

# **D.C. DOES Provides Additional Guidance On The D.C. Wage Theft Prevention Amendment Act And Reveals New “Zip Code” Program For D.C. Employers**

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On Thursday, March 12, 2015, the District of Columbia Department of Employment Services (“DOES”) hosted its first Webinar regarding the D.C. Wage Theft Prevention Amendment Act (the “Act”), and its subsequent amendments.

This post addresses the main points of clarification from the presentation.

## **The “Zip Code Project”**

During the webinar DOES announced its “Zip Code Project.” According to DOES, the Zip Code Project will consist of a team of three investigators that will visit businesses throughout D.C. on foot. DOES has not yet provided guidance on when this project will begin. The stated goal of these visits is to ensure businesses are in compliance with D.C. Wage and Hour laws and to provide advice to businesses on how to comply with D.C.’s Wage and Hour laws.

Employers should be aware that they may be subject to one of these “drop bys” and plan accordingly. Employers should consult with counsel to ensure they are in compliance in advance of any visit and develop a plan for how to respond should the Zip Code Project knock on their door.

## **Applicability of the Act to Out of District Workers**

One piece of information that DOES emphasized at the Webinar is that the Act not only applies to all employees working in the District of Columbia, but also to all employees who spend at least 50% of their time working in the District of Columbia, regardless of where they are based. Given that many employers in the “DMV” have offices in DC and Maryland and/or Virginia, employers need to be aware of their obligations to employees who may be based in other offices but spend a majority of their time working in D.C.

## **Posting Requirements**

Employers are required to post the Mayor’s Notice of the Act conspicuously in the workplace. The

Notice, which was recently released by DOES, is available on the DC DOES website, located [here](#). Additionally, while it does not appear to be a requirement of the Act itself, DOES has taken the position in its most recent Webinar that employers must also distribute this notice to covered employees.

## Pay Notices

Our earlier posts have addressed the Act's requirement that employers provide employees with pay notices containing detailed information about their wages, the basis for those wages, and other information about their employment status. Employees must sign the notices and employers must keep copies of the notices for three (3) years. DOES clarified that new employees must receive these notices immediately, and existing employees must be provided these notices by May 27, 2015 (90 days following the effective date of the Act).

The DOES has provided the English notices for employers and temporary staffing firms to use. They can be found [here](#) and [here](#). The DOES stated that the Spanish version should be published soon.

The template notice contains a section where the overtime rate for the employee must be filled in. In response to a question about how this applies to exempt employees, DOES stated that employers must fill out this portion even for employees that are exempt from overtime. DOES did not clarify how an employer should calculate that rate.

DOES did clarify that electronic service of pay notices is permissible under the Act, and the employee can electronically sign the Notice as well.

## Record-Keeping

The Act requires that employers keep detailed time records for all non-exempt employees. DOES stated that employers should refer to U.S. Internal Revenue Service ("IRS") regulations, the Fair Labor Standards Act ("FLSA") and the D.C. Wage and Hour law to determine what must be included in these time records. DOES did state that the records must contain the start time, stop time, and the start and stop time of any breaks that were taken by employees.

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