

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 32.
LABOR.

CHAPTER 1.
DISPLACED WORKERS PROTECTION.

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CHAPTER 1. DISPLACED WORKERS PROTECTION.

§ 32-101. COVERED EMPLOYEES.

(a) This chapter shall apply to the following employees, except persons employed less than 15 hours per week and except persons employed in an executive, administrative, or professional capacity as defined by the Secretary of Labor under § 13(a)(1) of the Fair Labor Standards Act (29 U.S.C. § 213(a)(1)) or required by District of Columbia law in effect on April 26, 1994, to possess an occupational license:

- (1) Employees hired by a contractor as food service workers in a hotel, restaurant, cafeteria, apartment building, hospital, nursing care facility, or similar establishment;
- (2) Employees hired by a contractor to perform janitorial or building maintenance services in an office building, institution, or similar establishment;
- (3) Nonprofessional employees hired by a contractor to perform health care or related support services in a hospital, nursing care facility, or similar establishment; and
- (4) Employees hired by a contractor to perform security services in an office building, institution, or similar establishment; provided, that special police officers who are armed, and employees hired by a contractor to perform security services for the Board of Education or a public charter school shall not be included.

(b) For the purposes of this chapter "contractor" includes a subcontractor and means an individual or company that employs 25 or more persons.

(Apr. 26, 1994, D.C. Law 10-105, § 2, 41 DCR 1011; June 8, 2006, D.C. Law 16-118, § 402, 53 DCR 2602; Mar. 25, 2009, D.C. Law 17-353, § 114, 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 36-1501.

Effect of Amendments

D.C. Law 16-118 added par. (a)(4).

D.C. Law 17-353 validated a previously made technical correction in the punctuation in subsecs. (a)(1), (2), and (3).

Legislative History of Laws

Law 10-105, the "Displaced Workers Protection Act of 1994," was introduced in Council and assigned Bill No. 10-307, which was referred to the Committee on Labor. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 17, 1994, it was assigned Act No. 10-193 and transmitted to both Houses of Congress for its review. D.C. Law 10-105 became effective on April 26, 1994.

For Law 16-118, see notes following § 32-751.

Law 17-353, the "Technical Amendments Act of 2008", was introduced in Council and assigned Bill No. 17-994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

Miscellaneous Notes

Mayor authorized to issue rules: Section 5 of D.C. Law 10-105 provided that the Mayor shall promulgate rules to implement this chapter.

§ 32-102. TRANSITION EMPLOYMENT PERIOD.

- (a) The present contractor within a period of 10 days after the awarding of a contract shall make available to prospective contractors the names of all employees of the present contractor employed at the site or sites covered by the prospective contract, the date each employee was hired, and the employee's occupation classification.
- (b) A new contractor who is awarded a contract to provide similar covered services provided by the previous contractor shall retain, for a 90-day transition employment period, covered employees who have been employed by the previous contractor for the preceding 8 months or longer at the site or sites covered by the contract.
- (c) If at any time, the new contractor determines that fewer employees are required to perform the new contract than were required by the previous contractor, the new contractor shall retain employees by seniority within job classification.
- (d) During the 90-day transition employment period, the new contractor shall maintain a preferential hiring list of eligible covered employees not retained by the new contractor from which the new contractor may hire additional employees.
- (e) Except as provided in subsection (c) of this section, the new contractor shall not discharge an employee retained pursuant to this chapter during the 90-day transition period without cause.
- (f) At the end of the 90-day transition employment period, the new contractor shall perform a written performance evaluation for each employee retained pursuant to this chapter. If the employee's performance during the 90-day transition employment period is satisfactory, the new contractor shall offer the employee continued employment under the terms and conditions established by the new contractor.
- (g) If a contractor's contract at an establishment in the District of Columbia is not renewed, and within 30 days the contractor is awarded a similar contract at another establishment in the District of Columbia, the contractor shall retain at least 50% of the employees from each establishment as needed to perform the contract.

(Apr. 26, 1994, D.C. Law 10-105, § 3, 41 DCR 1011; Apr. 18, 1996, D.C. Law 11-110, § 43, 43 DCR 530.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 36-1502.

Legislative History of Laws

For legislative history of D.C. Law 10-105, see Historical and Statutory Notes following § 32-101.

Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

§ 32-103. ENFORCEMENT.

- (a) An employee who has been wrongfully discharged by a new contractor may bring an action in the Superior Court of the District of Columbia and may be awarded:
 - (1) Back pay for each day the violation continues at a rate of compensation not less than the higher of:
 - (A) The average regular rate of pay received by the employee during the last 3 years of the employee's employment in the same occupation classification; or
 - (B) The final regular rate received by the employee; and
 - (2) Costs of benefits the new contractor would have incurred for the employee under the new contractor's benefit plan.
- (b) In any suit, the court shall allow the prevailing party reasonable attorney's fees as part of the costs recoverable.
- (c) This chapter shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

(Apr. 26, 1994, D.C. Law 10-105, § 4, 41 DCR 1011.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 36-1503.

Legislative History of Laws

For legislative history of D.C. Law 10-105, see Historical and Statutory Notes following § 32-101.