


MEMORANDUM

September 28, 2018

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: Bill 34-18, Human Rights and Civil Liberties – County Minimum Wage – Definitions - Employer

PURPOSE: Introduction; No Council votes required

Bill 34-18, Human Rights and Civil Liberties – County Minimum Wage – Definitions - Employer, sponsored by Lead Sponsor Council President Riemer and Co-Sponsor Councilmember Huckler, is scheduled to be introduced on October 2, 2018. A public hearing is tentatively scheduled for October 23, 2018 at 1:30 p.m. Bill 34-18 would modify the definition of “employer” in the County’s minimum wage law, so that employers of “1 or more persons in the County in addition to the owners” would be required to pay the County minimum wage. The Bill does not change the rate of the minimum wage, nor does it change any of the scheduled increases under the existing law.

Background

In 2013, the Council enacted Bill 27-13, which established a County minimum wage for private sector employees working in the County, unless the State or federal minimum wage is higher. The County minimum wage established under Bill 27-13 was phased in over several years, up to \$11.50 per hour on July 1, 2018. On November 7, 2017 the Council enacted Bill 28-17, which provided for further increases in the minimum wage to \$15.00 per hour over a period of years, with annual increases thereafter based on inflation. The phasing in of the increases under Bill 28-17 includes scheduled increases for three tiers of employers, based primarily on the number of employees.¹ The County minimum wage law applies to employers with 2 or more employees in the County.²

Subsequent to the enactment of the initial County minimum wage law, on June 23, 2015, the Council enacted the County Sick and Safe leave law, which required employers of “1 or more

¹ A table showing the phase-in provisions of Bill 28-17 is at:

https://www.montgomerycountymd.gov/humanrights/Resources/Files/Minimum_Wage_Transition_Table.pdf

² Under County Code §27-67(b), “Employer” means any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity operating and doing business in the County that employs 2 or more persons in the County. Employer includes the County government, but does not include the United States, any State, or any other local government.

persons in the County in addition to the owners”³ to provide their employees with earned sick and safe leave for work performed in the County.

As noted above, Bill 34-18 would amend the definition of “employer” to expand applicability of the County minimum wage to workers who are the only non-family-member employee of their employer. As the current law requires employers of 2 or more persons to pay the County minimum wage, these workers currently must be paid the State minimum wage of \$10.10 per hour. This change would align the definition of “employer” in the minimum wage law with that definition in the County’s sick and safe leave law.

The draft Bill includes an effective date of July 1, 2019, to coincide with the next scheduled increase in the County minimum wage. With that effective date, an employee that would then be covered would, as of July 1, 2019, have to be paid \$12.50 per hour as an employee of a “small employer” under the phase-in provisions of enacted Bill 28-17.

This packet contains:	<u>Circle #</u>
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³ Under County Code §27-76(b), “Employer” means any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity operating and doing business in the County that employs 1 or more persons in the County in addition to the owners. Employer includes the County government, but does not include the United States, any State, or any other local government.

Bill No. 34-18
Concerning: Human Rights and Civil Liberties – County Minimum Wage – Definitions - Employer
Revised: 09/14/2018 Draft No. 2
Introduced: October 2, 2018
Expires: April 2, 2020
Enacted: _____
Executive: _____
Effective: July 1, 2019
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Riemer
Co-Sponsor: Councilmember Hucker

AN ACT to:

- (1) modify the definition of an employer required to pay the County minimum wage;
and
- (2) generally amend the laws governing the minimum wage

By amending

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Article XI. County Minimum Wage
Section 27-67

Boldface	<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>
[[Double boldface brackets]]	<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. Section 27-67 is amended as follows:

27-67. Findings and definitions.

* * *

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

Director means the Executive Director of the Office of Human Rights and includes the Executive Director’s designee.

Employ means to engage a person to work for compensation.

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

Employer means any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity operating and doing business in the County that employs [2] 1 or more persons in the County in addition to the owners. Employer includes the County government, but does not include the United States, any State, or any other local government.

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

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

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

Sec. 2. Effective Date.

This Act takes effect on July 1, 2019.

LEGISLATIVE REQUEST REPORT

Bill 34-18

Human Rights and Civil Liberties – County Minimum Wage – Definitions – Employer

DESCRIPTION: Bill 34-18 would modify the definition of an employer required to pay the County minimum wage to include workers who are the only non-family-member employee of their employer.

PROBLEM: Workers who are the only employee of an employer are not entitled to payment of the County minimum wage.

**GOALS AND:
OBJECTIVES** Require payment of the County minimum wage to workers who are the sole employee of their employers and make the applicability of the County minimum wage consistent with the County Sick and Safe Leave law.

COORDINATION: Office of Human Rights

FISCAL IMPACT: To be requested.

**ECONOMIC:
IMPACT** To be requested.

EVALUATION: To be requested.

**EXPERIENCE:
ELSEWHERE** To be researched.

**SOURCE OF:
INFORMATION** Josh Hamlin, Legislative Attorney, 240-777-7892

**APPLICATION:
WITHIN
MUNICIPALITIES** To be researched.

PENALTIES: Class A civil citation and equitable relief.