

Subject: Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week
Purpose: To introduce agenda item – no vote expected
Analyst: Robert H. Drummer, Senior Legislative Attorney Committee: HHS
Keywords: #MinimumWorkWeek Other search terms: Building Maintenance Worker, Building Maintenance Employee, Minimum Work Week

EXPECTED ATTENDEES

None.

DESCRIPTION/ISSUE

Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

SUMMARY OF KEY DISCUSSION POINTS

- How would this Bill affect the operation of large office buildings in the County?
- Would this Bill increase the numbers of County residents with health insurance?
- Should the law permit some part-time workers?

This report contains: _____

Staff Report

1


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MEMORANDUM

May 2, 2019

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week

PURPOSE: Introduction – no Council votes required

Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week, sponsored by Lead Sponsor Councilmember Riemer, is scheduled to be introduced on May 7, 2019. A public hearing is tentatively scheduled for June 18, 2019 at 1:30 p.m.¹

Background

Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

A Complaint may be filed with the County Office of Human Rights. The County Human Rights Commission may award a range of compensatory damages for a violation, including attorney's fees and equitable relief. The Bill would not apply to an employee:

- (1) who earns more than twice the living wage;
- (2) who works as a security officer only on Saturday or Sunday;
- (3) who temporarily replaces a building maintenance worker who is absent for less than one week; and
- (4) of a Federal, State, or local government other than the County.

The Bill would take effect on July 1, 2020.

This packet contains:

Bill 12-19
Legislative Request Report

Circle #

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¹#MinimumWorkWeek

Bill No. 12-19
Concerning: Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week
Revised: April 1, 2019 Draft No. 1
Introduced: May 7, 2019
Expires: November 7, 2020
Enacted: _____
Executive: _____
Effective: July 1, 2021
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Riemer

AN ACT to:

- (1) require certain employers in the County to provide certain building maintenance workers with a minimum work week;
- (2) provide enforcement by the Office of Human Rights and the Human Rights Commission;
- (3) authorize the Human Rights Commission to award certain relief; and
- (4) generally regulate the minimum work week for certain workers in the County.

By amending

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

By adding

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Article XIV, Minimum Work Week for Building Maintenance Workers
Sections 27-83 and 27-84

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. Sections 27-7 and 27-8 are amended and Chapter 27, Article XIV 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 Articles X, XI, XII, [or] XIII, or XIV 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 Articles X, XI, XII, [or] XIII, or XIV 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 Articles
32 X, XI, XII, [or] XIII, or XIV 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 Articles X, XI, [or] XIII, or XIV, the case review board
40 may order the payment of damages (other than punitive damages) and
41 any other relief that the law and the facts warrant, such as:

- 42 (1) compensation for:
 - 43 (A) reasonable attorney's fees;
 - 44 (B) property damage;
 - 45 (C) personal injury;
 - 46 (D) unreimbursed travel or other reasonable expenses;
 - 47 (E) damages not exceeding \$500,000 for humiliation and
48 embarrassment, based on the nature of the humiliation and
49 embarrassment, including its severity, duration,
50 frequency, and breadth of observation by others;
 - 51 (F) financial losses resulting from the discriminatory act or a
52 violation of Article X or XIV; and
 - 53 (G) interest on any damages from the date of the discriminatory
54 act or violation, as provided in subsection (c);

- 55 (2) equitable relief to prevent the discrimination or the violation of
- 56 Articles X, XI, [or] XIII or XIV and otherwise effectuate the
- 57 purposes of this Chapter;
- 58 (3) consequential damages, such as lost wages from employment
- 59 discrimination or a violation of Article X or higher housing costs
- 60 from housing discrimination, for up to 2 years after the violation,
- 61 not exceeding the actual difference in expenses or benefits that the
- 62 complainant realized while seeking to mitigate the consequences
- 63 of the violation (such as income from alternate employment or
- 64 unemployment compensation following employment
- 65 discrimination); and
- 66 (4) any other relief that furthers the purposes of this Article or Articles
- 67 X, XI, [or] XIII or XIV, or is necessary to eliminate the effects of
- 68 any discrimination prohibited under this Article.

* * *

ARTICLE XIV. Minimum Work Week for Building Maintenance Workers.

27-83. Definitions.

As used in this Article:

Building maintenance worker means an individual employed at a covered location as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent. A building maintenance worker does not include:

- 77 (1) a managerial or confidential employee;
- 78 (2) an employee who works in an executive, administrative, or professional
- 79 capacity;
- 80 (3) an employee who earns more than twice the wage requirement
- 81 established under Section 11B-33A;

82 (4) an employee who works as a security officer solely on Saturday or
 83 Sunday; or

84 (5) an employee who temporarily replaces a building maintenance worker
 85 who is absent for less than one week.

86 Covered employer means any person, individual, proprietorship, partnership,
 87 joint venture, corporation, Limited Liability Company, trust, association, or
 88 other entity operating and doing business in the County that employs one or
 89 more persons as a building maintenance worker at a covered location in the
 90 County. Covered employer includes the County government, but does not
 91 include the United States, any State, or any other local government.

92 Covered leave means paid or unpaid leave voluntarily used by a building
 93 maintenance worker as authorized by Federal, State, or County law, a collective
 94 bargaining agreement, or a written employee handbook.

95 Covered location means an office building or contiguous group of office
 96 buildings under common ownership or management occupying a total of
 97 350,000 square feet or more in the County. Covered location does not include
 98 an office building or group of office buildings owned by the United States, any
 99 State, or any local government.

100 Director means the Executive Director of the Office of Human Rights and
 101 includes the Executive Director's designee.

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

103 Minimum work week means the minimum number of compensated hours
 104 provided to a building maintenance worker in any work week.

105 Office means a room, set of rooms, or a building where the business of a
 106 commercial or industrial organization or of a professional person is conducted.

107 Work week means a fixed regularly recurring period of 168 hours or 7
 108 consecutive 24 hour periods.

109 **27-84. Minimum work week; enforcement.**

110 (a) Minimum work week. The minimum work week for each employee
111 working as a building maintenance worker at a covered location for a
112 covered employer must be at least 30 hours unless the employee is taking
113 covered leave.

114 (b) Complaints. A building maintenance worker who is aggrieved by a
115 violation of this Article may file a complaint with the Director under
116 Section 27-7.

117 (c) Retaliation prohibited. A person must not:

118 (1) retaliate against any person for:

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

120 (B) filing a complaint, testifying, assisting, or participating in
121 any manner in an investigation, proceeding, or hearing
122 under this Article; or

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

124 **Sec. 2. Effective date.**

125 This Act takes effect on July 1, 2020.

126 *Approved:*

127

Nancy Navarro, President, County Council

Date

128 *Approved:*

129

Marc Elrich, County Executive

Date

LEGISLATIVE REQUEST REPORT

Bill 12-19

Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week

DESCRIPTION: Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

PROBLEM: Employers of building maintenance workers often schedule a building maintenance worker for less than 30 hours per week to avoid providing health insurance under the Affordable Care Act.

GOALS AND OBJECTIVES: Increase the availability of full-time work with health insurance for these workers.

COORDINATION: Human Rights, DGS, County Attorney, Office of Procurement

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Finance

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: Compensatory damages and attorney's fees.