



**COUNCIL OF THE DISTRICT OF COLUMBIA  
THE JOHN A. WILSON BUILDING  
1350 PENNSYLVANIA AVENUE, NW  
WASHINGTON, DC 20004**

**Charles Allen**  
Councilmember, Ward 6  
Chairperson  
Committee on Transportation and the Environment

**Committee Member**  
Business and Economic Development  
Health  
The Judiciary & Public Safety

May 2, 2023

Nyasha Smith, Secretary  
Council of the District of Columbia  
1350 Pennsylvania Ave, N.W.  
Washington, DC 20004

Dear Secretary Smith:

Today, along with Councilmembers Trayon White, Zachary Parker, Matthew Frumin, Brooke Pinto, Brianne K. Nadeau, and Robert C. White, Jr., I am introducing the “**Helping Small Businesses Recover and Thrive Amendment Act of 2023**”. Please find enclosed a signed copy of the legislation.

Many of our small businesses are still recovering from the pandemic, and the District needs to provide the necessary support to help them not only make ends meet, but thrive. This is a critical juncture for the District’s economic recovery, and small businesses are drivers of growth, innovation, and safe and vibrant neighborhoods. But many encounter frustrating bureaucratic red tape and unnecessary fees, making their difficult jobs even harder. For example, bars and restaurants are on the hook for alcohol licensing fees for employees that have moved on to other jobs, and many small businesses fail to receive important notices about critical license renewals. They also regularly encounter widespread public confusion about recent changes to the District’s minimum wage laws, and they’re nicked and dined by transaction fees.

The Helping Small Businesses Recover and Thrive Amendment Act of 2023 fosters economic growth and makes life easier for small business owners by:

- Increasing the tax credit available to qualifying businesses for a portion of rent or property taxes paid and reducing the taxable value of the commercial property if it is rented or owned by the qualifying business. The bill would also allow this real property tax credit to increase year-over-year with the annual average Consumer Price Index. *Existing law allows for a \$5,000 credit to be claimed by qualified businesses, and this would raise the credit to \$10,000.*
- Prohibiting sales tax from being imposed on service fees at restaurants, ensuring parity between service fees and tips. *Existing law allows for a tax on service charges in connection with serving food or beverages (including alcohol) in cafes, bars, and similar establishments where food or drink is served.*

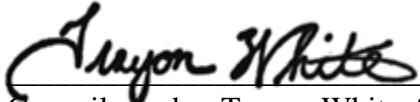
- Clarifying that, absent any contrary language, service fees are not considered sales for the purposes of calculating rent in a commercial lease agreement. *Existing commercial leases may be unclear as to whether service fees are considered “sales” for the purposes of calculating rent.*
- Allowing small businesses to receive written notice of license renewals by the Department of Licensing and Consumer Protection (“DLCP”) to ensure ample notice of upcoming deadlines. *Existing law allows DLCP to provide either written or electronic methods of communication about license renewals, but DLCP only provides notice through electronic means. This has caused numerous small businesses to reach out to my office on the brink of losing their basic business license because they missed or didn’t receive an email.*
- Modifying requirements for bar manager licensure, allowing businesses to cover the credential on an annual basis *or* three-year basis. This would allow bars and restaurants to avoid paying for a license for a worker who might not otherwise remain with the business for the three-year license period. *Current law requires payment for the license at the time of the application and is tied to the employee, not the business, leaving the business holding the bag if an employee leaves before their license expires.*
- Mandating the development and launch of a public awareness campaign to educate District residents, visitors, and others who frequent food and drink establishments across the city about upcoming changes to the tipped minimum wage. *The current status of the tipped minimum wage is confusing to consumers, given recent changes to the law.*
- Allowing sexual harassment training to be administered virtually instead of in person for *all* employees, including managers, like many other businesses, companies, and non-profit organizations. *Current law requires harassment prevention training every two years for all employees of restaurant operators with at least one tipped employee, with the law allowing for tipped employees and owners and operators of businesses to attend virtually via a real-time video stream. However, managers must attend the training in person. The bill makes this important training more accessible to industry staff.*
- Prohibiting the charging of swipe fees on the sales tax portion of a credit or debit card transaction. *Current law allows credit and debit card companies to tack fees onto the entire amount of a transaction. The bill would provide some relief to small businesses who accept credit or debit cards at payment.*

Please feel free to reach out to me or my Legislative Director, Antonio Nunes, with any questions or for additional information.

Sincerely,



Councilmember Charles Allen, Ward 6  
 Chairperson, Committee on Transportation & the Environment  
 Vice Chair, Metropolitan Washington Council of Governments

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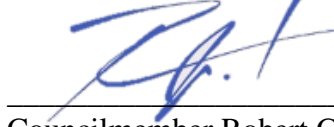
2 Councilmember Trayon White, Sr.

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4 Councilmember Zachary Parker

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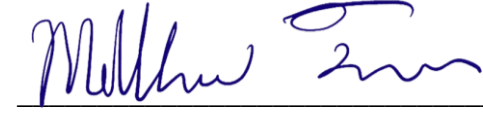
6 Councilmember Brooke Pinto

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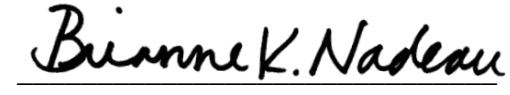
8 Councilmember Robert C. White, Jr.

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10 Councilmember Charles Allen

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12 Councilmember Matthew Frumin

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14 Councilmember Brianne K. Nadeau

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18 A BILL

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23 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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28 To amend Title II of the Service Improvement and Fiscal Year 2000 Budget Support Act of 1999  
29 to allow managers of a business that employs an employee who receives a tipped wage to  
30 receive sexual harassment training virtually from the Office of Human Rights; to amend  
31 section 25-120 of the District of Columbia Official Code to allow ABCA licensees to pay  
32 for a manager’s license on an annual basis; to amend the Tipped Wage Workers Fairness  
33 Amendment Act of 2018 to require the Mayor to launch a public awareness campaign  
34 regarding the elimination of the tipped minimum wage; to amend An Act To provide for  
35 the payment and collection of wages in the District of Columbia to allow managers of a  
36 business that employs an employee who receives a tipped wage to receive sexual  
37 harassment training virtually; to amend An Act To codify a code of law for the District of  
38 Columbia to provide a presumption in commercial lease agreements, absent any language  
39 to the contrary, that service fees do not constitute sales for the purposes of calculating  
40 rent; to amend Title 47 of the District of Columbia Official Code to increase the tax credit  
41 for a portion of rent or property taxes paid for a qualifying corporation or qualifying  
42 unincorporated business to a \$10,000 maximum and to allow an increase year-over-year  
43 with the annual Consumer Price Index, to clarify that additional service charges provided  
44 with the sale of food or drink prepared for immediate consumption are not subject to  
45 sales tax, and to allow businesses to receive notice of license renewals through the mail;  
46 and to prohibit the charging of interchange fees on sales tax as part of credit and debit  
47 card transactions.  
48

49 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
50 act may be cited as the “Helping Small Businesses Recover and Thrive Amendment Act of  
51 2023”.

52 Sec. 2. Section 206a(b)(3) of Title II of the Service Improvement and Fiscal Year 2000  
53 Budget Support Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code §  
54 2-1411.05a(b)(3)), is amended by striking the phrase “attend in-person training” and inserting the  
55 phrase “receive in-person or online training” in its place.

56 Sec. 3. Section 25-120(c) of the District of Columbia Official Code is amended to read as  
57 follows:

58 “(c) A manager’s license shall be valid for 3 years or until surrendered, suspended, or  
59 revoked; provided, that the licensee may pay the fee for the manager’s license in full at the time  
60 of application or in part on an annual basis.”.

61 Sec. 4. The Tipped Wage Workers Fairness Amendment Act of 2018, effective  
62 December 13, 2018 (D.C. Law 22-196; D.C. Official Code *passim*), is amended by adding a new  
63 section 4a to read as follows:

64 “Sec. 4a. Public awareness campaign regarding the elimination of the tipped minimum  
65 wage.

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

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

71           “(1) Include the preparation of written and electronic materials that state in plain  
72 language the changes brought about by the District of Columbia Tip Credit Elimination Act of  
73 2022, effective February 23, 2023 (D.C. Law 24-281; D.C. Official Code § 32-1003);

74           “(2) Ensure that residents, businesses, tourists, and other interested parties are  
75 aware of the changes brought about by the District of Columbia Tip Credit Elimination Act of  
76 2022, effective February 23, 2023 (D.C. Law 24-281; D.C. Official Code § 32-1003), and what  
77 consumers and businesses can expect in terms of implementation and any necessary changes to  
78 existing practices and behaviors; and

79           “(3) Be conducted in English and any non-English language spoken by a limited  
80 or no-English proficient population that constitutes 3% or 500 individuals, whichever is less, of  
81 the population impacted, or expected to be impacted, of the changes brought about by the  
82 District of Columbia Tip Credit Elimination Act of 2022, effective February 23, 2023 (D.C. Law  
83 24-281; D.C. Official Code § 32-1003).”.

84           Sec. 5. Section 6a(b) of An Act To provide for the payment and collection of wages in  
85 the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-  
86 1306.01(b)), is amended by striking the phrase “attend in-person” and inserting the phrase  
87 “attend either in-person or online” in its place.

88           Sec. 6. An Act To establish a code of law for the District of Columbia, approved March  
89 3, 1901 (31 Stat. 1268; D.C. Official Code *passim*), is amended by adding a new section 505a to  
90 read as follows:

91           “Sec. 505a. Service fees not included in definition of “sales” for commercial leases.

92           “(a) Absent any language to the contrary in a lease for a commercial tenancy, service fees  
93 shall not constitute sales for the purposes of calculating percentage or rent for the property  
94 leased.

95           “(b) If there is any ambiguity in a commercial lease agreement concerning the inclusion  
96 of service fees in calculating percentage or other rent for the property leased, there shall be a  
97 presumption that service fees are not to be included in the calculation.”.

98           Sec. 7. Title 47 of the District of Columbia Official Code is amended as follows:

99           (a) Section 47-1807.14 is amended as follows:

100                   (1) A new subsection (b-1) is added to read as follows:

101                   “(b-1) For taxable years beginning after December 31, 2023, a qualified corporation may  
102 claim a credit against the tax imposed by this chapter as follows:

103                           “(1) A tax credit equal to 20% of the total rent paid by the corporation for a  
104 qualified rental retail location during the taxable year, not to exceed \$10,000; or

105                           “(2) A tax credit equal to the total Class 2 real property taxes, pursuant to D.C.  
106 Official Code § 47-811, paid by the qualified corporation for a qualified retail owned location  
107 during the taxable year, not to exceed the lesser of the real property tax paid during the taxable  
108 year or \$10,000.”.

109                   (2) A new subsection (c-1) is added to read as follows:

110                   “(c-1) The credit claimed under this section in any one taxable year shall be increased as  
111 determined by the Mayor on the basis of the annual Consumer Price Index for the Washington-  
112 Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of  
113 Labor, or any successor index, as of the close of the 12-month period ending on September 30 of  
114 such tax year.”.

115           (b) Section 47-1808.14 is amended as follows:

116                   (1) A new subsection (b-1) is added to read as follows:

117                   “(b-1) For taxable years beginning after December 31, 2023, a qualified unincorporated  
118 business may claim a credit against the tax imposed by this chapter as follows:

119           “(1) A tax credit equal to 20% of the total rent paid by the qualified  
120 unincorporated business for a qualified rental retail location during the taxable year, not to  
121 exceed \$10,000; or

122           “(2) A tax credit equal to the total Class 2 real property taxes, pursuant to D.C.  
123 Official Code § 47-811, paid by the qualified unincorporated business for a qualified retail  
124 owned location during the taxable year, not to exceed the lesser of the real property tax paid  
125 during the taxable year or \$10,000.”.

126           (2) A new subsection (c-1) is added to read as follows:

127           “(c-1) The credit claimed under this section in any one taxable year shall be increased as  
128 determined by the Mayor on the basis of the annual Consumer Price Index for the Washington-  
129 Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of  
130 Labor, or any successor index, as of the close of the 12-month period ending on September 30 of  
131 such tax year.”.

132           (c) Section 47-2001(n)(2) is amended by adding a new subparagraph (E-i) to read as  
133 follows:

134           “(E-i) An additional charge for a service provided with the sale of food or  
135 drink prepared for immediate consumption, as defined in subsection (g-1) of this section.”.

136           (d) Section 47-2851.10 is amended by adding a new subsection (a-1) to read as follows:

137           “(a-1) The Department shall make the option of notice by first-class mail available to all  
138 licensees of their impending license expirations, renewals, and statements of renewal fees.”.

139           Sec. 8. Prohibition on charging of interchange fees on sales tax part of credit and debit  
140 card transactions.

141           (a)(1) The amount of sales tax or fee that is calculated as a percentage of an electronic  
142 payment transaction amount and listed separately on the payment invoice or other demand for

143 payment shall be excluded from the amount on which an interchange fee is charged for that  
144 electronic payment transaction.

145 (2) Such taxes include sales and use taxes under § 47-2002(a)(2)-(3).

146 (b) A payment card network shall either:

147 (1) Deduct the amount of any tax imposed from the calculation of interchange  
148 fees specific to each form or type of electronic payment transaction at the time of settlement; or

149 (2) Rebate an amount of interchange fee proportionate to the amount attributable  
150 to the tax or fee.

151 (c)(1) A deduction or rebate shall occur at the time of settlement when the merchant or  
152 seller is able to capture and transmit tax or fee amounts relevant to the sale at the time of sale as  
153 part of the transaction finalization.

154 (2) If a merchant or seller is unable to capture and transmit tax or fee amounts  
155 relevant to the sale at the time of sale, then the payment card network shall accept proof of tax or  
156 fee amounts collected on sales subject to an interchange fee upon the submission of sales data by  
157 the merchant or seller and promptly credit the merchant or seller's settlement account.

158 (d) A payment card network that violates the provisions of this section is subject to a civil  
159 penalty of no more than one thousand dollars (\$1,000) per violation, payable to the Office of Tax  
160 and Revenue, and shall refund the surcharge to each merchant or seller.

161 (e) For the purposes of this section, the term:

162 (1) "Credit card" means a card or device, whether known as a credit card or by  
163 any other name, issued under an arrangement pursuant to which a card issuer gives to a  
164 cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or  
165 leasing property or services, obtaining loans, or otherwise.

166 (2) "Debit card":



167 (A) Means any instrument or device, whether known as a debit card or by  
168 any other name, issued with or without a fee by an issuer for the use of the cardholder in  
169 depositing, obtaining, or transferring funds;

170 (B) Includes a general-use prepaid card, as defined in 15 U.S.C. § 16931-1;  
171 and

172 (C) Does not include paper checks.

173 (3) “Electronic payment transaction” means a transaction which a person uses a  
174 debit card, credit card, or other payment code or device issued or approved through a payment  
175 card network to debit a deposit account or use a line of credit, whether authorization is based on  
176 a signature, personal identification number, or other means.

177 (4) “Interchange fee” means a fee established, charged, or received by a payment  
178 card network for the purpose of compensating the issuer for its involvement in an electronic  
179 payment transaction.

180 (5) “Issuer” means a person issuing a credit or debit card, or the issuer’s agent.

181 (6) “Payment card network” means an entity that:

182 (A) Directly, or through licensed members, processors, or agents, provides  
183 the proprietary services, infrastructure, and software that routes information and data to conduct  
184 credit card or debit card transaction authorization, clearance, and settlement; and

185 (B) A merchant or seller uses in order to accept as a form of payment a  
186 brand of credit card, debit card, or other device that may be used to carry out credit or debit  
187 transactions.

188 (7) “Settlement” means the transfer of funds from a customer’s account to a seller  
189 or merchant upon electronic submission of finalized sales transactions to the payment card  
190 network.

191           Sec. 9. Fiscal impact statement.

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

195           Sec. 10. Effective date.

196           This act shall take effect following approval by the Mayor (or in the event of veto by the  
197 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
198 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
199 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
200 Columbia Register.