

A Bill to Increase Maryland's Minimum Wage to \$15 by July 2023

Increasing Maryland's minimum wage to \$15 by 2023 will help the state's workers meet their basic needs and follows a growing list of states, cities, and counties across the country that have enacted, or are pushing for a \$15 minimum wage. In addition to increasing Maryland's minimum wage, this bill eliminates several carve-outs that leave tipped workers, younger workers, commission workers, and agricultural workers behind. The bill also strengthens Maryland's protections for workers who face retaliation when they exercise their basic minimum wage rights. Existing retaliation protections are outdated, ineffective at preventing retaliation, and out of step with many states that have modernized and strengthened their anti-retaliation laws. Below is a breakdown of the bill's key provisions:

#1: Increases Minimum Wage to \$15 an Hour by July 1, 2023 (With Subsequent Cost-of-Living Increases)

- This bill will gradually raise Maryland's minimum wage of \$10.10 per hour to \$15 by July 1, 2023. Starting on July 1, 2024 and each following July 1, the minimum wage will be increased based on the increase in the cost of living.
- The phase-in period for the minimum wage increase:
 - October 1, 2019: \$11.00
 - July 1, 2020: \$12.00 per hour
 - July 1, 2021: \$13.00 per hour
 - July 1, 2022: \$14.00 per hour
 - July 1, 2023: \$15.00 per hour
 - July 1, 2024 and each July 1 thereafter: Increase based on cost of living increase

#2: Eliminates the Sub-Minimum Wage for Tipped Workers by July 1, 2027

- Maryland law allows employers to pay their tipped workers a sub-minimum wage of just \$3.63 an hour, so long as they receive enough tips to bring them up to a full minimum wage for all hours worked.
- Tipped workers' sub-minimum wage is a major factor fueling higher poverty rates and economic insecurity among this predominately female workforce.¹
- Tipped workers must rely substantially on tips to make ends meet and are vulnerable to sudden, unpredictable drops in pay as tips fluctuate from shift to shift and season to season.
- Seven states and a growing number of cities and counties require employers to pay tipped workers the full minimum wage directly, with tips being in addition to—instead of a

substitute for—their wages. This model policy has proven effective in reducing poverty among tipped workers without slowing job growth or reducing employment in the restaurant industry. It provides tipped workers with a stable base income to help offset wide fluctuations in pay and reduce the risk that workers will not earn enough in tips to bring them to the full minimum wage.

- This bill increases the sub-minimum wage gradually, eliminating it by July 1, 2027.
- The phase-in period for the elimination of the sub-minimum wage:
 - Current sub-minimum wage (under Maryland law): \$3.63 per hour
 - July 1, 2020: \$5.25 per hour
 - July 1, 2021: \$7.50 per hour
 - July 1, 2022: \$9.00 per hour
 - July 1, 2023: \$10.50 per hour
 - July 1, 2024: \$12.00 per hour
 - July 1, 2025: \$13.50 per hour
 - July 1, 2026: \$15.00 per hour
 - July 1, 2027 and Ongoing: Full Minimum Wage

#3: Eliminates Youth Worker Exemptions

- This bill would eliminate provisions in the current state minimum wage law that allow employers to pay younger workers a lower minimum wage simply based on their age.
- Current Maryland law allows employers to pay a lower minimum wage (85 percent of the full minimum wage) to employees who are under 20 years of age for the first six months of employment. For an employee working full-time for their first six months at the current minimum wage, this difference can amount to more than \$1,400.
- Current Maryland law allows employers to pay workers under the age of 20 who work for certain seasonal amusement or recreational establishments at a lower minimum wage (85 percent of the full minimum wage).
- Current Maryland law allows employers to pay certain workers a training wage under regulations adapted from federal law.

#4: Eliminates Carve-Outs for Commission-Based and Agricultural Workers

- Current Maryland law exempts employees who are paid on a commission basis from the basic state minimum wage. This bill eliminates that exemption, ensuring that a commission structure does not allow employers to avoid paying at least the state minimum wage.
- Current Maryland law also exempts several categories of agricultural workers:² employees working on the canning, freezing, packing, or first processing of perishable or seasonal fresh foods, vegetables, horticultural commodities, poultry, or seafood; employees who are employed in agriculture if the employer did not use more than 500 agricultural-worker days during each quarter of the preceding calendar year; employees engaged principally in the range production of livestock; and certain hand-harvest workers paid on a piece-rate basis if the employee commutes daily from their permanent residence to the farm where they are employed and was employed in agriculture at least 13 weeks in the previous year. This bill ensures that all of these categories of agricultural workers will be entitled to at least the state minimum wage.

#5: Strengthens Maryland's Retaliation Protection Laws for Workers Exercising Their Minimum Wage Rights

- Maryland's retaliation protections for workers asserting their wage and hour rights are outdated, ineffective at preventing retaliation, and out of step with many states that have modernized and strengthened their retaliation statutes to better address the many forms of retaliation that keep workers from exercising their basic rights.
- Nationwide, low-wage workers who assert their rights remain extremely vulnerable to retaliation and fear of retaliation. Retaliation and the fear of retaliation keeps countless workers from coming forward and holding employers accountable for violating basic minimum wage and other workplace laws.
- A 2009 survey by NELP and various partners surveyed over 4,000 workers in multiple cities and found that 26 percent of workers were paid less than the required minimum wage in the previous work week, and nearly two-thirds experienced at least one pay related violation in the previous work week, such as the failure to pay overtime, not paying a worker for all hours worked, and stealing tips. The report also found that 1 in 5 workers had "reported that they had made a complaint to their employer or attempted to form a union in the last year."³ Of those, "43 percent experienced one or more forms of illegal retaliation from their employer or supervisor."⁴ Another twenty percent of workers surveyed never made a complaint to their employer in the previous year even though they had experienced serious workplace problems like dangerous working conditions and wage theft because they feared retaliation or thought it would not make a difference.⁵
- Under current Maryland law, a worker who asserts their minimum wage rights under state law has almost no protection from retaliation.
- The existing Labor and Employment code in Maryland prohibits retaliation when a worker asserts their wage and hour rights, but it only makes a violation of this prohibition a misdemeanor subject to a maximum fine of \$1,000.⁶ Across the country, criminal prosecutions for retaliation in the wage and hour context are rare and almost unheard of. Workers in Maryland should not have to rely on their district attorney or other law enforcement division to initiate a criminal conviction process. Moreover, the \$1,000 fine is too low to reasonably deter employers from retaliating, and workers are not themselves entitled to monetary or other remedies.
- As NELP outlined in its policy brief entitled [*The Top 5 Enforcement Tools for Local Minimum Wage Laws*](#),⁷ protection from retaliation must form a core component of any effort to effectively enforce basic workplace standards like the minimum wage. Strong protection from retaliation is especially important because enforcement of minimum wage laws relies heavily on workers coming forward and filing complaints.
- Instead of offering only a weak criminal penalty for unlawful retaliation, Maryland should provide meaningful protection that includes, at a minimum: 1) a right for a worker to bring a retaliation claim to court, along with a right to reasonable attorney's fees and costs for such actions when the worker prevails; 2) a right for a worker to bring a retaliation claim to the Maryland Department of Labor, Licensing, and Regulation; 3) a right for a worker to recover not just actual costs, such as backpay, but also damages that can more adequately compensate a worker for what they have experienced; and 4) a right for the State of Maryland to impose penalties on employers who violate the law. This bill amends existing law to ensure these basic and important protections.

#6: Increases Community Service Providers Funding To Accommodate Minimum Wage Increase

- A number of community services providers throughout the state, such as certain home care workers, rely largely on state funding for their wages. In order to ensure that such workers will be able to benefit from the state’s minimum wage increase, the bill would increase the governor’s proposed budget for community service providers to account for the bill’s increase to the state minimum wage.

Endnotes

¹ Sylvia Allegretto & David Cooper, Economic Policy Institute, Twenty-Three Years and Still Waiting for Change: Why It’s Time to Give Tipped Workers the Regular Minimum Wage (July 10, 2014), <http://www.epi.org/publication/waiting-for-change-tipped-minimum-wage/>; National Employment Law Project & Restaurant Opportunities Centers United, The Case for Phasing Out Maine’s Subminimum Wage for Tipped Workers (Oct. 2016), <http://www.nelp.org/content/uploads/Maine-Sub-Minimum-Wage-Report.pdf>.

² See Md. Code Ann., Lab. & Empl. § 3-403.

³ Annette Bernhardt, Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America’s Cities (2009) at 3, <https://s27147.pcdn.co/wp-content/uploads/2015/03/BrokenLawsReport2009.pdf>.

⁴ *Id.*

⁵ *Id.*

⁶ Md. Code Ann., Lab. & Empl. § 3-428.

⁷ National Employment Law Project, The Top 5 Enforcement Tools for Local Minimum Wage Laws (Dec. 2, 2015), <https://www.nelp.org/publication/the-top-5-enforcement-tools-for-local-minimum-wage-laws/>.

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