

Bill No. 27-13  
Concerning: Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount  
Revised: November 26, 2013 Draft No. 7  
Introduced: October 1, 2013  
Enacted: November 26, 2013  
Executive: December 5, 2013  
Effective: October 1, 2014  
Sunset Date: None  
Ch. 34, Laws of Mont. Co. 2013

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Elrich, Ervin and Council President Navarro

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**AN ACT** to:

- (1) require certain employers in the County to pay a minimum wage to certain employees working in the County;
- (2) ~~[[provide a credit for certain employers who provide health insurance to employees working in the County;~~
- (3)]] provide enforcement by the Office of Human Rights and the Human Rights Commission or the appropriate State agency;
- ~~[[4]]~~ (3) authorize the Human Rights Commission to award certain relief; and
- ~~[[5]]~~ (4) generally regulate the minimum wage paid to an employee working in the County for certain employers.

By amending

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Sections 27-7 and 27-8

By adding

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Article XI, Minimum Wage

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<del>[[Double boldface brackets]]</del>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 27-7 and 27-8 are amended and Chapter 27, Article XI is added as follows:**

**27-7. Administration and enforcement.**

(a) *Filing complaints.* Any person subjected to a discriminatory act or practice in violation of this Article, or any group or person seeking to enforce this Article or [Article] Articles X or XI, may file with the Director a written complaint, sworn to or affirmed under the penalties of perjury, that must state:

- (1) the particulars of the alleged violation;
- (2) the name and address of the person alleged to have committed the violation; and
- (3) any other information required by law or regulation.

\* \* \*

(f) *Initial determination, dismissal before hearing.*

(1) The Director must determine, based on the investigation, whether reasonable grounds exist to believe that a violation of this Article or [Article] Articles X or XI occurred and promptly send the determination to the complainant and the respondent.

(2) If the Director determines that there are no reasonable grounds to believe a violation occurred, and the complainant appeals the determination to the Commission within 30 days after the Director sends the determination to the complainant, the Director promptly must certify the complaint to the Commission. The Commission must appoint a case review board to consider the appeal. The board may hear oral argument and must:

- (A) dismiss the complaint without a hearing;
- (B) order the Director to investigate further; or

28 (C) set the matter for a hearing by a hearing examiner or the  
29 board itself, and consider and decide the complaint in the  
30 same manner as if the Director had found reasonable  
31 grounds to believe that a violation of this Article or  
32 [Article] Articles X or XI occurred.

33 (3) If the Director determines that there are reasonable grounds to  
34 believe a violation occurred, the Director must attempt to  
35 conciliate the matter under subsection (g).

36 \* \* \*

37 **27-8. Penalties and relief.**

38 (a) *Damages and other relief for complainant.* After finding a violation  
39 of this Article or [Article] Articles X or XI, the case review board may  
40 order the payment of damages (other than punitive damages) and any  
41 other relief that the law and the facts warrant, such as:

42 \* \* \*

43 (2) equitable relief to prevent the discrimination or the violation of  
44 [Article] Articles X or XI and otherwise effectuate the purposes  
45 of this Chapter;

46 \* \* \*

47 (4) any other relief that furthers the purposes of this Article or  
48 [Article] Articles X or XI or is necessary to eliminate the effects  
49 of any discrimination prohibited under this Article.

50 \* \* \*

51 **ARTICLE XI. County Minimum Wage.**

52 **27-67. Findings and Definitions.**

53 (a) *Findings.*

- 54           (1) Many persons employed in the County are paid wages which are  
 55           insufficient to sustain minimum standards of living in the County.
- 56           (2) Minimum standards of living in the County are higher than the  
 57           minimum standards of living in many other areas of the State.
- 58           (3) Minimum wage standards in the County are necessary to:
- 59                 (A) promote the health and welfare of County residents;  
 60                 (B) safeguard employers and employees against unfair  
 61                 competition;  
 62                 (C) increase the stability of industry in the County;  
 63                 (D) increase the buying power of employees in the County;  
 64                 and  
 65                 (E) decrease the need for the County to spend public money  
 66                 for the relief of employees who also live in the County.

67           (b) Definitions. As used in this Article:

68                 [[Consumer Price Index means the Consumer Price Index for All Urban  
 69                 Consumers: All items in Washington-Baltimore, DC-MD-VA-WV  
 70                 (CMSA), as published by the United States Department of Labor,  
 71                 Bureau of Labor Statistics, or a successor index.]]

72                 Director means the Executive Director of the Office of Human Rights  
 73                 and includes the Executive Director's designee.

74                 Employ means to engage a person to work for compensation.

75                 Employee means any person permitted or instructed to work or be  
 76                 present by an employer in the County and who is an employee subject  
 77                 to the minimum wage requirements of the Federal Act or the State Act.

78                 Employer means any person, individual, proprietorship, partnership,  
 79                 joint venture, corporation, limited liability company, trust, association,  
 80                 or other entity operating and doing business in the County that employs

81 2 or more persons in the County. Employer includes the County  
 82 government, but does not include the United States, any State, or any  
 83 other local government.

84 Federal Act means the federal Fair Labor Standards Act of 1938, as  
 85 amended.

86 [[Health insurance means insurance coverage that is part of an  
 87 employer benefit package that pays for medical expenses incurred by an  
 88 employee and an employee’s family either by reimbursing the employee  
 89 or by paying the care provider directly.]]

90 State Act means the Maryland Wage and Hour Law, as amended.

91 Wage means all compensation that is due to an employee for  
 92 employment.

93 **27-68. Minimum Wage Required.**

94 (a) County minimum wage. Except as provided in Subsection [(d)] [(c)]  
 95 (b), an employer must pay wages to each employee [[working]] for  
 96 work performed in the County at least the greater of:

97 (1) the minimum wage required for that employee under the Federal  
 98 Act;

99 (2) the minimum wage required for that employee under the State  
 100 Act; [[or]]or

101 (3) [[the County minimum wage of \$12]] [[\\$11.50]] [[\\$10.75]]  
 102 \$11.50 per hour[[, as adjusted under Subsection (b)]][[, less any  
 103 health insurance credit under Subsection (c)]][[.]][[; or

104 (4) the lesser of \$11.50 per hour or the minimum wage required for  
 105 that employee under the State Act plus an additional \$1 per  
 106 hour]].

107 (b) [[Annual adjustment. The Chief Administrative Officer must adjust the  
 108 minimum wage rate required under Subsection (a)(3), effective]]  
 109 [[July]] [[October 1, 2017, and]] [[July]] [[October 1 of each subsequent  
 110 year, by the]] [[annual average increase, if any, in the Consumer Price  
 111 Index for the previous calendar year]] [[same measure, if any, used to  
 112 adjust the minimum wage under the State Act. The Chief  
 113 Administrative Officer must calculate the adjustment to the nearest  
 114 multiple of 5 cents, and must publish the amount of this adjustment not  
 115 later than]] [[March]] [[June 1 of each year.

116 (c)]] [[Health insurance credit. An employer who provides health insurance  
 117 to any employee who works in the County may reduce the County  
 118 minimum wage payable under paragraph (a)(3) to any employee who is  
 119 eligible to receive health insurance by all or part of the per-employee  
 120 hourly cost of the employer’s share of the premium for that insurance.

121 (d)]] Exclusions. The County minimum wage does not apply to an employee  
 122 who:

123 (1) is exempt from the minimum wage requirements of the State or  
 124 Federal Act;

125 (2) [[is a tipped employee under the State Act]] is under the age of 19  
 126 years and is employed no more than 20 hours per week; or

127 (3) is subject to an opportunity wage under the State or Federal Act.

128 (d) Retaliation prohibited. A person must not:

129 (1) retaliate against any person for:

130 (A) lawfully opposing any violation of this Article; or

131 (B) filing a complaint, testifying, assisting, or participating in  
 132 any manner in an investigation, proceeding, or hearing  
 133 under this Article; or

134 (2) obstruct or prevent enforcement or compliance with this Article.

135 **27-69. Tipped Employees.**

136 (a) Definition. As used in this Section, tipped employee means:

137 (1) an employee who:

138 (A) is engaged in an occupation in which the employee  
 139 customarily and regularly receives more than \$30 each  
 140 month in tips;

141 (B) has been informed by the employer about the provisions of  
 142 this Section; and

143 (C) has kept all of the tips that the employee received.

144 (2) Notwithstanding paragraph (1)(C), this Section does not prohibit  
 145 the pooling of tips.

146 (b) Computation of wage. Except as provided in subsection (c), an  
 147 employer may include, as part of the wage of a tipped employee:

148 (1) an amount that the employer sets to represent the tips of the  
 149 employee; or

150 (2) if the employee or representative of the employee satisfies the  
 151 Director that the employee received a lesser amount in tips, the  
 152 lesser amount.

153 (c) Limit. The tip credit amount that the employer may include under  
 154 subsection (b) must not exceed ~~[[50% of]]~~ the County minimum wage  
 155 less 50% of the minimum wage required for that employee under the  
 156 State Act.

157 **27-70 Enforcement.**

158 (a) A covered employee who was paid a wage rate less than the County  
 159 minimum wage in violation of this Article may file a complaint with the  
 160 Director under Section 27-7.

- 161           **(b) The County Executive must delegate the authority to enforce this**  
 162           **Article to a State agency that:**  
 163           **(1) enforces the State Act; and**  
 164           **(2) is legally authorized to enforce the County minimum wage.**

165           **Sec. 2. Transition.**

166           Notwithstanding Section ~~[[27-68(a)(3)]] 27-68~~, as added in Section 1, the  
 167 County minimum wage, until October 1, 2017, must be the greater of the minimum  
 168 wage required under the Federal or State Act or:

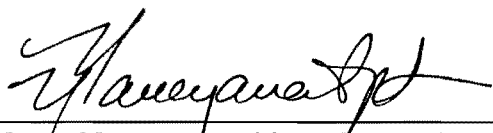
- 169           (a) effective ~~[[July]] October~~ 1, 2014, ~~[[\\$7.25 per hour for an employee~~  
 170           during the employee’s first 90 days of employment and \$8.25]] \$8.40  
 171           per hour ~~[[beginning on the employee’s 91<sup>st</sup> day of employment]]~~;  
 172           (b) effective ~~[[July]] October~~ 1, 2015, ~~[[\\$8.25 per hour for an employee~~  
 173           during the employee’s first 90 days of employment and \$9.75]] \$9.55  
 174           per hour ~~[[beginning on the employee’s 91<sup>st</sup> day of employment]]~~; and  
 175           (c) effective ~~[[July]] October~~ 1, 2016, ~~[[\\$9.75 per hour for an employee~~  
 176           during the employee’s first 90 days of employment and]] ~~[[\\$12.00]]~~  
 177           ~~[[\\$11.50]] \$10.75~~ per hour ~~[[beginning on the employee’s 91<sup>st</sup> day of~~  
 178           employment]].

179           **Sec. 3. Effective Date.**

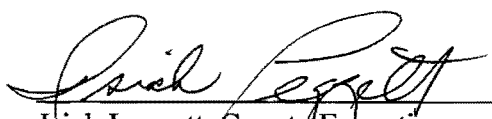
180           This Act takes effect on ~~[[July]] October~~ 1, 2014.



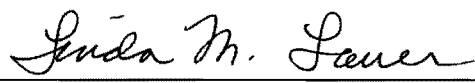
181 *Approved:*

182  11/26/13  
\_\_\_\_\_  
Nancy Navarro, President, County Council Date

183 *Approved:*

184  Dec 5, 2013  
\_\_\_\_\_  
Isiah Leggett, County Executive Date

185 *This is a correct copy of Council action.*

186  Dec 10, 2013  
\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council Date