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5 A BILL
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9 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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13 To amend Title 28 of the District of Columbia Official Code to prohibit service charges from
14 being included in consideration of sales in relation to the calculation of leases and to
15 define the fair practices of service charges for consumer protection; to amend Chapter 20
16 of Title 47 of the District of Columbia Official Code to include the definition of a service
17 charge and to exclude service charges from consideration of gross receipts; to amend the
18 Fair Meals Delivery Act of 2022 to require that third party delivery platforms does not
19 limit a restaurant from search results of a customer within 4 miles, does not limit the
20 availability of delivery drivers from the third party platform to the restaurant and
21 provides for food delivery workers access to restroom facilities, and to require a study of
22 the working conditions of food delivery workers; The Minimum Wage Act Revision Act
23 of 1992 as amended by the District of Columbia Tip Credit Elimination Act of 2022 to
24 establish a new timeline for the elimination of tipped credit minimum wage and to
25 establish a education program by the Mayor on the new wages for both consumers and
26 businesses.
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28 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
29 act may be cited as the “Workers and Restaurants Are Priorities Act of 2023”.
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31 Sec. 2 Definitions.

32 Sec. 3 Section 28 of the District of Columbia Official Code is amended as follows:

33 a new paragraph (28:2A-222) to read as follows:

34 “(28:2A-222) “Absent any language to the contrary in a lease for a
35 commercial tenancy, service charges shall not constitute sales for the purposes of calculating
36 percentage or other rent for the property leased. If there is any ambiguity in lease language
37 concerning the inclusion of service charges in calculating rent payable for commercial property
38 leased, there shall be a presumption that service fees are not to be included in the calculation. ”.

39 (a) For the purpose of this paragraph, the term “service charge”
40 means any mandatory fee paid as a percentage of the total cost of the food or beverages for
41 consumption on the premises of the vendor, if the food or beverages are served to a group of not
42 more than 10 persons, and the fee is used to pay base wages of the employees of the vendor.

43 Sec. 3.;

44 (A) Section 28-3904 of the District of Columbia Official Code is amended
45 by adding a new subsection (nn) to read as follows:

46 “(nn)” The imposition of a service charge by a restaurant or bar, imposed
47 as a percentage of sales, shall not be an unfair or deceptive trade practice, provided the
48 consumer is advised of the charge in advance of ordering food or beverages, verbally, by
49 signage in the establishment reasonably visible upon entry to the establishment or on any
50 website of the establishment.”

51 Sec 4.

52 Section 47-2001(g) of the District of Columbia Official Code is amended as by
53 adding a new paragraphs (5) to read as follows:

54 (5)(A) “Service Charge” means any mandatory charge paid as a
55 percentage of the total cost of the food or beverages for consumption on the premises of the
56 vendor, if the food or beverages are served to a group of not more than 10 persons, and the
57 charge is used to pay base wages of the employees of the vendor.

58 (B) For the purpose of this paragraph, gross receipts shall not
59 include a service charge, charged to any person as a percentage, not in excess of 22%, of food
60 and drink sold and subject to tax pursuant to DC Code § 47–2002(a)(3).

61 Sec. 5. The Fair Meals Delivery Act of 2022, effective March 10, 2023 (D.C. Law 24-
62 292; D.C. Official Code § 48-651 *et seq.*), is amended as follows:

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

65 “(2A) “Food delivery worker” means any natural person or any organization
66 composed of no more than one natural person, whether or not incorporated or
67 employing a trade name, who is hired, retained, or engaged as an independent
68 contractor by a third-party meal delivery platform.”

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

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

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

78 “(g) A third-party meal delivery platform shall not reduce the number of delivery
79 drivers available to deliver an online order from a restaurant with whom the third-party delivery
80 platform has an agreement. Nothing in this section shall prohibit a third-party delivery platform
81 from offering priority delivery services for a fee.”.

82 (b) Section 7 (D.C. Official Code § 48-656) is amended as follows:

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

84 “The Deputy Mayor for Planning and Economic Development shall study the
85 working conditions for food delivery workers and issue a report to the Council of
86 the District of Columbia no later than December 31, 2023. In conducting such
87 study, the Deputy Mayor may coordinate with any other agency, organization, or
88 office that can assist in such study. Such study shall include, at minimum,
89 consideration of the pay food delivery workers receive and the methods by which
90 such pay is determined, the total income food delivery workers earn, the expenses
91 of such workers, the equipment required to perform their work, the hours of such
92 workers, the average mileage of a trip, the mode of travel used by such workers,
93 the safety conditions of such workers, and such other topics as the department
94 deems appropriate. In furtherance of such study, the Deputy Mayor may request
95 or issue subpoenas for the production of data, documents, and other information
96 from a third-party meal delivery platform relating to food delivery workers that
97 include, but are not limited to, worker identifiers, information about the times that
98 such workers are available to work for such third-party meal delivery platform,
99 the mode of transportation such workers use, how trips are offered or assigned to
100 food delivery workers, the data such service maintains relating to the trips of such
101 workers, the compensation such workers receive from such third-party food meal
102 delivery platform, any gratuities such workers receive, information relating to
103 both completed and cancelled trips, agreements with or policies covering such
104 workers, contact information of such workers, information relating to the setting
105 of fees paid by food service establishments and consumers, and any other
106 information deemed relevant by the Deputy Mayor.”

107 Sec. 6 The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C.
108 Law 9–248; D.C. Official Code § 32–1003):

109 (a) Section (f)(5), (f)(6), (f)(7) and (f)(8) are repealed.

110 (b) New subsections (f)(9) and (f)(10) added to be read as follows:

111 “(f)(10) Except as provided in subsections (h) and (i) of this section, as of July 1, 2025,
112 the tipped minimum wage shall be not less than the minimum wage as set by subtitle (a) of this
113 title, with tips on top.

114 “(f)(10) “Commencing October 1, 2023, there shall be a public education campaign to
115 educate consumers and workers concerning changes to the tipped wage compensation system in
116 the District of Columbia, including the elimination of the tip credit, that service charges are the
117 property of businesses and the desirability of continuation of tipping practices under the new
118 wage models implemented as a result of the passage and effectiveness of the District of
119 Columbia Tip Credit Elimination Act of 2022. The campaign shall be implemented by the Mayor
120 or the Mayor’s designee.”

121 Sec. 8. Fiscal impact statement.

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

125 Sec. 9. Effective date.

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

129 24, 1973, (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
130 Columbia Register.