELIVERY AMENDMENT.**

138           Sec. 301. The Fair Meals Delivery Act of 2022, effective March 10, 2023 (D.C. Law 24-  
139 292; D.C. Official Code § 48-651 *et seq.*), is amended as follows:

140           (a) Section 2 (D.C. Official Code § 48-651) is amended by adding a new paragraph (2A)  
141 to read as follows:

142           “(2A) “Food delivery worker” means any natural person or any organization composed of  
143 no more than one natural person, whether or not incorporated or employing a trade name, who is  
144 hired, retained, or engaged as an independent contractor by a third-party meal delivery  
145 platform.”

146           (b) Section 3 (D.C. Official Code § 48-652) is amended by adding new subsections (e),  
147 (f), (g), and (h) to read as follows:

148           “(e) Any agreement that a third-party meal delivery platform enters into with a restaurant  
149 must contain a provision allowing a food delivery worker to use the restroom facilities of the  
150 restaurant when performing a delivery or pickup service at the restaurant.

151           “(f) A third-party meal delivery platform shall not exclude any restaurant with whom the  
152 third-party meal delivery platform has an agreement from the relevant search results of a  
153 customer within 4 miles of a restaurant.

154 “(g) A third-party meal delivery platform shall not reduce the delivery radius of any  
155 restaurant below 4 miles, based on the level or percentage of commissions paid. Nothing in this  
156 section shall prohibit a third-party meal delivery platform from offering a larger delivery radius  
157 for a fee.

158 “(h) A third-party meal delivery platform shall not reduce the number of food delivery  
159 workers available to deliver an online order from a restaurant with whom the third-party meal  
160 delivery platform has an agreement based solely on the level or percentage of commission paid.  
161 Nothing in this section shall prohibit a third-party meal delivery platform from offering priority  
162 delivery services for a fee.”.

163 (c) A new section 4a is added to read as follows:

164 “Sec. 4a. Restaurant disclosure requirement.

165 “A third-party meal delivery platform shall disclose to a restaurant, in plain language,  
166 the fees, commissions, and charges associated with the contracted services in the agreement.”.

167 (d) A new section 6a is added to read as follows as follows:

168 “Sec. 6a. Report by Mayor.

169 “(a) “The Mayor shall study the working conditions of food delivery workers and issue a  
170 report to the Council no later than July 1, 2025.

171 “(b) In conducting the study, the Mayor may coordinate with any agency, organization, or  
172 office that can assist in the study and shall consult with all relevant stakeholders, including  
173 consumers of varying socioeconomic backgrounds, restaurants, and other merchants of varying  
174 types and sizes, and third-party delivery platforms.



175           “(c) The Mayor may retain a third-party organization to assist in the study; provided, that  
176 the organization has experience developing and administering studies, analyzing large data sets,  
177 and conducting focus groups or other qualitative research.

178           “(d) The study shall include, at minimum:

179                   “(1) Consideration of the pay food delivery workers receive and the methods  
180 by which such pay is determined;

181                   “(2) The total income food delivery workers earn, the expenses incurred by  
182 the workers, the equipment required to perform their work, the hours of work of the workers,  
183 including the variability in their hours;

184                   “(3) The extent to which the workers are engaged in performing work for more  
185 than one platform or other parties, the average mileage of a trip, the extent to which the workers  
186 decline offers or assignments of a trip, the mode of travel used by the workers, the safety  
187 conditions of the workers, including the frequency with which they have coverage for injuries,  
188 the availability of bathrooms during working hours, the transparency of trip routes and pay;

189                   “(4) The benefits the workers are able to access through this type of work or  
190 from other sources;

191                   “(5) The desirability to the workers of the creation of a system of benefits that  
192 would be portable across third-party delivery or other freelance work platforms (commonly  
193 known “gig economy” platforms);

194                   “(6) The reasons these workers choose food delivery work over other types of  
195 work; and

196 “(7) Other topics the Mayor considers necessary or appropriate.

197 “(e) The study shall sample a sufficient number of food delivery workers to ensure the  
198 results are statistically reliable, and samples shall be representative of the food delivery workers  
199 who deliver in the District, with a particular focus on food delivery workers who live in the  
200 District.

201 “(f) The Mayor may request or issue subpoenas for the production of data,  
202 documents, and other information from a third-party delivery platform or other party, relating to  
203 food delivery workers, including:

204 “(1) Worker identification;

205 “(2) Information about the times that the workers are available to work for a  
206 third-party delivery platform;

207 “(3) The predominant mode of transportation;

208 “(4) How trips are offered or assigned to food delivery workers;

209 “(5) The data the third-party delivery platforms generally maintain relating to  
210 the trips of the workers;

211 “(6) The compensation the workers receive from a third-party delivery platform,  
212 including any gratuities the workers may receive;

213 “(7) Information relating to both completed and cancelled trips;

214 “(8) Agreements with or policies covering the workers;

215 “(9) The contact information of the workers;

216                   “(10) Information relating to the setting of fees paid by food service  
217 establishments and consumers; and

218                   “(11) Any other information considered relevant by the Mayor.”.

219                   **TITLE IV. GENERAL PROVISIONS**

220                   Sec. 401. Applicability.

221                   (a) Section 201 and section 301(d) shall apply upon the date of inclusion of its fiscal  
222 effect in an approved budget and financial plan.

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

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

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

230                   Sec. 402. Fiscal impact statement.

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

234                   Sec. 403. Effective date.

235                   This act shall take effect following approval by the Mayor (or in the event of veto by the  
236 Mayor, action by the Council to override the veto), a 30-day period of congressional review as

**ENGROSSED ORIGINAL**

237 provided in 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973  
238 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia  
239 Register.