



Whiplash For D.C. Employers As Council Blocks Tipped Minimum Wage Increase

EMPLOYERS WILL SOON FACE MANDATORY SEXUAL HARASSMENT TRAINING, HOWEVER

Insights

10.23.18

When D.C. voters passed Initiative 77 in June, employers began to prepare for a steady increase in the minimum wage they would need to pay their tipped workers. The tipped minimum wage was set to slowly, but significantly, accelerate until it matched the city's general minimum wage in the year 2026—which would be at least \$15 per hour.

However, earlier this week the D.C. Council passed a measure to overturn and repeal Initiative 77 because of fears about potential cost increases and other concerns. This means we're back to square one, for the most part. But the Council's 8-5 vote also had another impact: for the first time, D.C. employers of tipped workers will be subject to mandatory sexual harassment and wage-and-hour training. What do employers need to know about these two developments?

Tipped Wage Increase Blocked

Just as in many other places across the country, tipped workers in D.C. are permitted to be paid less per hour by their employers. Lawmakers recognize that customer tips will more than make up the difference between tipper workers' hourly wage and the minimum wage. Ahead of the June vote, worker advocates pushed for a Districtwide vote to steadily boost the wages received by tipped employees from \$3.33 per hour to eventually top out at the standard legal minimum hourly wage. The District's voters agreed with this line of thinking, voting in favor of the measure on June 19 with just over 55 percent of the tally.

However, with all such initiatives, it faced a significant hurdle before becoming official: the D.C. Council needed to take action to affirm or kill the measure. Both business owners and employee advocates pled their case to the Council to overturn Initiative 77, contending that increased labor costs would lead to higher restaurant prices, and could lead to layoffs and business closures if the market couldn't bear the resulting rise in prices. Some worker advocates were concerned that the wage hike would lead patrons to tip less, pointing to the experience of restaurant workers in states with similar measures who ended up witnessing lower tips as the result of receiving a higher hourly wage rate from their employers.

In a pair of votes taken on October 2 and then again on October 16, the Council agreed with those advocates and overturned the will of the District's voters by an 8-5 margin. This means that the

tipped minimum wage remains at \$3.89 per hour; it rose to this level on July 1 as per a law passed two years ago, and although it is slated to increase for the next several years, the rise is much more gradual and easy to bear than the cost increases contained in Initiative 77. On July 1, 2019, employers will need to pay such workers \$4.45 per hour, and on July 1, 2020, the tipped minimum wage will rise to \$5.00 per hour.

Mandatory Workplace Training

In order to address another matter of concern for tipped workers, the D.C. Council passed a new law to institute a training system to address both wage-and-hour issues and sexual harassment.

- Once approved by the mayor, the law will require employers of tipped workers to attend in-person or online training on sexual harassment and on wage payment compliance on an annual basis.
- Managers will be required to attend the same kind of training once every two years, and are required to do so on an in-person basis.
- Finally, employers must offer their tipped workers the opportunity to attend such training on an annual basis, either in-person or online.

Under the terms of the new law, employers will need to affirmatively provide a certification to the Department of Employment Services that they have fulfilled these requirements by December 31 of each year.

If you have any questions about compliance with this new law, contact your Fisher Phillips attorney or any member of our [Washington, D.C. office](#).

This Legal Alert provides an overview of a specific local ordinance. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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