

Council Bill 17-0018

1 BY adding
2 Article 11 - Labor and Employment
3 Section(s) 1-4, 1-5, 2-7 to 2-9, 3-2A, and 3-2B
4 Baltimore City Code
5 (Edition 2000)

6 BY repealing
7 Article 11 - Labor and Employment
8 Section(s) 5-6
9 Baltimore City Code
10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
12 Laws of Baltimore City read as follows:

13 **Baltimore City Code**

14 **Article 11. Labor and Employment**

15 **Division 1. Minimum Wage law**

16 **Subtitle 1. Definitions; General Provisions**

17 **§ 1-1. Definitions.**

18 (a) *In general.*

19 The terms hereinafter set forth, wherever used in this Division I, are defined as follows.

20 (b) *Employ.*

21 “Employ” means to permit to work.

22 (c) *Employer.*

23 (1) “Employer” means any person, individual, partnership, association, corporation,
24 business trust, or any other organized group or successor of an individual, partnership,
25 association, corporation, OR trust of persons employing [2] 1 or more [persons]
26 EMPLOYEES in the City of Baltimore.

27 (2) “Employer” [shall] DOES not include the United States, any State, or any political
28 subdivision thereof, EXCEPT FOR THE CITY OF BALTIMORE.

29 (3) “EMPLOYER” INCLUDES THE CITY OF BALTIMORE.

30 (d) *Employee.*

31 (1) “Employee” means any person [permitted or instructed to work or be present by an
32 employer] WHO WORKS FOR AN EMPLOYER, OR IS EXPECTED TO WORK FOR AN

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1 EMPLOYER, FOR 25 HOURS OR MORE IN A CALENDAR YEAR WITHIN THE GEOGRAPHIC
2 BOUNDARIES OF THE CITY OF BALTIMORE.

3 (2) “Employee” [shall] DOES not include:

4 (i) persons engaged in the activities of an educational, charitable, religious, or
5 other nonprofit organization where the services rendered to such organization
6 are on a voluntary basis, or in return for charitable aid conferred upon such
7 person;

8 (ii) [persons employed in a bona fide executive, supervisory, or professional
9 capacity] PERSONS EXEMPT FROM THE MINIMUM WAGE AND MAXIMUM HOURS
10 REQUIREMENTS UNDER § 213(A)(1) OF THE FAIR LABOR STANDARDS ACT (29
11 U.S.C. §§ 201 - 219); OR

12 (iii) persons employed by any member of their immediate family[;].

13 [(iv) persons compensated upon a commission basis only; or]

14 [(v) persons employed as domestics within a home, only to the extent that such
15 persons have been exempted from the Federal Fair Labor Standards Act as
16 amended and as hereafter amended.]

17 (IV) PERSONS EXEMPT FROM THE MAXIMUM HOUR REQUIREMENTS UNDER
18 §213(B)(1) OF THE FAIR LABOR STANDARDS ACT (29 USC §§201 - 219);

19 (V) OWNER OPERATORS OF A CLASS F (TRACTOR), DESCRIBED IN § 13-923 OF THE
20 MARYLAND TRANSPORTATION ARTICLE; OR A CLASS E (TRUCK) VEHICLE, AS
21 DESCRIBED IN § 13-916 OF THE MARYLAND TRANSPORTATION ARTICLE,
22 INCLUDING A CLASS E (TRUCK) VEHICLE DESCRIBED IN § 13-919 OF THE
23 MARYLAND TRANSPORTATION ARTICLE IF:

24 (A) THE OWNER OPERATOR AND A MOTOR CARRIER HAVE ENTERED INTO A
25 WRITTEN AGREEMENT THAT IS CURRENTLY IN EFFECT FOR PERMANENT
26 OR TRIP LEASING;

27 (B) UNDER THE AGREEMENT:

28 1. THERE IS NO INTENT TO CREATE AN EMPLOYER-EMPLOYEE
29 RELATIONSHIP; AND

30 2. THE OWNER OPERATOR IS PAID RENTAL COMPENSATION;

31 (C) FOR FEDERAL TAX PURPOSES, THE OWNER OPERATOR QUALIFIES AS AN
32 INDEPENDENT CONTRACTOR; AND

33 (D) THE OWNER OPERATOR:

34 1. OWNS THE VEHICLE OR HOLDS IT UNDER A BONA FIDE LEASE
35 ARRANGEMENT;

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- 1 2. IS RESPONSIBLE FOR THE MAINTENANCE OF THE VEHICLE;
- 2 3. BEARS THE PRINCIPAL BURDEN OF THE OPERATING COSTS OF THE
- 3 VEHICLE, INCLUDING FUEL, REPAIRS, SUPPLIES, VEHICLE
- 4 INSURANCE, AND PERSONAL EXPENSES WHILE THE VEHICLE IS ON
- 5 THE ROAD;
- 6 4. IS RESPONSIBLE FOR SUPPLYING THE NECESSARY PERSONNEL IN
- 7 CONNECTION WITH THE OPERATION OF THE VEHICLE; AND
- 8 5. GENERALLY DETERMINES THE DETAILS AND MEANS OF PERFORMING
- 9 THE SERVICES UNDER THE AGREEMENT, IN CONFORMANCE WITH
- 10 REGULATORY REQUIREMENTS, OPERATING PROCEDURES OF THE
- 11 MOTOR CARRIER, AND SPECIFICATIONS OF THE SHIPPER.

12 (E) *SMALL EMPLOYER.*

13 “SMALL EMPLOYER” MEANS ANY EMPLOYER THAT HAS:

- 14 (1) AN ANNUAL GROSS INCOME OF \$400,000 OR LESS; OR
- 15 (2) FEWER THAN 50 EMPLOYEES.

16 (F) *TIPS.*

17 “TIPS” MEANS A VERIFIABLE SUM PRESENTED BY A CUSTOMER AS A GIFT OR VOLUNTARY

18 GRATUITY IN RECOGNITION OF SOME SERVICE PERFORMED FOR THE CUSTOMER BY THE

19 EMPLOYEE RECEIVING THE TIP.

20 (G) *TIPPED EMPLOYEE.*

21 “TIPPED EMPLOYEE” MEANS AN EMPLOYEE WHO:

- 22 (I) CUSTOMARILY AND REGULARLY RECEIVES MORE THAN \$30 A MONTH IN TIPS;
- 23 (II) HAS BEEN INFORMED BY THE EMPLOYER IN WRITING ABOUT THE TIP NOTICE
- 24 PROVISIONS REQUIRED BY THIS SUBTITLE; AND
- 25 (III) RETAINS ALL TIPS OR SPLITS TIPS WITH OTHER TIPPED EMPLOYEES IN VALID TIP
- 26 POOL.

27 **§ 1-2. Findings; policy.**

28 (a) *Findings of fact.*

29 The Mayor and City Council, after [conducting an investigation of] CONSIDERING

30 employment conditions AND THE COST OF LIVING in the City of Baltimore, hereby find:

- 31 (1) that many persons employed in Baltimore are paid wages which, in relation to the
- 32 cost of living in the City and the income necessary to sustain minimum standards

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1 of decent living conditions, are insufficient to provide adequate maintenance for
2 themselves and their families;

3 (2) that the employment of such persons at such wages:

4 (i) impairs the health, efficiency, and well-being of the persons so employed
5 and of their families;

6 (ii) reduces the purchasing power of such persons;

7 (iii) diminishes and depresses business, trade, and industry in the City;

8 (iv) threatens the stability and well-being of the City's economic life;

9 [(v) fosters and contributes toward slum conditions and housing evils;]

10 [(vi)] creates conditions of want and deprivation tending to weaken and
11 undermine family life and breed crime and juvenile delinquency;]

12 (V) [(vii)] threatens the health, welfare, and well-being of the people of the
13 City; and

14 (VI) [(viii)]injures the City economically.

15 (b) *Declaration of policy.*

16 (1) Accordingly, it is the declared policy of the Mayor and City Council that such
17 conditions be eliminated as rapidly as practicable without substantially curtailing
18 opportunities for employment or earning power.

19 (2) To that end, legislation is necessary in the public interest in order to end these
20 conditions so inimical to the public health, safety, and welfare of the citizens of
21 Baltimore, to establish minimum wage standards for all employees as herein defined
22 at a level consistent with their health, welfare, and general well-being.

23 **§ 1-3. Severability.**

24 If any provision of this Division I or the application thereof to any person or circumstances is
25 held invalid, the remainder of the Division I and the application thereof to other persons or
26 circumstances shall not be affected thereby.

27 **§ 1-4. OTHER LEGAL REQUIREMENTS.**

28 THIS DIVISION I PROVIDES MINIMUM REQUIREMENTS AND SHALL NOT BE CONSTRUED TO
29 PREEMPT, LIMIT, OR OTHERWISE AFFECT THE APPLICABILITY OF ANY OTHER LAW,
30 REGULATION, RULE, REQUIREMENT, POLICY, OR STANDARD THAT PROVIDES FOR GREATER
31 PROTECTIONS TO EMPLOYEES.

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1 **§ 1-5. NO EFFECT ON MORE GENEROUS POLICIES.**

2 NOTHING IN THIS DIVISION I SHALL BE CONSTRUED TO DISCOURAGE OR PROHIBIT THE
3 ADOPTION OR RETENTION OF A WAGE POLICY MORE GENEROUS THAN THAT WHICH IS
4 REQUIRED HEREIN.

5 **Subtitle 2. Wage Commission**

6 **§ 2-2. Members.**

7 (a) *In general.*

8 The Commission comprises 5 persons of integrity and experience, who shall be appointed
9 by the Mayor subject to the approval of the City Council, INCLUDING:

10 (1) 2 REPRESENTATIVES FROM THE LABOR COMMUNITY;

11 (2) 2 REPRESENTATIVES FROM COMMUNITY-BASED ORGANIZATIONS; AND

12 (3) 1 REPRESENTATIVE FROM THE BUSINESS COMMUNITY.

13 (B) *TERM.*

14 COMMISSION MEMBERS ARE APPOINTED FOR TERMS OF 2 YEARS.

15 (C) [(b)] *Vacancies.*

16 If a vacancy occurs on the Commission, the vacancy shall be filled for the unexpired term
17 in the same manner as the office was previously filled.

18 (D) [(c)] *Oath.*

19 Each member of the Commission, within 10 days after appointment, shall take an oath of
20 office that so far as it devolves upon him or her, she or he will diligently and honestly
21 administer the affairs of the Commission, and the oath shall be subscribed to by the
22 member making it and certified by the Mayor before whom it is taken.

23 (E) [(d)] *Compensation; expenses.*

24 The Commission members shall serve without compensation, but shall be reimbursed for
25 all expenses necessarily incurred.

26 **§ 2-5. General powers and duties.**

27 The Commission is authorized to and shall have the power to:

28 (1) formulate and carry out a comprehensive educational and action program designed to
29 eliminate the payment of substandard wages to employees in the City of Baltimore;

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- 1 (2) receive, investigate, and take action as herein provided on all complaints of payment
2 of less than the minimum wage required by this Division I;
- 3 (3) conduct such investigations on its own initiative as it deems proper to effectuate the
4 purposes of this Division I;
- 5 (4) monitor and assist in the fulfillment of any agreements negotiated with employers to
6 effect their compliance with this Division I;
- 7 (5) make appropriate findings as a result of any of its investigations; [and]
- 8 (6) in carrying out its powers and duties, inspect payroll AND EMPLOYMENT records of
9 any business without prior notice;
- 10 (7) ISSUE SUBPOENAS;
- 11 (8) EXAMINE WORKPLACES;
- 12 (9) INTERVIEW EMPLOYEES AND FORMER EMPLOYEES IN PRIVATE AND OFF THE
13 EMPLOYER'S PREMISES; AND
- 14 (10) PUBLICIZE ONLINE AND IN OTHER MEDIA THE NAMES OF EMPLOYERS THAT VIOLATE
15 THIS DIVISION I.

16 § 2-6. Rules and regulations.

17 (a) *Commission may adopt.*

18 The Commission is authorized to and shall have the power to adopt such rules and
19 regulations as it may deem necessary to:

- 20 (1) effect compliance with this Division I;
- 21 (2) govern its procedures; and
- 22 (3) execute the duties and responsibilities imposed on it herein.

23 [(b) *Scope.*]

24 [Such rules and regulations may include, but are not limited to:]

25 [(1) those further defining:

- 26 (i) persons engaged in voluntary service to a nonprofit organization;
- 27 (ii) persons employed in a bona fide executive, supervisory, or professional
28 capacity;
- 29 (iii) persons employed by any member of their immediate family; and

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1 (iv) persons compensated upon a commission basis; and]

2 [(2) those:

3 (i) establishing deductions in allowance for the reasonable value of uniforms,
4 board, lodging, or other facilities, items, or services supplied by the employer;

5 (ii) defining students and employees customarily receiving tips; and

6 (iii) defining handicapped persons, for the purposes of § 3-2 of this Division
7 I.]

8 (B) [(c)] *Publication.*

9 All rules and regulations [so] adopted [shall] UNDER THIS SECTION MUST be:

10 (1) published by the Commission as soon as possible after their adoption; and

11 (2) made available ON THE CITY'S WEBSITE AND ON PAPER, without charge, to any
12 persons requesting them.

13 **§ 2-7. MULTILINGUAL POSTERS.**

14 (A) *POSTER TO BE PROVIDED.*

15 THE COMMISSION MUST PRODUCE, AND FURNISH TO ALL EMPLOYERS WITHOUT CHARGE, A
16 POSTER CONTAINING A SUMMARY OF THIS DIVISION I.

17 (B) *POSTER LANGUAGES.*

18 THE COMMISSION MUST MAKE THIS POSTER AVAILABLE IN:

19 (1) ENGLISH;

20 (2) SPANISH; AND

21 (3) ANY OTHER LANGUAGES SPOKEN BY MORE THAN FIVE PERCENT (5%) OF THE
22 WORKFORCE IN THE CITY OF BALTIMORE.

23 **§ 2-8. INTERAGENCY COOPERATION.**

24 THE COMMISSION MUST TAKE STEPS TO ENSURE OPTIMAL COLLABORATION AMONG ALL CITY
25 AGENCIES AND DEPARTMENTS, AS WELL AS BETWEEN THE CITY AND STATE AND FEDERAL
26 LABOR STANDARDS AGENCIES, IN THE ENFORCEMENT OF THIS DIVISION I.

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§ 2-9. OUTREACH PARTNERSHIP.

THE COMMISSION MUST ESTABLISH AN EDUCATION AND OUTREACH PROGRAM IN PARTNERSHIP WITH COMMUNITY-BASED ORGANIZATIONS FOR PURPOSES OF IMPLEMENTING THIS DIVISION I. THIS PROGRAM MAY INCLUDE, BUT IS NOT LIMITED TO, CONTRACTING WITH ONE OR MORE COMMUNITY-BASED ORGANIZATIONS TO PROVIDE ANY OR ALL OF THE FOLLOWING:

- (1) EDUCATION AND OUTREACH TO EMPLOYEES AND EMPLOYERS REGARDING THEIR RIGHTS AND OBLIGATIONS UNDER THIS DIVISION I;
- (2) ASSISTANCE FOR EMPLOYEES WHO WISH TO FILE COMPLAINTS;
- (3) ASSISTANCE FOR EMPLOYEES WHO HAVE FILED COMPLAINTS TO FACILITATE THE RESOLUTION OF COMPLAINTS AND INVESTIGATIONS; AND
- (4) SUPPORT FOR THE COMMISSION’S INVESTIGATIONS, WORKSITE MONITORING, AND OTHER ENFORCEMENT INITIATIVES.

Subtitle 3. Wage Requirements

§ 3-1. Minimum wage required.

(a) *Employers must pay.*

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

(B) *MINIMUM WAGE.*

THE MINIMUM WAGE SHALL BE AN HOURLY RATE DEFINED AS FOLLOWS:

- (1) UNTIL JULY 1, 2019, A RATE NOT LESS THAN THE HIGHER OF THE MARYLAND OR FEDERAL MINIMUM WAGE;
- (2) STARTING JULY 1, 2019, \$11.25;
- (3) STARTING JULY 1, 2020, \$12.50;
- (4) STARTING JULY 1, 2021, \$13.75;
- (5) STARTING JULY 1, 2022, \$15.00; AND
- (6) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2023, AND EACH SUBSEQUENT 12-MONTH PERIOD, THE MINIMUM WAGE WILL BE SET IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

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1 (C) *ANNUAL COST OF LIVING ADJUSTMENT.*

2 (1) TO PREVENT INFLATION FROM ERODING ITS VALUE, BEGINNING ON JULY 1, 2023, AND
3 ON JULY 1 OF EACH SUBSEQUENT YEAR, THE MINIMUM WAGE SHALL INCREASE BY AN
4 AMOUNT CORRESPONDING TO THE PRIOR YEAR'S INCREASE IN THE COST OF LIVING AS
5 MEASURED BY THE PERCENTAGE INCREASE, IF ANY, AS OF MARCH OF THE
6 IMMEDIATELY PRECEDING YEAR OVER THE LEVEL AS OF MARCH OF THE PREVIOUS
7 YEAR OF THE NON-SEASONALLY ADJUSTED CONSUMER PRICE INDEX (URBAN WAGE
8 EARNERS AND CLERICAL WORKERS, U.S. CITY AVERAGE FOR ALL ITEMS) OR ITS
9 SUCCESSOR INDEX AS PUBLISHED BY THE U.S. DEPARTMENT OF LABOR OR ITS
10 SUCCESSOR AGENCY, WITH THE AMOUNT OF THE MINIMUM WAGE INCREASE ROUNDED
11 TO THE NEAREST MULTIPLE OF 5 CENTS.

12 (2) THE ADJUSTED MINIMUM WAGE MUST BE DETERMINED AND ANNOUNCED BY THE
13 COMMISSION BY MAY 1 OF EACH YEAR, AND BECOMES EFFECTIVE AS THE NEW
14 MINIMUM WAGE ON JULY 1 OF EACH YEAR.

15 (D) *EFFECT OF MARYLAND OR FEDERAL MINIMUM WAGE INCREASE.*

16 (1) IN THE EVENT THAT THE MARYLAND OR FEDERAL MINIMUM WAGE IS INCREASED
17 ABOVE THE LEVEL OF THE MINIMUM WAGE THAT IS IN FORCE UNDER THIS SUBTITLE,
18 THE MINIMUM WAGE UNDER THIS SUBTITLE SHALL BE INCREASED TO MATCH THE
19 HIGHER MARYLAND OR FEDERAL WAGE, EFFECTIVE ON THE SAME DATE AS THE
20 INCREASE IN THE MARYLAND OR FEDERAL MINIMUM WAGE, AND SHALL BECOME THE
21 NEW CITY MINIMUM WAGE IN EFFECT UNDER THIS SUBTITLE.

22 (2) THE NEW CITY MINIMUM WAGE SET BY PARAGRAPH (1) OF THIS SUBSECTION IS THEN
23 SUBJECT TO AN ANNUAL COST OF LIVING ADJUSTMENT UNDER SUBSECTION (C) OF THIS
24 SECTION ON JULY 1 OF THE CALENDAR YEAR FOLLOWING ANY INCREASE IN THE
25 MARYLAND OR FEDERAL MINIMUM WAGE, AND IN EACH SUBSEQUENT YEAR.

26 (E)[(b)] *Violations.*

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

31 **[§ 3-2. Exceptions.]**

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

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

36 (2) Provided that the Wage Commission is empowered to determine such value by
37 reference to the average cost to the employer or to groups of employers similarly
38 situated.]

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1 [(b) *Full-time students.*

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

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

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

9 [(c) *Work-study programs.*

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

13 [(d) *Employees customarily receiving tips.*

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

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

20 [(e) *Employees with disabilities.*

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

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

26 [(f) *Opportunity wages.*

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

30 **§ 3-2. EXCEPTION – TIPPED EMPLOYEES.**

31 (A) *TIP CREDIT.*

32 AN EMPLOYER MAY CONSIDER TIPS AS PART OF WAGES OF A TIPPED EMPLOYEE, IF:

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1 (1) THE EMPLOYER DEMONSTRATES THAT THE TIPPED EMPLOYEE RECEIVED AT LEAST
2 THE MINIMUM WAGE ESTABLISHED BY § 3-1 {"MINIMUM WAGE REQUIRED"} OF
3 THIS SUBTITLE WHEN THE TIPS RECEIVED AND RETAINED BY THE TIPPED EMPLOYEE
4 ARE COMBINED WITH THE MINIMUM CASH WAGE PAID DIRECTLY BY THE
5 EMPLOYER; AND

6 (2) THE EMPLOYEE HAS BEEN INFORMED IN WRITING BY THE EMPLOYER OF THE
7 PROVISIONS OF THIS SUBTITLE.

8 (B) *MINIMUM CASH WAGE RATE FOR TIPPED EMPLOYEES.*

9 PROVIDED THAT AN EMPLOYEE ACTUALLY RECEIVES TIPS IN AN AMOUNT AT LEAST EQUAL
10 TO THE DIFFERENCE BETWEEN THE CASH WAGE PAID AND THE MINIMUM WAGE AS
11 PROVIDED BY § 3-1 {"MINIMUM WAGE REQUIRED"} OF THIS SUBTITLE, THE MINIMUM CASH
12 WAGE THAT EMPLOYERS MUST PAY TO TIPPED EMPLOYEES BEFORE TIPS SHALL BE AN
13 HOURLY RATE OF ~~NOT LESS THAN AN AMOUNT EQUAL TO THE MINIMUM WAGE REQUIRED~~
14 ~~BY § 3-1 {"MINIMUM WAGE REQUIRED"} OF THIS SUBTITLE MINUS THE~~ THE GREATER OF:

15 (1) §3.63; OR

16 (2) THE DOLLAR FIGURE USED TO CALCULATE THE STATE MAXIMUM TIP CREDIT IN
17 EFFECT UNDER STATE LABOR AND EMPLOYMENT ARTICLE §3-419(C).

18 (C) *TIP POOLS.*

19 (1) ALL TIPS RECEIVED BY TIPPED EMPLOYEES ARE THE SOLE PROPERTY OF THE TIPPED
20 EMPLOYEE AND SHALL BE RETAINED BY THE TIPPED EMPLOYEE.

21 (2) THIS SECTION DOES NOT PROHIBIT A VALID TIP POOL UNDER WHICH TIPS ARE POOLED
22 AND DISTRIBUTED AMONG TIPPED EMPLOYEES.

23 (3) IF AN EMPLOYEE PARTICIPATES IN A VALID TIP POOL, ONLY THE AMOUNT ACTUALLY
24 RETAINED BY EACH EMPLOYEE IS CONSIDERED TO BE A PART OF THAT EMPLOYEE'S
25 WAGES FOR PURPOSES OF THIS SECTION.

26 **§ 3-2A. EXCEPTIONS – MISCELLANEOUS.**

27 (A) *YOUTH JOB PROGRAMS.*

28
29 YOUTH PARTICIPANTS IN THE CITY'S YOUTHWORKS SUMMER JOBS PROGRAM, THE CITY'S
30 HIRE ONE YOUTH PROGRAM, OR ANY OTHER CITY SPONSORED YOUTH JOB PROGRAM ARE
31 EXEMPT FROM THE MINIMUM WAGE REQUIREMENTS OF THIS DIVISION I.

32 (B) *WORK-STUDY PROGRAMS.*

33 STUDENTS ENROLLED IN A FEDERAL WORK-STUDY PROGRAM ARE EXEMPT FROM THE
34 MINIMUM WAGE REQUIREMENTS OF THIS DIVISION I.

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1 (C) *INTERNSHIPS.*

2 INTERNS ARE EXEMPT FROM THE MINIMUM WAGE REQUIREMENTS OF THIS DIVISION I IF:

3 (I) THE INTERNSHIP, EVEN THOUGH IT INCLUDES ACTUAL OPERATION OF THE
4 FACILITIES OF THE EMPLOYER, IS SIMILAR TO TRAINING WHICH WOULD BE GIVEN IN
5 AN EDUCATIONAL ENVIRONMENT;

6 (II) THE INTERNSHIP EXPERIENCE IS FOR THE BENEFIT OF THE INTERN;

7 (III) THE INTERN DOES NOT DISPLACE REGULAR EMPLOYEES, BUT WORKS UNDER CLOSE
8 SUPERVISION OF EXISTING STAFF;

9 (IV) THE EMPLOYER THAT PROVIDES THE TRAINING DERIVES NO IMMEDIATE
10 ADVANTAGE FROM THE ACTIVITIES OF THE INTERN; AND ON OCCASION ITS
11 OPERATIONS MAY ACTUALLY BE IMPEDED; AND

12 (V) THE INTERN IS NOT NECESSARILY ENTITLED TO A JOB AT THE CONCLUSION OF THE
13 INTERNSHIP.

14 (D) *YOUNG WORKERS.*

15 ANY EMPLOYEE UNDER THE AGE OF 21 IS EXEMPT FROM THE MINIMUM WAGE
16 REQUIREMENTS OF THIS DIVISION I.

17 (E) *EMPLOYEES WITH DISABILITIES.*

18 THE WAGE COMMISSION MUST RECOGNIZE CERTIFICATES ISSUED BY THE UNITED STATES
19 DEPARTMENT OF LABOR OR THE STATE OF MARYLAND FOR PAYMENT OF LESS THAN THE
20 MINIMUM WAGE TO PERSONS WITH DISABILITIES IN COMPLIANCE WITH THE PHASE-OUT OF
21 SUB-MINIMUM WAGES OCCURRING BY 2020 UNDER THE KEN CAPONE EQUAL
22 EMPLOYMENT ACT, § 3-414 {" INDIVIDUALS WITH DISABILITIES"} OF THE STATE LABOR
23 AND EMPLOYMENT ARTICLE, AND § 7-1012 OF THE STATE HEALTH – GENERAL ARTICLE.

24 (F) *MARYLAND ZOO IN BALTIMORE.*

25 EMPLOYEES OF THE MARYLAND ZOO IN BALTIMORE ARE EXEMPT FROM THE MINIMUM
26 WAGE REQUIREMENTS OF THIS DIVISION I FOR THE DURATION OF THE LEASE BETWEEN THE
27 CITY OF BALTIMORE AND THE STATE OF MARYLAND APPROVED BY THE BOARD OF
28 ESTIMATES ON JULY 8, 1992.

29 (G) MOED APPROVED TRAINING PROGRAMS.

30 TRAINEES ARE EXEMPT FROM THE MINIMUM WAGE REQUIREMENTS OF THIS DIVISION I FOR
31 UP TO 6 MONTHS WHILE PARTICIPATING IN A JOB TRAINING PROGRAM THAT IS:

32 (1) APPROVED BY THE MAYOR’S OFFICE OF EMPLOYMENT DEVELOPMENT; AND

33 (2) INTENDED TO LEAD TO PERMANENT EMPLOYMENT IN A FIELD DIRECTLY RELATED
34 TO THE TRAINING AT A RATE OF PAY AT OR ABOVE THE MINIMUM WAGE REQUIRED

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1 BY § 3-1(B) {"MINIMUM WAGE REQUIRED: MINIMUM WAGE"} OF THIS SUBTITLE
2 UPON SUCCESSFUL COMPLETION OF THE TRAINING PROGRAM.

3 **§ 3-2B. EXCEPTION – SMALL EMPLOYERS.**

4 (A) *IN GENERAL.*

5 (1) UNTIL JANUARY 1, 2027, THE REQUIREMENTS OF § 3-1 {"MINIMUM WAGE REQUIRED"}
6 OF THIS SUBTITLE DO NOT APPLY TO A SMALL EMPLOYER IF THE SMALL EMPLOYER
7 ACCURATELY DOCUMENTS IN A WRITTEN REPORT TO THE BALTIMORE CITY WAGE
8 COMMISSION THAT IN THE PREVIOUS CALENDAR YEAR THE EMPLOYER HAD:

9 (I) AN ANNUAL GROSS INCOME OF \$400,000 OR LESS; OR

10 (II) FEWER THAN 50 EMPLOYEES.

11 (2) THE WRITTEN REPORT REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION MUST BE:

12 (I) FILED BY APRIL 30 OF THE YEAR PRECEDING THE CALENDAR YEAR FOR WHICH
13 A SMALL EMPLOYER CLAIMS AN EXCEPTION UNDER THIS SECTION; AND

14 (II) IN THE FORM THE COMMISSION REQUIRES.

15 (B) *EXCEPTION NOT APPLICABLE TO CHAINS.*

16 SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO ANY EMPLOYER THAT IS PART OF A
17 CHAIN OF ESTABLISHMENTS OPERATING UNDER THE SAME BRAND NAME THAT IS:

18 (1) AN INTEGRATED ENTERPRISE WHICH OWNS OR OPERATES 2 OR MORE
19 ESTABLISHMENTS NATIONALLY; OR

20 (2) AN ESTABLISHMENT OPERATED PURSUANT TO A FRANCHISE WHERE THE
21 FRANCHISOR AND THE FRANCHISEES OWN OR OPERATE 2 OR MORE
22 ESTABLISHMENTS NATIONALLY.

23 (C) *SMALL EMPLOYER MINIMUM WAGE.*

24 EVERY SMALL EMPLOYER OPERATING AND DOING BUSINESS IN BALTIMORE CITY MUST
25 PAY WAGES TO EACH EMPLOYEE IN THE CITY AT A RATE NOT LESS THAN THE SMALL
26 EMPLOYER MINIMUM WAGE HOURLY RATE DEFINED AS FOLLOWS:

27 (1) STARTING JULY 1, 2018, \$10.10;

28 (2) STARTING JULY 1, 2019, \$10.70;

29 (3) STARTING JULY 1, 2020, \$11.30;

30 (4) STARTING JULY 1, 2021, \$11.90;

31 (5) STARTING JULY 1, 2022, \$12.50;

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- 1 (6) STARTING JULY 1, 2023, \$13.10;
- 2 (7) STARTING JULY 1, 2024, \$13.70;
- 3 (8) STARTING JULY 1, 2025, \$14.30
- 4 (9) STARTING JULY 1, 2026, \$15.00
- 5 (10) STARTING JANUARY 1, 2027, THE SMALL EMPLOYER MINIMUM WAGE WILL BE
- 6 EQUAL TO THE CITY MINIMUM WAGE THEN IN EFFECT.

7 **§ 3-4. Withholding.**

8 (a) *Required consent.*

9 No employer [shall] MAY withhold any part of the wages or salary of any employee,
10 except for those deductions:

- 11 (1) REQUIRED BY LAW;
- 12 (2) [in accordance with] EXPRESSLY ALLOWED BY law, AND MADE WITH THE [without]
- 13 written and signed authorization of the employee; OR
- 14 (3) ORDERED BY A COURT OF COMPETENT JURISDICTION.

15 (b) *Violations.*

16 It shall be a violation of this Division I for any employer to make any such prohibited
17 withholding from the pay of any employee, and it shall be deemed a separate violation
18 when any such prohibited withholding is made from any paycheck of any employee.

19 **§ 3-5. Wages due on termination of employment.**

20 It shall be a violation of this Division I for any employer to FAIL TO OR refuse to pay to
21 any employee who is terminated, resigns, retires, or who otherwise ends or suspends his
22 employment, all wages due and owing to said employee on the next regular payday that
23 said wages would otherwise have been paid.

24 **§ 3-6. Posting summary of law.**

25 (a) *Employer to post.*

26 Every employer subject to this Division I [shall keep] MUST POST EACH OF THE POSTERS
27 MADE AVAILABLE BY THE COMMISSION UNDER § 2-7 {"MULTILINGUAL POSTERS"} OF THIS
28 DIVISION CONTAINING a summary of this Division I [, furnished by the Commission
29 without charge, posted] in a conspicuous place ACCESSIBLE TO ALL EMPLOYEES on or
30 about the premises [wherein] WHERE any person subject to this Division I is employed.

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1 (b) *Violations.*

2 Failure to so post [said summary shall be deemed] THE POSTERS REQUIRED TO BE POSTED
3 BY SUBSECTION (A) OF THIS SECTION IS a violation of this Division I.

4 **§ 3-8. Payroll records.**

5 (a) *Required information; maintenance period.*

6 (1) Every employer subject to this Division I shall keep, for a period of not less than 3
7 years, a true and accurate record of the:

8 (i) name[.];

9 (ii) social security number[.];

10 (iii) address at time of employment[.];

11 (iv) occupation[.];

12 (v) time worked each day[.]; and

13 (vi) rate of pay

14 for each [of his employees] EMPLOYEE.

15 (2) Any employer who fails to maintain such records shall be in violation of this Division
16 I, and it shall be deemed a separate violation thereof as to each employee for whom
17 records are not fully maintained.

18 (b) *Right of inspection.*

19 (1) The Commission or its authorized representative [shall have] HAS the right, at all
20 reasonable times, to enter upon the premises of any employer to inspect [such] THE
21 records REQUIRED TO BE KEPT BY SUBSECTION (A) OF THIS SECTION to ascertain
22 whether the provisions of this Division I have been complied with.

23 (2) AN EMPLOYER MUST ALLOW AN EMPLOYEE TO INSPECT THE RECORDS REQUIRED TO BE
24 KEPT BY SUBSECTION (A) OF THIS SECTION PERTAINING TO THAT EMPLOYEE AT A
25 REASONABLE TIME AND PLACE.

26 (3) [(2)]It [shall be] IS a violation of this Division I to prevent, obstruct, or to attempt to
27 prevent or obstruct [such] THE entries and inspections ALLOWED BY THIS SUBSECTION.

28 (C) *EFFECTS OF FAILURE TO MAINTAIN RECORDS.*

29 IF AN EMPLOYER FAILS TO CREATE AND RETAIN CONTEMPORANEOUS WRITTEN OR
30 ELECTRONIC RECORDS DOCUMENTING ITS EMPLOYEES' WAGES EARNED, OR DOES NOT
31 ALLOW THE COMMISSION REASONABLE ACCESS TO ITS RECORDS, IT SHALL BE PRESUMED
32 THAT THE EMPLOYER HAS VIOLATED THIS DIVISION I, AND THE EMPLOYEE'S REASONABLE

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1 ESTIMATE REGARDING HOURS WORKED AND WAGES PAID SHALL BE RELIED ON, ABSENT
2 CLEAR AND CONVINCING EVIDENCE OTHERWISE.

3 **Subtitle 4. Enforcement Procedures**

4 **§ 4-1. Complaints by employee OR OTHER PERSON.**

5 (a) *[Filing with] COMPLAINTS TO THE Commission.*

6 [Any person claiming to be aggrieved by an alleged payment of a wage of a lesser amount
7 than required by] AN EMPLOYEE OR ANY OTHER PERSON MAY MAKE A COMPLAINT BY
8 REPORTING ANY SUSPECTED VIOLATION OF this Division I [may, by himself or his
9 attorney, within 1 year after the occurrence of the alleged unlawful act, make, sign, and
10 file with] TO the Commission WITHIN 3 YEARS OF THE SUSPECTED VIOLATION [a
11 complaint in writing, under oath].

12 (b) *Contents.*

13 The complaint shall state the name and address of the employer alleged to have paid the
14 unlawful wage (hereinafter referred to as the respondent) and the particulars thereof, and
15 contain such other information as may be required by the Commission.

16 (c) *COMPLAINTS TO BE ACCEPTED IN WRITING, ONLINE, OR BY TELEPHONE.*

17 THE COMMISSION MUST ESTABLISH A SYSTEM TO RECEIVE COMPLAINTS REGARDING
18 NON-COMPLIANCE WITH THIS DIVISION I IN WRITING, ONLINE, AND BY TELEPHONE IN
19 ENGLISH, SPANISH, AND ANY OTHER LANGUAGE SPOKEN BY MORE THAN 5% OF THE
20 BALTIMORE CITY WORKFORCE.

21 **§ 4-2. Complaints by Commission.**

22 The Commission [shall have] HAS the right, acting upon its own initiative and without any
23 complaint from an employee, to [file] INITIATE a complaint against an employer whenever the
24 Commission has reasonable cause to believe that [such] THE employer is or has been in
25 violation of the provisions of this Division I.

26 **§ 4-3. Investigation for probable cause.**

27 (A) *IN GENERAL.*

28 After the [filing] INITIATION of any [such] complaint, [either by a person claiming to be
29 aggrieved as set forth in § 4-1 or by the Commission,] the Commission shall:

30 (1) investigate the facts alleged [therein]; and

31 (2) make a finding of probable cause for the [said] complaint or lack of it.

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1 (B) *TIMELY INVESTIGATIONS.*

2 (1) THE INVESTIGATIONS REQUIRED BY THIS SECTION SHALL BE UNDERTAKEN IN A TIMELY
3 MANNER.

4 (2) FOR A COMPLAINT MADE BY AN EMPLOYEE OR OTHER PERSON, THE COMMISSION MUST
5 MAKE EVERY EFFORT TO:

6 (I) CONCLUDE ITS INVESTIGATION WITHIN 120 DAYS FROM RECEIPT OF THE
7 COMPLAINT; AND

8 (II) SETTLE THE COMPLAINT UNDER § 4-6 {"PROBABLE CAUSE CONFERENCE;
9 SETTLEMENT AGREEMENT"} OF THIS SUBTITLE, DISMISS THE COMPLAINT
10 UNDER § 4-5(B) {"FINDING OF PROBABLE CAUSE: PROBABLE CAUSE NOT
11 FOUND"} OF THIS SUBTITLE, OR ISSUE A FINAL ORDER UNDER § 4-7 {"FINAL
12 ORDER"} OF THIS SUBTITLE, WITHIN 1 YEAR FROM RECEIPT OF THE COMPLAINT.

13 (3) THE FAILURE OF THE COMMISSION TO MEET THESE TIMELINES IS NOT GROUNDS FOR
14 CLOSURE OR DISMISSAL OF THE COMPLAINT.

15 (C) *NOTIFICATIONS.*

16 (1) THE COMMISSION MUST:

17 (I) PROVIDE TIMELY NOTIFICATION OF A COMPLAINT, INCLUDING ALL ALLEGED
18 FACTS RELEVANT TO THE COMPLAINT, TO THE RESPONDENT, AND

19 (II) REQUEST THAT THE RESPONDENT MAKE A WRITTEN RESPONSE TO THE
20 COMPLAINT WITHIN 15 DAYS FROM THE DATE OF THE NOTIFICATION .

21 (2) THE COMMISSION MUST KEEP COMPLAINANTS AND THEIR ATTORNEYS OR
22 REPRESENTATIVES REASONABLY NOTIFIED REGARDING THE STATUS OF THE PENDING
23 OR ONGOING INVESTIGATION OF THE COMPLAINANT'S COMPLAINT.

24 (D) *FULL INVESTIGATION OF EMPLOYER.*

25 WHERE THE COMMISSION RECEIVES OR INITIATES A COMPLAINT, IT SHALL HAVE A POLICY
26 THAT IT INVESTIGATE ANY OTHER VIOLATIONS OR SUSPECTED VIOLATIONS BY THAT
27 EMPLOYER.

28 **§ 4-5. [Dismissal for lack] FINDING of probable cause.**

29 (A) *PROBABLE CAUSE FOUND.*

30 IF, AFTER THE INVESTIGATION REQUIRED BY § 4-3 {"INVESTIGATION FOR PROBABLE
31 CAUSE"} OF THIS SUBTITLE, THE COMMISSION FINDS THAT THE COMPLAINT HAS PROBABLE
32 CAUSE, THE COMMISSION MUST:

33 (1) NOTIFY THE RESPONDENT AND COMPLAINANT THAT PROBABLE CAUSE HAS BEEN
34 FOUND; AND

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1 (2) PROVIDE THE RESPONDENT AND COMPLAINANT WITH THE TIME AND DATE WHEN
2 THE CONFERENCE REQUIRED BY § 4-6 {"PROBABLE CAUSE CONFERENCE;
3 SETTLEMENT AGREEMENT"} OF THIS SUBTITLE WILL BE HELD.

4 (B) PROBABLE CAUSE NOT FOUND.

5 [If the finding of the Commission is] IF, AFTER THE INVESTIGATION REQUIRED BY § 4-3
6 {"INVESTIGATION FOR PROBABLE CAUSE"} OF THIS SUBTITLE, THE COMMISSION FINDS
7 that the complaint lacks probable cause, then it [shall] MUST dismiss [said] THE complaint
8 and mail copies of its finding to THE respondent and complainant.

9 **§ 4-6. Probable cause conference; settlement agreement.**

10 (a) *Conference.*

11 If the Commission finds probable cause for the complaint, the Commission shall attempt,
12 by means of conference, to PERSUADE RESPONDENT TO:

13 (1) [persuade respondent to] cease and desist its illegal action;

14 (2) commence paying [complainant such] THE IMPACTED EMPLOYEE OR EMPLOYEES
15 THE lawful wages [as are] required by this Division I; [and]

16 (3) reimburse [complainant] ALL IMPACTED EMPLOYEES for the difference between
17 what [he] THEY had been receiving as wages and what [he] THEY should have
18 lawfully received; AND

19 (4) PAY ANY FINES OR PENALTIES ASSESSED BY THE COMMISSION PURSUANT TO THIS
20 DIVISION I.

21 (b) *Settlement agreement.*

22 Any such agreement reached between respondent and the Commission shall be reduced to
23 writing and a copy thereof furnished to complainant and respondent.

24 **§ 4-7. Final order.**

25 (a) *In general.*

26 If:

27 (1) the Commission and the respondent shall fail to reach agreement, or

28 (2) the respondent shall fail to meet his obligations under such agreement:

29 (i) within 30 days thereof, or

30 (ii) within such other time as may be specified therein,

31 the Commission shall make such final order in the proceedings as it deems appropriate.
32 [to:]

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1 (B) *CONTENTS OF ORDER.*

2 A FINAL ORDER ISSUED UNDER THIS SECTION WILL:

- 3 (1) [(3)] require the payment of all wages due TO the respondent's employees
4 [hereunder] UNDER THIS DIVISION I and ALL FINES DUE TO THE CITY UNDER
5 SUBTITLE 6 OF THIS DIVISION 1; AND
- 6 (2) [(4)] direct the cessation of all practices by the respondent which are contrary to
7 the provisions of this Division I and/or rules and regulations of the
8 Commission.

9 (C) *TIME FOR ISSUANCE OF ORDER.*

10 (1) THE COMMISSION MUST MAKE EVERY EFFORT TO ENTER FINAL ORDERS NO LATER
11 THAN 90 DAYS AFTER THE FIRST DATE ON WHICH:

12 (I) THE PARTIES' ATTEMPTS AT SETTLEMENT FAIL; OR

13 (II) THE RESPONDENT FAILS TO MEET ITS OBLIGATIONS UNDER ANY SETTLEMENT
14 AGREEMENT.

15 (2) THE FAILURE OF THE COMMISSION TO MEET THIS TIMELINE IS NOT GROUNDS FOR
16 CLOSURE OR DISMISSAL OF THE COMPLAINT.

17 (D) [(b)] *Service of order.*

18 A copy of [such] THE order [shall] MUST be furnished TO the respondent by registered
19 mail within 3 days of its passage.

20 **§ 4-8. [Judicial] ADMINISTRATIVE, JUDICIAL, and appellate review.**

21 (A) *IN GENERAL.*

22 IF THE COMMISSION ISSUES A FINAL ORDER UNDER § 4-7 {"FINAL ORDER"} OF THIS
23 SUBTITLE, THE COMMISSION MUST PROVIDE THE RESPONDENT WITH NOTICE OF THE FINAL
24 ORDER AND AN OPPORTUNITY FOR A HEARING BEFORE COMMISSION.

25 (B) *PROCEDURES.*

26 IN ITS RULES AND REGULATIONS, THE COMMISSION MUST ESTABLISH PROCEDURES TO
27 GOVERN THE CONDUCT OF HEARINGS HELD UNDER THIS SECTION.

28 (C) *DETERMINATION.*

29 IF A RESPONDENT REQUESTS A HEARING BEFORE THE COMMISSION UNDER THIS SECTION,
30 THE COMMISSION MUST:

- 31 (1) GRANT THE HEARING IN ACCORDANCE WITH ITS RULES AND REGULATIONS;
- 32 (2) CONSIDER ALL OF THE EVIDENCE PRESENTED AT THE HEARING; AND

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1 (3) MAKE WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW ON EACH ALLEGED
2 VIOLATION.

3 (D) *FINDINGS.*

4 (1) IF THE COMMISSION DETERMINES THAT THE FINAL ORDER ISSUED UNDER § 4-7 IS
5 SUPPORTED BY ITS FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT ORDER MUST
6 BE CONFIRMED BY THE COMMISSION.

7 (2) IF THE COMMISSION DETERMINES THAT THE RESPONDENT HAS VIOLATED THIS
8 DIVISION I, BUT THAT THE FINAL ORDER ISSUED UNDER § 4-7 IS NOT SUPPORTED BY ITS
9 FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION MUST ISSUE A NEW
10 FINAL ORDER THAT CONFORMS WITH ITS FINDINGS.

11 (3) IF THE COMMISSION DETERMINES THAT THE RESPONDENT HAS NOT VIOLATED THIS
12 DIVISION I, THE COMMISSION MUST WITHDRAW THE FINAL ORDER AND DISMISS THE
13 COMPLAINT.

14 (4) THE COMMISSION MUST PROMPTLY NOTIFY THE COMPLAINANT AND RESPONDENT OF
15 ANY ACTION TAKEN UNDER THIS SUBSECTION.

16 (E) [(a)] *Judicial review.*

17 A respondent aggrieved by an order of the Commission ISSUED OR CONFIRMED UNDER
18 SUBSECTION (D) OF THIS SECTION may seek judicial review of that order by petition to the
19 Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

20 (F) [(b)] *Appellate review.*

21 A party to the judicial review may appeal the court’s final judgment to the Court of
22 Special Appeals in accordance with the Maryland Rules of Procedure.

23 **§ 4-9. Referral to Solicitor.**

24 If, within 30 days of the [passage of such order] ISSUANCE OF A FINAL ORDER UNDER §§ 4-7
25 {“FINAL ORDER”} OR 4-8 {“ADMINISTRATIVE, JUDICIAL, AND APPELLATE REVIEW”}, the
26 respondent shall have failed to comply [therewith] WITH THE ORDER, the Wage Commission
27 [may] MUST certify [such] THE proceedings to the City Solicitor and request that [he] THE
28 SOLICITOR petition the Circuit Court of Baltimore City to enforce the [said] order and direct
29 payment OF ALL WAGES AND PENALTIES DUE UNDER THIS DIVISION I [to the aggrieved
30 employee].

31 **§ 4-10. Confidential information.**

32 (a) *Employer’s payroll.*

33 The records of the Commission in any proceeding or investigation made pursuant to the
34 provisions of this Division I shall be kept confidential to the extent that they disclose the
35 payroll of any employer, except for the use of a complainant employee, THE COMMISSION
36 IN THE INVESTIGATION OF OTHER VIOLATIONS OR SUSPECTED VIOLATIONS, or [other]
37 ANOTHER public agency.

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1 (b) *Identity of complainant.*

2 (1) Neither the Commission nor any of its employees may be compelled in any hearing
3 before the Commission or other administrative proceeding, to disclose the identity of
4 any person filing a complaint with the Commission under the provisions of this
5 Division I.

6 (2) The Commission shall, however, have the right in its sole discretion to make such
7 disclosure in any instance where the Commission deems it appropriate to do so.

8 **Subtitle 5. Other Prohibited Conduct**

9 **§ 5-1. By employer - retaliation against employee.**

10 (A) *FAMILY MEMBER DEFINED.*

11 IN THIS SECTION, "FAMILY MEMBER" MEANS A SPOUSE, PARENT, SIBLING, CHILD, UNCLE,
12 AUNT, NIECE, NEPHEW, COUSIN, GRANDPARENT, OR GRANDCHILD RELATED BY BLOOD,
13 ADOPTION, MARRIAGE, OR DOMESTIC PARTNERSHIP, OR ANY OTHER INDIVIDUAL RELATED
14 BY AFFINITY WHOSE CLOSE ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF A
15 FAMILY RELATIONSHIP.

16 (B) [(a)] *In general.*

17 [It shall be unlawful, and a violation of this Division I, for any employer to discharge or
18 reduce the compensation of any employee for:

- 19 (1) making a complaint to the Wage Commission;
- 20 (2) participating in any of its proceedings; or
- 21 (3) availing himself of any of the civil remedies provided herein.]

22 (1) IT IS UNLAWFUL AND A VIOLATION OF THIS DIVISION I FOR AN EMPLOYER, OR ANY
23 OTHER PARTY, TO DISCRIMINATE IN ANY MANNER OR TAKE ADVERSE ACTION AGAINST
24 ANY PERSON IN RETALIATION FOR EXERCISING OR ATTEMPTING TO EXERCISE ANY
25 RIGHT PROVIDED BY THIS DIVISION I.

26 (2) PROHIBITED DISCRIMINATION OR RETALIATION UNDER THIS SUBSECTION INCLUDES
27 ANY RECOMMENDED, THREATENED, OR ACTUAL ADVERSE ACTION, INCLUDING:

- 28 (I) TERMINATION, DEMOTION, SUSPENSION, OR REPRIMAND;
- 29 (II) INVOLUNTARY TRANSFER, REASSIGNMENT, OR DETAIL TO AN ASSIGNMENT
30 THAT A REASONABLE PERSON WOULD FIND LESS FAVORABLE;
- 31 (III) FAILURE TO PROMOTE, HIRE, OR TAKE OTHER FAVORABLE PERSONNEL ACTION;

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1 (IV) REPORTING, OR THREATENING TO REPORT, THE ACTUAL OR SUSPECTED
2 CITIZENSHIP OR IMMIGRATION STATUS OF AN EMPLOYEE, FORMER EMPLOYEE,
3 OR FAMILY MEMBER OF AN EMPLOYEE TO A FEDERAL, STATE, OR LOCAL
4 AGENCY; OR

5 (V) ENGAGING IN ANY CONDUCT THAT WOULD DISSUADE A REASONABLE
6 EMPLOYEE FROM ENGAGING IN ACTIVITIES PROTECTED BY THIS DIVISION I.

7 (3) THE PROTECTIONS OF THIS SECTION APPLY TO ANY PERSON WHO MISTAKENLY BUT IN
8 GOOD FAITH ALLEGES A VIOLATION OF THIS DIVISION I.

9 (C) *RIGHTS PROTECTED.*

10 RIGHTS UNDER THIS DIVISION I PROTECTED BY THIS SECTION INCLUDE, BUT ARE NOT
11 LIMITED TO:

12 (1) REQUESTING PAYMENT OF A MINIMUM OR OVERTIME WAGE;

13 (2) MAKING OR FILING A COMPLAINT TO THE COMMISSION, OR IN COURT, FOR ALLEGED
14 VIOLATIONS OF THIS DIVISION I;

15 (3) PARTICIPATING IN ANY OF THE COMMISSION'S PROCEEDINGS OR IN ANY
16 ADMINISTRATIVE OR JUDICIAL ACTION REGARDING AN ALLEGED VIOLATION OF
17 THIS DIVISION I;

18 (4) MAKING USE OF ANY OF THE CIVIL REMEDIES PROVIDED IN THIS DIVISION I; OR

19 (5) INFORMING ANY PERSON OF HIS OR HER POTENTIAL RIGHTS UNDER THIS DIVISION I.

20 (D) *REBUTTABLE PRESUMPTION.*

21 TAKING ADVERSE ACTION AGAINST A PERSON WITHIN 90 DAYS OF THE PERSON'S EXERCISE
22 OF RIGHTS PROTECTED UNDER THIS DIVISION I SHALL RAISE A REBUTTABLE PRESUMPTION
23 OF HAVING DONE SO IN RETALIATION FOR THE EXERCISE OF THOSE RIGHTS.

24 (E) [(b)] *Restitution or reinstatement with backpay.*

25 In [such] a case ARISING OUT OF A VIOLATION OF THIS SECTION, the Wage Commission
26 may, pursuant to the procedures provided in Subtitle 4 hereof, order appropriate
27 restitution [or] INCLUDING:

28 (1) the reinstatement of [such] THE employee with backpay to the date of violation;
29 AND

30 (2) UNPAID WAGES.

31 **§ 5-2. By employer - violation of rule or regulation.**

32 It [shall be] IS unlawful, and a violation of this Division I, for any employer to violate the
33 rules and regulations of the Commission.

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1 **[§ 5-6. By employees.]**

2 [It shall be unlawful, and a violation of this Division I, for any employee to:

3 (1) make any groundless, unfounded, or malicious complaint to the Commission; or

4 (2) in bad faith, institute or testify in any proceeding before the Commission under the
5 provisions hereof.]

6 **Subtitle 6. Penalties and Fines**

7 **§ 6-2. Fines.**

8 Any employer [or employee] who violates this Division I shall forfeit and pay to the City of
9 Baltimore a penalty as follows:

10 (1) for a 1st offense, [\$250] \$300 for each violation;

11 (2) for a 2nd offense, [\$500] \$550 for each violation; and

12 (3) for each subsequent offense, \$1,000 for each violation.

13 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
14 are not law and may not be considered to have been enacted as a part of this or any prior
15 Ordinance.

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

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City