BIII NO.	27-	13		
Concerning: _	Human	Rights	and	Civil
Liberties -	<ul> <li>County</li> </ul>	Minimu	ım Wa	age -
Dollar Am	ount			
Revised: Nove	ember 26	<u>5, 2013 [</u>	Draft N	lo. <u>7</u>
Introduced:	Octobe	er 1, 201	3	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
Enacted:	Novem	ber 26, :	2013	
Executive:				
Effective:	July 1,	2014		
Sunset Date:	None			
Ch La	ws of Mo	ont Co		

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Elrich, Ervin and Council President Navarro

## 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

Boldface
Underlining
Added to existing law by original bill.

[Single boldface brackets]
Double underlining
Added by amendment.

[[Double boldface brackets]]

\* \* \*

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

1	Sec.	1.	Sections 27-7 and 27-8 are amended and Chapter 27, Article
2	XI is adde	d as fo	llows:
3	27-7. Adn	ninistr	ation and enforcement.
4	(a)	Filir	ag complaints. Any person subjected to a discriminatory act or
5		prac	tice in violation of this Article, or any group or person seeking to
6		enfo	rce this Article or [Article] Articles X or XI, may file with the
7		Dire	ctor a written complaint, sworn to or affirmed under the penalties of
8		perju	ry, that must state:
9		(1)	the particulars of the alleged violation;
10		(2)	the name and address of the person alleged to have committed the
11			violation; and
12		(3)	any other information required by law or regulation.
13			* *
14	(f)	Initio	al determination, dismissal before hearing.
15		(1)	The Director must determine, based on the investigation, whether
16			reasonable grounds exist to believe that a violation of this Article
17			or [Article] Articles X or XI occurred and promptly send the
18			determination to the complainant and the respondent.
19		(2)	If the Director determines that there are no reasonable grounds to
20			believe a violation occurred, and the complainant appeals the
21			determination to the Commission within 30 days after the
22			Director sends the determination to the complainant, the Director
23			promptly must certify the complaint to the Commission. The
24			Commission must appoint a case review board to consider the
25			appeal. The board may hear oral argument and must:
26			(A) dismiss the complaint without a hearing;
27			(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. Pena	alties 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	<u>27-67.</u>	Findings and Definitions.
53	(a)	Findings.

54		<u>(1)</u>	Many	persons employed in the County are paid wages which are
55			insuff	ficient to sustain minimum standards of living in the County.
56		<u>(2)</u>	Minir	num standards of living in the County are higher than the
57			minin	num standards of living in many other areas of the State.
58		<u>(3)</u>	Minir	num wage standards in the County are necessary to:
59			<u>(A)</u>	promote the health and welfare of County residents;
60			<u>(B)</u>	safeguard employers and employees against unfair
61				competition;
62			<u>(C)</u>	increase the stability of industry in the County;
63			<u>(D)</u>	increase the buying power of employees in the County;
64				and
65			<u>(E)</u>	decrease the need for the County to spend public money
66				for the relief of employees who also live in the County.
67	<u>(b)</u>	<u>Defini</u>	tions.	As used in this Article:
68		[[ <u>Cons</u>	<u>sumer</u>	Price Index means the Consumer Price Index for All Urban
69		Consu	mers:	All items in Washington-Baltimore, DC-MD-VA-WV
70		(CMS	A), as	published by the United States Department of Labor,
71		Bureau	u <u>of La</u>	abor Statistics, or a successor index.]]
72		Direct	or me	ans the Executive Director of the Office of Human Rights
73		and inc	cludes	the Executive Director's designee.
74		<u>Emplo</u>	y mea	ns to engage a person to work for compensation.
75		<u>Emplo</u>	<u>yee</u> m	eans any person permitted or instructed to work or be
76		presen	t by a	n employer in the County and who is an employee subject
77		to the 1	<u>minim</u>	um wage requirements of the Federal Act or the State Act.
78		<u>Emplo</u>	<u>yer</u> m	eans any person, individual, proprietorship, partnership,
79		joint v	enture	, corporation, limited liability company, trust, association,
80		or othe	er entit	y operating and doing business in the County that employs

81		2 <u>or</u>	more persons in the County. Employer includes the County
82		gove	ernment, but does not include the United States, any State, or any
83		other	r local government.
84		<u>Fede</u>	eral Act means the federal Fair Labor Standards Act of 1938, as
85		amei	nded.
86		[[ <u>He</u>	alth insurance means insurance coverage that is part of an
87		<u>emp</u>	loyer benefit package that pays for medical expenses incurred by an
88		<u>emp</u> l	loyee and an employee's family either by reimbursing the employee
89		or by	paying the care provider directly.]]
90		<u>State</u>	<u>Act means the Maryland Wage and Hour Law, as amended.</u>
91		Wag	e means all compensation that is due to an employee for
92		empl	loyment.
93	<u>27-68.</u>	Mini	imum Wage Required.
94	<u>(a)</u>	<u>Cour</u>	nty minimum wage. Except as provided in Subsection [[(d)]] [[(c)]]
95		<u>(b)</u> ,	an employer must pay wages to each employee [[working]] for
96		<u>work</u>	performed in the County at least the greater of:
97		<u>(1)</u>	the minimum wage required for that employee under the Federal
98			Act;
99		<u>(2)</u>	the minimum wage required for that employee under the State
100			Act; [[or]]or
101		<u>(3)</u>	[[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		<u>(4)</u>	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

107	<u>(b)</u>	An	nual adjustment. The Chief Administrative Officer must adjust the
108		<u>mini</u>	mum wage rate required under Subsection (a)(3), effective]]
109		[[Jul	y]] [[October 1, 2017, and]] [[July]] [[October 1 of each subsequent
110		year.	, by the]] [[annual average increase, if any, in the Consumer Price
111		<u>Inde</u> :	x for the previous calendar year]] [[same measure, if any, used to
112		<u>adju</u> s	st the minimum wage under the State Act. The Chief
113		Adm	ninistrative Officer must calculate the adjustment to the nearest
114		mult	iple of 5 cents, and must publish the amount of this adjustment not
115		later	than]] [[March]] [[June 1 of each year.
116	(c)]]	[[ <i>He</i>	alth insurance credit. An employer who provides health insurance
117		to ar	ny employee who works in the County may reduce the County
118		mini	mum wage payable under paragraph (a)(3) to any employee who is
119		eligil	ble to receive health insurance by all or part of the per-employee
120		hour	ly cost of the employer's share of the premium for that insurance.
121	<u>(d)]]</u>	<u>Excl</u>	usions. The County minimum wage does not apply to an employee
122		who:	• •
123		<u>(1)</u>	is exempt from the minimum wage requirements of the State or
124			Federal Act;
125		<u>(2)</u>	[[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		<u>(3)</u>	is subject to an opportunity wage under the State or Federal Act.
128	<u>(d)</u>	<u>Retal</u>	liation prohibited. A person must not:
129		<u>(1)</u>	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		<u>(2)</u>	<u>obstr</u>	uct or prevent enforcement or compliance with this Article.
135	<u>27-69.</u>	Tipped Employees.		
136	<u>(a)</u>	Definition. As used in this Section, tipped employee means:		
137		<u>(1)</u>	an en	nployee who:
138			<u>(A)</u>	is engaged in an occupation in which the employee
139				customarily and regularly receives more than \$30 each
140				month in tips;
141			<u>(B)</u>	has been informed by the employer about the provisions of
142				this Section; and
143			<u>(C)</u>	has kept all of the tips that the employee received.
144		<u>(2)</u>	Notw	ithstanding paragraph (1)(C), this Section does not prohibit
145			the po	ooling of tips.
146	<u>(b)</u>	<u>Comp</u>	<u>utatio</u>	n of wage. Except as provided in subsection (c), an
147		emplo	yer m	ay include, as part of the wage of a tipped employee:
148		<u>(1)</u>	an ar	mount that the employer sets to represent the tips of the
149			emple	oyee; or
150		<u>(2)</u>	if the	employee or representative of the employee satisfies the
151			Direc	tor that the employee received a lesser amount in tips, the
152			lesser	amount.
153	<u>(c)</u>	<u>Limit.</u>	<u>The</u>	tip credit amount that the employer may include under
154		subsec	ction (	b) must not exceed [[50% of]] the County minimum wage
155		less 5	<u>0% of</u>	the minimum wage required for that employee under the
156		State A	Act.	
157	<u>27-70</u>	Enfor	ceme	nt <u>.</u>
158	<u>(a)</u>	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		Direct	or unc	ler Section 27-7.

161	<u>(b)</u>	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	2. Transition.
166	Notw	ithstanding Section [[27-68(a)(3)]] 27-68, as added in Section 1, the
167	County min	imum wage, until October 1, 2017, must be the greater of the minimum
168	wage require	ed 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 91st 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 91st 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 91st day of
178		employment]].
179	Sec. 3	Effective Date.
180	This A	Act takes effect on [[July]] October 1, 2014.

Approved:	
Managananoted	11/26/13
Nandy Navarro President, County Council	Date
Approved:	
Isiah Leggett, County Executive	Date
This is a correct copy of Council action.	
Linda M. Lauer. Clerk of the Council	Date