

**CITY OF BALTIMORE
COUNCIL BILL 24-0556
(First Reader)**

Introduced by: Councilmembers Bullock, Dorsey, Burnett, Ramos, and Porter

Introduced and read first time: June 24, 2024

Assigned to: Ways and Means Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Office of Equity and Civil Rights, Wage Commission, Office of the Labor Commissioner, Department of Human Resources

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Fair Wages for Tipped Employees**

3 FOR the purpose of limiting and phasing out the amount of tip credit an employer may deduct
4 from the hourly wage of a certain employee; requiring certain disclosures before an employer
5 may charge a consumer a service fee; requiring an employer to submit a certain quarterly
6 report to the Director of Finance; defining certain terms; and generally relating to fair wages
7 for tipped employees.

8 BY repealing and re-ordaining, without amendments,

9 Article 11 - Labor and Employment
10 Section 3-1
11 Baltimore City Code
12 (Edition 2000)

13 BY repealing and re-ordaining, with amendments,

14 Article 11 - Labor and Employment
15 Section 3-2
16 Baltimore City Code
17 (Edition 2000)

18 BY renumbering

19 Article 11 - Labor and Employment
20 Sections 3-3 through 3-8, respectively,
21 To be
22 Sections 3-4 through 3-9, respectively
23 Baltimore Code
24 (Edition 2000)

25 BY adding

26 Article 11 - Labor and Employment
27 New section 3-3
28 Baltimore City Code
29 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That
2 Sections 3-3 through 3-8, respectively of Article 11 - Labor and Employment of the Baltimore
3 City Code be renumbered to be Sections 3-4 through 3-9, respectively.

4 SECTION 2. AND BE IT FURTHER ORDAINED, That the Laws of Baltimore City read as
5 follows:

6 Baltimore City Code

7 Article 11. Labor and Employment

8 Subtitle 3. Wage Requirements

9 § 3-1. Minimum wage required.

10 (a) *Employers must pay.*

11 Subject to the other provisions of this Division I, every employer operating and doing
12 business in Baltimore City shall pay wages to each employee in the City at a rate not less
13 than the minimum wage required by the Federal Fair Labor Standards Act, as amended.

14 (b) *Violations.*

15 It is a violation of this Division I for any employer to pay any employee a wage less than
16 the minimum wage required by this Division I, and it is a separate violation each time an
17 employee is not paid the wage required by this Division I at the time the employee is
18 entitled to be paid.

19 § 3-2. Exceptions.

20 (a) *Allowance for employer-supplied items or services.*

21 (1) For purposes of this Division I, wages shall include the reasonable value, as
22 determined by the Wage Commission, of uniforms, board, lodging, or other facilities,
23 items, or services furnished such employee by the employer.

24 (2) Provided that the Wage Commission is empowered to determine such value by
25 reference to the average cost to the employer or to groups of employers similarly
26 situated.

27 (b) *Full-time students.*

28 (1) Any employee who is a full-time student in a primary or secondary school, as such
29 term is further defined by the Wage Commission, may be paid 85% of the minimum
30 wage prescribed herein.

31 (2) Provided, however, that such students may not be employed for more than 28 hours
32 per week while attending school.

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1 (3) It shall be a violation of this Division I for any employer to employ such a full-time
2 student for more than 28 hours per week while school is in session.

3 (c) *Work-study programs.*

4 Students enrolled in an approved work-study program shall be exempt from the
5 limitations of subsection (b) of this section and from the minimum wage requirements of
6 this Division I. Work study programs must be approved by the Wage Commission.

7 [(d) *Employees customarily receiving tips.*]

8 [(1) With respect to any employee engaged in an occupation in which he customarily and
9 regularly receives more than \$30 a month in tips, the employer shall pay wages in
10 the amount not less than the amount required to be paid a tipped employee under the
11 Federal Fair Labor Standards Act, as amended.]

12 [(2) It is the employer's obligation to provide evidence of any amount claimed by him as
13 being received by his employee as tips.]

14 (D) [(e)] *Employees with disabilities.*

15 (1) The Wage Commission may, in its discretion, recognize certificates issued by the
16 State of Maryland for payment of less than the minimum wage to persons who are
17 mentally or physically handicapped, or the Commission may issue its own certificates.

18 (2) Provided, that the Commission's said recognition or certification may be upon such
19 terms and for such period of time as the Commission deems appropriate.

20 (E) [(f)] *Opportunity wages.*

21 An employer may pay an opportunity wage (i.e., a wage below the minimum wage) to any
22 employee, but only under the conditions and limitations authorized for opportunity wages
23 by the Federal Fair Labor Standards Act, as amended.

24 **§ 3-3. TIPPED EMPLOYEES.**

25 (A) *DEFINITIONS.*

26 (1) *IN GENERAL.*

27 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

28 (2) *CONSUMER.*

29 "CONSUMER" HAS THE MEANING STATED IN STATE COMMERCIAL LAW ARTICLE
30 § 13-101 {"CONSUMER PROTECTION ACT: DEFINITIONS"}.

31 (3) *DIRECTOR.*

32 "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF FINANCE.

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1 (4) *FOOD SERVICE FACILITY.*

2 “FOOD SERVICE FACILITY” HAS THE MEANING STATED IN CODE OF MARYLAND
3 REGULATIONS § 10.15.03.02(B)(34), {“FOOD SERVICE FACILITIES: DEFINITIONS”}.

4 (5) *SERVICE FEE.*

5 (I) *IN GENERAL.*

6 “SERVICE FEE” MEANS AN ITEMIZED CHARGE TO A CONSUMER.

7 (II) *EXCEPTION.*

8 “SERVICE FEE” DOES NOT INCLUDE:

9 (A) A CHARGE FOR FOOD, DRINK, OR MERCHANDISE SPECIFIED ON THE MENU
10 OF THE FOOD SERVICE FACILITY; OR

11 (B) A SALES TAX ASSESSED BY THE STATE OF MARYLAND.

12 (6) *TIPPED EMPLOYEE.*

13 “TIPPED EMPLOYEE” MEANS AN EMPLOYEE WHO IS ENGAGED IN AN OCCUPATION IN
14 WHICH THE EMPLOYEE CUSTOMARILY AND REGULARLY RECEIVES MORE THAN \$30
15 EACH MONTH IN TIPS OR GRATUITIES.

16 (7) *TIP.*

17 “TIP” MEANS A SUM PRESENTED BY A CONSUMER TO AN EMPLOYEE AS A GIFT OR
18 GRATUITY IN RECOGNITION OF SOME SERVICE PERFORMED FOR THE CONSUMER.

19 (8) *TIP CREDIT.*

20 “TIP CREDIT” MEANS A LIMITED AMOUNT OF TIPS RECEIVED BY A TIPPED EMPLOYEE
21 THAT, UNDER FEDERAL LAW, AN EMPLOYER MAY DEDUCT FROM THE EMPLOYER’S
22 FEDERAL MINIMUM WAGE OBLIGATION TO THE TIPPED EMPLOYEE.

23 (B) *COMPUTATION OF WAGE.*

24 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN EMPLOYER MAY DEDUCT A
25 TIP CREDIT FROM THE WAGE OF A TIPPED EMPLOYEE:

26 (1) IN AN AMOUNT THAT THE EMPLOYER SETS TO REPRESENT THE TIPS OF THE
27 EMPLOYEE; OR

28 (2) IF THE EMPLOYEE OR REPRESENTATIVE OF THE EMPLOYEE SATISFIES TO THE
29 DIRECTOR THAT THE EMPLOYEE RECEIVED A LESSER AMOUNT IN TIPS, THE LESSER
30 AMOUNT.

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1 (C) *LIMIT AND PHASE-OUT OF THE TIP CREDIT AMOUNT.*

2 THE TIP CREDIT AMOUNT THAT AN EMPLOYER MAY DEDUCT UNDER SUBSECTION (B) OF
3 THIS SECTION MAY NOT EXCEED THE CITY MINIMUM WAGE, LESS:

4 (1) UNTIL JULY 1, 2025, \$3.63 PER HOUR;

5 (2) EFFECTIVE JULY 1, 2025 UNTIL JULY 1, 2026, \$6.00 PER HOUR;

6 (3) EFFECTIVE JULY 1, 2026 UNTIL JULY 1, 2027, \$8.00 PER HOUR;

7 (4) EFFECTIVE JULY 1, 2027 UNTIL JULY 1, 2028, \$10.00 PER HOUR;

8 (5) EFFECTIVE JULY 1, 2028 UNTIL JULY 1, 2029, \$12.00 PER HOUR; AND

9 (6) EFFECTIVE JULY 1, 2029, AN EMPLOYER:

10 (I) MAY NOT DEDUCT ANY TIP CREDIT AMOUNT UNDER SUBSECTION (B) OF
11 THIS SECTION; AND

12 (II) SHALL PAY A TIPPED EMPLOYEE IN ACCORDANCE WITH § 3-413 {"PAYMENT
13 OF MINIMUM WAGE REQUIRED"} OF THE STATE LABOR AND EMPLOYMENT
14 ARTICLE.

15 (D) *SERVICE FEE.*

16 (1) *IN GENERAL.*

17 IF A FOOD SERVICE FACILITY CHARGES THE CONSUMER A SERVICE FEE, THE FOOD
18 SERVICE FACILITY MUST DISCLOSE PROMINENTLY ON THE MENU:

19 (I) THE EXISTENCE, AMOUNT, AND PURPOSE OF THE SERVICE FEE; AND

20 (II) WHETHER THE SERVICE FEE IS PAID DIRECTLY TO A TIPPED EMPLOYEE ON TOP
21 OF THE EMPLOYEE'S BASE WAGES.

22 (2) *VIOLATION.*

23 A VIOLATION OF THIS SUBSECTION IS AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE
24 PRACTICE UNDER CITY CODE ARTICLE 2, SUBTITLE 4 {"UNFAIR, ABUSIVE, OR
25 DECEPTIVE TRADE PRACTICES"}.

26 (E) *PAYMENT OF TIPS.*

27 NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING THE PAYMENT OF TIPS
28 TO A TIPPED EMPLOYEE.

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1 (F) *QUARTERLY REPORT TO DIRECTOR.*

2 AN EMPLOYER WHO EMPLOYS A TIPPED EMPLOYEE SHALL, WITHIN 30 DAYS OF THE END OF
3 EACH FISCAL QUARTER, SUBMIT TO THE DIRECTOR A REPORT CERTIFYING THAT EACH
4 TIPPED EMPLOYEE WAS PAID THE MINIMUM WAGE REQUIRED BY THIS SECTION.

5 (G) *ONLINE REPORTING SYSTEM.*

6 THE DIRECTOR SHALL ESTABLISH AN INTERNET-BASED REPORTING SYSTEM AS AN
7 OPTIONAL METHOD FOR AN EMPLOYER OF A TIPPED EMPLOYEE TO SUBMIT THE QUARTERLY
8 REPORT REQUIRED BY SUBSECTION (F) OF THIS SECTION.

9 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
10 after the date it is enacted.