

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 16

Bill No. 81 -2021

Introduced by: Opel Jones and Christiana Rigby

AN ACT establishing a local minimum wage for employees working in Howard County; and generally relating to Howard County minimum wage requirements.

Introduced and read first time _____, 2021. Ordered posted and hearing scheduled.

By order _____
Michelle R. Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2021.

By order _____
Michelle R. Harrod, Administrator

This Bill was read the third time on _____, 2021 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2021 at ____ a.m./p.m.

By order _____
Michelle R. Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2021

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; Text in small capitals indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard County
2 Code is hereby amended as follows:

3 By adding a new:

4 Title 12 – Health and Human Services

5 Subtitle 22. “Howard County Minimum Wage”

6

7

HOWARD COUNTY CODE

8

Title 12 – Health and Human Services

9

Subtitle 22. Howard County Minimum Wage

10

11 **SECTION 12.2200. – DEFINITIONS**

12 (A) DEFINITIONS. AS USED IN THIS SUBTITLE:

13 (1) *EMPLOY* MEANS TO ENGAGE A PERSON TO WORK FOR COMPENSATION.

14 (2) *EMPLOYEE* MEANS ANY PERSON PERMITTED OR INSTRUCTED TO WORK OR BE PRESENT

15 BY AN EMPLOYER IN THE COUNTY AND WHO IS AN EMPLOYEE SUBJECT TO THE MINIMUM
16 WAGE REQUIREMENTS OF THE FEDERAL ACT OR THE STATE ACT.

17 (3) *EMPLOYER* MEANS ANY PERSON, INDIVIDUAL, PROPRIETORSHIP, PARTNERSHIP, JOINT
18 VENTURE, CORPORATION, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, OR
19 OTHER ENTITY OPERATING AND DOING BUSINESS IN THE COUNTY THAT EMPLOYS ONE
20 OR MORE PERSONS IN THE COUNTY IN ADDITION TO THE OWNERS. EMPLOYER INCLUDES
21 HOWARD COUNTY GOVERNMENT, BUT DOES NOT INCLUDE THE UNITED STATES, ANY
22 STATE, OR ANY OTHER LOCAL GOVERNMENT.

23 SPECIFICALLY, FOR THE PURPOSES OF DETERMINING MINIMUM WAGE IN THIS SUBTITLE:

24 a. EMPLOYER MEETS THE DEFINITION OF AN EMPLOYER IN THE STATE ACT;

25 b. A SMALL EMPLOYER IS CONSIDERED:

26 i. A SMALL EMPLOYER AS DEFINED IN THE STATE ACT;

27 ii. AN EMPLOYER THAT HAS TAX EXEMPT STATUS UNDER SECTION
28 501(C)(3) OF THE INTERNAL REVENUE CODE; OR

29 iii. AN EMPLOYER THAT PROVIDES “HOME HEALTH SERVICES” AS DEFINED
30 BY 42 C.F.R. § 440.70 OR “HOME OR COMMUNITY-BASED SERVICES” AS

1 DEFINED BY 42 C.F.R. § 440.180, AND RECEIVES AT LEAST 75% OF
2 GROSS REVENUES THROUGH STATE AND FEDERAL MEDICAID PROGRAMS.

3 iv. RESTAURANTS AS DEFINED IN SECTION 3-1301 OF THE LABOR AND
4 EMPLOYMENT ARTICLE OF THE MARYLAND CODE.

5 (4) *FEDERAL ACT* MEANS THE FEDERAL FAIR LABOR STANDARDS ACT.

6 (5) *STATE ACT* MEANS THE MARYLAND WAGE AND HOUR LAW.

7 (6) *WAGE* MEANS ALL COMPENSATION THAT IS DUE TO AN EMPLOYEE FOR EMPLOYMENT.

8
9 **SECTION 12.2201. – MINIMUM WAGE REQUIRED**

10 (A) *COUNTY MINIMUM WAGE*. AN EMPLOYER MUST PAY WAGES TO EACH EMPLOYEE FOR WORK
11 PERFORMED IN THE COUNTY AT LEAST THE GREATER OF:

- 12 (1) THE MINIMUM WAGE REQUIRED FOR THAT EMPLOYEE UNDER THE FEDERAL ACT;
13 (2) THE MINIMUM WAGE REQUIRED FOR THAT EMPLOYEE UNDER THE STATE ACT; OR
14 (3) IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, PLUS ANY ANNUAL ADJUSTMENTS
15 UNDER SUBSECTION (B):

16 EMPLOYERS:

- 17 • EFFECTIVE JANUARY 1, 2022, \$14 PER HOUR;
18 • EFFECTIVE JANUARY 1, 2023, \$15 PER HOUR;
19 • EFFECTIVE JANUARY 1, 2025, \$16 PER HOUR;

20
21 SMALL EMPLOYERS:

- 22 • EFFECTIVE JANUARY 1, 2022, \$13 PER HOUR;
23 • EFFECTIVE JANUARY 1, 2023, \$14 PER HOUR;
24 • EFFECTIVE JANUARY 1, 2024, \$15 PER HOUR;
25 • EFFECTIVE JANUARY 1, 2026, \$16 PER HOUR;

26
27 HOWARD COUNTY GOVERNMENT EMPLOYEES

- 28 • EFFECTIVE JULY 1, 2022, \$15 PER HOUR;
29 • EFFECTIVE JULY 1, 2024, \$16 PER HOUR;

1 (B) ANNUAL ADJUSTMENT. THE CHIEF ADMINISTRATIVE OFFICER MUST ADJUST THE MINIMUM WAGE
2 RATE REQUIRED UNDER SUBSECTION (A)(3), EFFECTIVE JANUARY 1, 2027, AND JANUARY 1 OF EACH
3 SUBSEQUENT YEAR, BY THE ANNUAL AVERAGE INCREASE, IF ANY, IN THE CONSUMER PRICE INDEX FOR
4 URBAN WAGE EARNERS AND CLERICAL WORKERS, (CPI-W) FOR WASHINGTON-BALTIMORE, OR A
5 SUCCESSOR INDEX, FOR THE PREVIOUS FISCAL YEAR ENDING JUNE 30. THE CHIEF ADMINISTRATIVE
6 OFFICER MUST CALCULATE THE ADJUSTMENT TO THE NEAREST MULTIPLE OF FIVE CENTS, AND MUST
7 PUBLISH THE AMOUNT OF THIS ADJUSTMENT NOT LATER THAN SEPTEMBER 1 OF EACH YEAR.

8
9 (C) RETALIATION PROHIBITED. A PERSON MUST NOT:

- 10 (1) RETALIATE AGAINST ANY PERSON FOR:
- 11 (A) LAWFULLY OPPOSING ANY VIOLATION OF THIS ARTICLE; OR
 - 12 (B) FILING A COMPLAINT, TESTIFYING, ASSISTING, OR PARTICIPATING IN ANY MANNER
 - 13 IN AN INVESTIGATION, PROCEEDING, OR HEARING UNDER THIS ARTICLE; OR
 - 14 (2) OBSTRUCT OR PREVENT ENFORCEMENT OR COMPLIANCE WITH THIS ARTICLE.

15
16 **SECTION 12.2202. – TIPPED EMPLOYEES**

17 (A) DEFINITION. AS USED IN THIS SECTION, TIPPED EMPLOYEE MEANS:

- 18 (1) AN EMPLOYEE WHO:
- 19 (A) IS ENGAGED IN AN OCCUPATION IN WHICH THE EMPLOYEE CUSTOMARILY AND
 - 20 REGULARLY RECEIVES MORE THAN \$30 EACH MONTH IN TIPS;
 - 21 (B) HAS BEEN INFORMED BY THE EMPLOYER ABOUT THE PROVISIONS OF THIS SECTION;
 - 22 AND
 - 23 (C) HAS KEPT ALL OF THE TIPS THAT THE EMPLOYEE RECEIVED.

24 (2) NOTWITHSTANDING PARAGRAPH (1)(C), THIS SECTION DOES NOT PROHIBIT THE POOLING
25 OF TIPS.

26 (B) COMPUTATION OF WAGE. EXCEPT AS PROVIDED IN SUBSECTION (C), AN EMPLOYER MAY
27 INCLUDE, AS PART OF THE WAGE OF A TIPPED EMPLOYEE:

- 28 (1) AN AMOUNT THAT THE EMPLOYER SETS TO REPRESENT THE TIPS OF THE EMPLOYEE; OR

1 (2) IF THE EMPLOYEE OR REPRESENTATIVE OF THE EMPLOYEE SATISFIES THE STATE
2 COMMISSIONER OF LABOR AND INDUSTRY THAT THE EMPLOYEE RECEIVED A LESSER
3 AMOUNT IN TIPS, THE LESSER AMOUNT.

4 (C) *LIMIT.* THE TIP CREDIT AMOUNT THAT THE EMPLOYER MAY INCLUDE UNDER SUBSECTION (B)
5 SHALL NOT EXCEED THE COUNTY MINIMUM WAGE LESS \$4.00 PER HOUR.

6

7 **SECTION 12.2203. – ENFORCEMENT**

8 THE COUNTY EXECUTIVE SHALL DELEGATE THE AUTHORITY TO ENFORCE THIS SUBTITLE TO A STATE
9 AGENCY THAT:

10 (1) ENFORCES THE STATE ACT; AND

11 (2) IS LEGALLY AUTHORIZED TO ENFORCE THE COUNTY MINIMUM WAGE.

12

13 ***Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act***
14 *shall become effective 61 days after its enactment.*