Committee on Civil and Human Rights

Jayasri Ganapathy, *Legislative Counsel*

Wiam Diouri, *Policy Analyst*

Jack Kern, *Finance Analyst*



**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION**

**Jeffrey Baker, Legislative Director**

**Rachel Cordero, Deputy Director, Governmental Affairs**

**David Seitzer, Assistant Deputy Director, Governmental Affairs**

**COMMITTEE ON CIVIL AND HUMAN RIGHTS**

**Hon. Mathieu Eugene, Chair**

**December 14, 2021**

|  |  |
| --- | --- |
| **PROPOSED INT. NO.:** 1208-B | By Council Members Helen Rosenthal, Justin Brannan, Adrienne Adams, Deborah Rose, Selvena Brooks-Powers, Inez Barron, and the Public Advocate Jumaane Williams,  |
| **TITLE:**  | A local law to amend the administrative code of the city of New York from posting job listings without minimum and maximum salary information. |
| **ADMINISTRATIVE CODE:** | Adds new subdivision to section 8-107 |
|  |  |
| **proposed Int. No.:** 2020-A | By Council Members Helen Rosenthal, Mark Gjonaj, Margaret S. Chin, Carlina Rivera, Eric Dinowitz, Stephen T. Levin, Selvena N. Brooks-Powers, Brad S. Lander, Kevin C. Riley, Karen Koslowitz, Farah N. Louis, Inez Barron, and Public Advocate Jumaane Williams |
| **TITLE:** | A Local Law to amend the administrative code of the city of New York, in relation to open captioning at motion picture theatres |
| **ADMINISTRATIVE CODE:** | Adds new section 20-699.7 |
| **RES. NO. 1872:****TITLE:** | By Council Member Paul Vallone (by request of the Mayor)Resolution declaring December 8 as Sri Guru Tegh Bahadur Jee Day in the city of New York |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

1. **INTRODUCTION**

On December 14, 2021, the Committee on Civil and Human Rights, chaired by Council Member Eugene, held a vote on: Proposed Introduction Number 1208-B (Int. 1208-B), in relation to prohibiting employers from posting job listings without minimum and maximum salary information; Proposed Introduction Number 2020-A (Int. 2020-A), in relation to open captioning at movie theaters; and Resolution Number 1872, declaring December 8 as Sri Guru Tegh Bahadur Jee Day in the city of New York.

On December 2, 2021, the Committee held its first hearing on Int. No. 1208 and Int. No. 2020. Those invited to testify included representatives from the New York City Commission on Human Rights (CCHR), advocacy and community organizations, and members of the public. This testimony was used to advise amendments to the bills. On December 14, 2021, Proposed Introduction Number 1208-B passed with 4 votes in the affirmative, 0 votes in the negative, and no abstentions. Proposed Introduction Number 2020-A passed with 3 votes in the affirmative, 0 votes in the negative, and 1 abstention. Resolution Number 1872 passed with 4 votes in the affirmative, 0 votes in the negative, and 0 abstentions.

1. **BACKGROUND**
	1. *The Wage Gap in the United States*

The wage gap represents the discrepancy in wages between men and women,[[1]](#footnote-1) which is the average difference between the pay, or wages, for men and women in the workforce.[[2]](#footnote-2) The median annual earnings of full-time, year-round workers is the most common measure for calculating the gender wage gap.[[3]](#footnote-3) Additionally, intersectional identities, including race, affect the wage gap.[[4]](#footnote-4) The Pew Research Center (“Pew”) found that, in 2015, among both full- and part-time workers in the United States (U.S.), Black people earned just 75 percent as much as whites in median hourly earnings and women earned 83 percent as much as men.[[5]](#footnote-5) According to the Institute for Women’s Policy Research, the gender wage gap in weekly earnings for full-time workers in the U.S. increased between 2017 and 2018.[[6]](#footnote-6) Pew’s research shows that this data has changed very little over the years as the gender wage gap held steady in 2020, with women earning 84% of what men earned.[[7]](#footnote-7)

Despite efforts to narrow the gender pay gap since the 1960s, a woman working full-time in the U.S. still earns only a percentage of what a typical man earns in a year. Although the pay gap is narrower in New York State, at 88 percent, it results in a difference in the median annual income between women and men working full-time.[[8]](#footnote-8) Women in New York earn approximately $10,157 less than men each year.[[9]](#footnote-9)

* + 1. *Factors Affecting the Gender Wage Gap*

 Some of the factors driving the gender wage gap include: labor force participation; occupational title differences (for similar work); education; labor force experience and hours worked; gender differences in formal job training and retention; the impact of gender on the division of labor and on family caregiving; occupations and industries; and labor market discrimination.[[10]](#footnote-10) In addition to these factors, structural barriers to women’s progress and enduring social attitudes about a “woman’s place” contribute heavily to lower pay for women.[[11]](#footnote-11)

Despite the abovementioned factors, progress hasbeen made in addressing some of the underlying issues that lead to the gender wage gap since World War II.[[12]](#footnote-12) For example, women are now more likely to have a bachelor’s degree than men,[[13]](#footnote-13) a trend which has seen women’s participation in the U.S. labor force increase dramatically.[[14]](#footnote-14) However, most of the contributing underlying causes have been difficult to alleviate, allowing the gender wage gap to persist.[[15]](#footnote-15)

It is apparent that the gender wage gap is more acute for women of color. For example, the median weekly earnings for Hispanic women were 61.6 percent, and for Black women 65.3 percent, of White men’s earnings in 2018.[[16]](#footnote-16) In 2021, the American Association of University Women (AAUW) published a report comparing the annual earnings of white men working full-time year-round, to women belonging to different racial groups, across the U.S.[[17]](#footnote-17) In this report, based on Census data, AAUW found that overall women were paid 83 cents to every dollar a man earned. However, while the wage gap for White women working in the U.S. was 79 percent, the wage gap for Black women was 64 percent, 57 percent for Latinas, and 82 percent for Asian women.[[18]](#footnote-18) Further, according to a report by the NYC Commission on Gender Equity (CGE), in New York City, a white woman working full-time earns 84 cents for every dollar a white man earns while a Hispanic woman working full-time earns 46 cents; an African American woman earns 55 cents; and an Asian woman earns about 63 cents.[[19]](#footnote-19)

 For Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) individuals who have secured a job, a 2018 survey showed that they make less money than non-LGBTQ people on average, with more than half of LGBTQ respondents reporting wages of less than $50,000 annually.[[20]](#footnote-20) Meanwhile, the National Women’s Law Center reports that t[ransgender women’s wages fall](https://nwlc.org/wp-content/uploads/2016/04/The-Wage-Gap-The-Who-How-Why-and-What-to-Do-1.pdf) by nearly a third after they transition.[[21]](#footnote-21)

* + 1. *The Gender Wage Gap in New York City*

Renewed focus on closing the gender wage gap has led many states, including New York, to pass legislation strengthening equal pay provisions by targeting some of the factors that perpetuate the gender pay gap. The state of New York has one of the smallest wage gaps among men and women in the nation, with women earning 88 cents to a man’s dollar when comparing annual median earnings.[[22]](#footnote-22) Yet, this gap still represents a significant difference in earnings within the state and city.[[23]](#footnote-23) For example, 88 cents to the dollar means that women annually earn $48,901 in comparison to the $55,636 men earn.[[24]](#footnote-24)

In NYC, the wage gap in 2018 was 85.8 percent, with women earning $54,587 to men earning $63,594.[[25]](#footnote-25) This represents a modest increase from 2016, when the wage gap in the city was 85 percent, and still shows a net difference in almost $10,000 in earnings between the sexes.[[26]](#footnote-26)

Additionally, according to a 2018 report by then-Public Advocate Letitia James, the average salary of women at the top ten majority women at NYC agencies[[27]](#footnote-27) was $10,000 less than the average salary of men at the top ten majority men NYC agencies.[[28]](#footnote-28) However, the same report found that at some agencies, male and female employees of the same rank or position were paid equally. Furthermore, collective bargaining agreements and civil service examinations can be an effective tool in addressing both wage equity and other issues related to retention and promotion.[[29]](#footnote-29)

* + 1. *NYC Commission on Gender Equity*

 The NYC CGE was codified in September 2016 to study the inequities facing women and girls, including the social and economic challenges individuals face due to gender.[[30]](#footnote-30) CGE examines and provides resources to address the gender wage gap. One such resource is a guide, released in February 2018, for best practices for gender pay equity in the workplace.[[31]](#footnote-31) Along with identifying the many benefits of eliminating the gender wage gap, the guide discusses the various employment laws in place to protect workers.[[32]](#footnote-32) Among the best practices to achieve pay equity, the guide includes using gender neutral language in recruitment materials, eliminating the use of salary history and negotiations when hiring and setting pay, establishing implicit bias training, instituting a name- and gender-blind application process, and utilizing structured interview questions and a diverse interview panel.[[33]](#footnote-33) In addition to the guide, CGE’s website identifies other resources provided by other City entities to reduce and eliminate the gender wage gap including salary negotiation trainings.[[34]](#footnote-34)

* + 1. *Pay transparency*

One strategy to achieve pay equity is to require pay transparency,[[35]](#footnote-35) which eliminates the wage gaps that result from sex and race discrimination.[[36]](#footnote-36) Pay transparency efforts often include at least one of the following strategies: (1) prohibiting employers from asking for salary history before an interview or hiring; (2) requiring employers to publish salary ranges; or (3) allowing the disclosure of current salary and salary history among employees.[[37]](#footnote-37) The reasoning behind increasing pay transparency is that job applicants are otherwise calculating their salary expectations in a vacuum. According to the National Women’s Law Center, studies show that women often ask for a lower salary when they negotiate than men, regardless of their qualifications or the nature of the role.[[38]](#footnote-38) Accordingly, absent transparent guidelines for the position’s salary, women might be paid less. Disclosing salary ranges might level the playing field by facilitating fairer negotiations. Companies may also be given the opportunity to review and evaluate compensation practices to address pay disparities.[[39]](#footnote-39)

 Pay transparency laws have been enacted in various jurisdictions within and outside the United States and the impact of such laws on the gender and race wage gap are telling. Studies show that in some instances, pay transparency combined with a well-communicated compensation plan has a positive impact on job satisfaction, employee engagement, and productivity.[[40]](#footnote-40) While the pay gap was not closed for all professions, pay transparency did narrow the gender wage gap when all other compensable factors were accounted for and controlled, and the gap completely closed across the majority of industries, occupations and job levels.[[41]](#footnote-41)

 A 2021 study of the impacts of pay transparency laws reveals how such laws can also provide a benefit to employers by raising the de facto bargaining power of the employer.[[42]](#footnote-42) According to the study, after pay transparency laws are enacted, the wage gap will shrink, however, average wages also may decline so long as the employer commits to a maximum wage.[[43]](#footnote-43) Further, in markets where workers collectively bargained or utilized a union, transparency did not detract from worker leverage.[[44]](#footnote-44)

Another study showed that pay transparency had a significant and economically sizable effect in reducing pay inequity, reducing the gender pay gap and improving the precision with which pay is linked to observable performance metrics and promotion.[[45]](#footnote-45) In aggregate, the study confirmed that pay transparency prompted organizations to reduce inequity and inequality in pay allocation. It also weakened the link between observable performance metrics and pay. Pay transparency appeared to pressure decision makers to remedy inequities in pay. It also resulted in more precise connections between pay and observable performance measures.[[46]](#footnote-46) Notably, the NYC CGE’s guide to address equity recommends that employers adopt pay transparency policies with standardized and objectively measured performance outcomes to limit bias in advancement decisions.[[47]](#footnote-47)

* 1. *Open Captioning*

According to 2019 American Community Survey data, there are approximately 168,281 deaf or hard of hearing people living in New York City.[[48]](#footnote-48) Although there is a raft of legal protections for this population, including the federal Americans with Disabilities Act (1990), and New York City Human Rights Law, deaf and hard of hearing New Yorkers face constant battles with ensuring accessibility to things that other New Yorkers take for granted.

Watching movies in cinemas is one such example. Federal rules do require that digital movie theaters are equipped with closed captioning and audio description technology.[[49]](#footnote-49) When closed, captioning can be turned on or off, and a secondary device is needed to view them (such as a decoder for television or specific software for online viewing).[[50]](#footnote-50) To facilitate closed captioning in theaters, federal rules require theaters to have a certain number of personal captioning and audio description devices available. According to the Americans with Disabilities Act, an acceptable device used for closed captioning means an “individual device that a patron may use at any seat to view closed movie captioning.”[[51]](#footnote-51) Such devices would be provided by the movie theater in accordance with federal rules.[[52]](#footnote-52)

However, while closed captions technology may be available, the law does not mandate that movie theaters provide such technology or services absent a viewer request. Accordingly, although closed captioning technology is mandated for “all new, non-exempt, English-language television programming”;[[53]](#footnote-53) it is not required for cinema screenings and is instead only offered if a viewer requests the service.[[54]](#footnote-54)

According to advocates for the deaf and hard of hearing community, open captioning is preferred. [[55]](#footnote-55) Open captioning involves on-screen text that appears in synchronicity with the film, for all viewers to see, similar to subtitles. Currently, open caption sessions are only offered at limited sessions and typically during off-peak times.[[56]](#footnote-56) Advocates argue that the technology required for “closed captions places responsibility on the user to understand how to turn captions on, either on their television sets or in their media viewer software.”[[57]](#footnote-57) Further, advocates claim that the devices used for closed captioning are not always properly maintained in cinemas.[[58]](#footnote-58)

Cinema owners, however, have raised concerns about mandating open captions. According to the National Association of Theater Owners (NATO), cinemas in New York City already provide open caption sessions when requested by moviegoers.[[59]](#footnote-59) They argue that by having flexibility and choice as to when to show these open caption sessions, the cinema can ensure that the session will be well attended by deaf and hard of hearing audiences, and it does not impact movie-goers who do not want to see a film with open captions.[[60]](#footnote-60)Additionally, NATO argues that open captions are not necessarily welcomed by all audiences and that mandating open captions could negatively impact cinemas’ bottom-line, especially after having been closed for so long due to COVID-19 restrictions.[[61]](#footnote-61)

In 2015, the state of Hawaii passed a bill, Act 39, requiring movie theaters with more than two locations to provide open captioning during at least two showings per week of any movie that is produced and offered with open captions. Additionally, Hawaii went on to pass Act 211 in 2017, which required movie theaters to show at least one open caption movie per week or offer devices for closed captioning. As part of Act 211, the Hawaii Department of Business, Economic Development & Tourism (“DBEDT”), was required to conduct a survey of the theaters impacted by Act 39.[[62]](#footnote-62) The two movie theater companies that were impacted reported results that indicated reduced attendance at open caption showings when compared to non-caption showings.[[63]](#footnote-63) The annual difference in attendance was estimated at 94,755 patrons per year, for both companies surveyed.[[64]](#footnote-64)

A recent report from the Motion Picture Association painted a grim picture for the entertainment industry, and the movie theater industry specifically.[[65]](#footnote-65) In 2020, the entertainment market’s revenues declined by 18 percent from 2019.[[66]](#footnote-66) The largest decline was in the theatrical entertainment business, specifically movie theaters, which accounted for 15 percent of global revenue in 2020 compared to 43 percent in 2019.[[67]](#footnote-67) These declines can be directly attributed to the consequences of the COVID-19 pandemic. Safety protocols instituted at the height of the pandemic shut down movie theaters for a significant portion of 2020. These theaters then opened and operated with limited capacity and have only recently seen greater attendance numbers as anxiety over the pandemic wanes. About 70 percent of theaters reopened in the summer of 2021.[[68]](#footnote-68) However, the rise of the COVID-19 delta and other variants has continued to impact attendance at movie theaters and a full recovery is uncertain as viewing habits may have permanently changed.[[69]](#footnote-69)

1. **BILL ANALYSIS**
	1. *Int. 1208-B - A Local Law to amend the administrative code of the city of New York, in relation to prohibiting employers from posting job listings without minimum and maximum salary information*

Section one of Int. 1208-B amends the Administrative Code definition of the term “employer” in section 8-102. The definition is streamlined to list the subdivisions included in the definition of the term “employer” and to add subdivision 32 that section two of Int. 1208-B adds to section 8-107 of the Code.

Section two of Int. 1208-B amends section 8-107 of the Administrative Code to make it unlawful to post an employment listing without including a minimum and maximum salary for the position. The range for the listed minimum and maximum salary would extend from the lowest salary to the highest salary that the employer in good faith believes it would pay for the advertised job, promotion, or transfer. The Administrative Code defines an employer as anyone who employs four or more people. Outside of the four-employee category, the Code also includes employers of domestic workers, freelancers, and independent contractors, regardless of staff size, for purposes of the protections illustrated in this bill.

Temporary staffing firms are exempted from this legislation as they already provide salary information after interviewing applicants, in compliance with the New York State Wage Theft Prevention Act.

The bill, if passed, would take effect 120 days after it becomes law.

* 1. *Int. 2020-A - A Local Law to amend the administrative code of the city of New York, in relation to open captioning at motion picture theaters*

This bill underwent several amendments from its original form to address the needs of the deaf and hard of hearing community while acknowledging potential financial burdens to theater operators. Notably, the proposal that half of all showings provide open captioning was replaced with more flexible requirements described as follows.

 Section one of Int. 2020-A amends chapter 4 of title 20 of the Administrative Code to require that theaters provide open captions during motion picture showings. The bill defines open motion picture captioning as the written, on-screen display of a movie’s dialogue and non-speech information, including the identity of the character who is speaking, music, and other sounds and sound effects. The bill also defines specific times as peak attendance hours. Peak motion picture attendance hours are the hours between 5:59 p.m. and 11:01 p.m. on Friday and the hours between 11:29 a.m. and 11:01 p.m. on Saturday or Sunday.

The bill would require that theaters showing more than 10 motion pictures a week provide open captions for at least one quarter of all showings of any motion picture that is shown four or more times in a one week period. Notwithstanding, theaters would not be required to show more than four open caption showings of a single movie in a one week period to satisfy the aforementioned. At least half of the open captioned showings would be during peak attendance hours. If fewer than one in eight showings is scheduled for peak attendance hours, the screening during those hours must be open captioned.

Similarly, for the half of showings during non-peak hours, at least half of the non-peak hour open caption showings must be between 5:59 pm and 11:01 pm on Monday through Thursday. If fewer than one in eight showings is scheduled for non-peak attendance hours, the screening during those hours must be open captioned.

This bill does not count open caption showings that play at the same time toward the required minimum number of showings.

The bill also requires theaters to advertise showings for open caption movies the same way they do other movie showings. Further, theaters must maintain documents to show compliance with the requirements of the bill for at least three years.

Nothing in this bill prevents a movie theater from showing more open captioned movies than required.

A movie theater that violates this law would be subject to a penalty ranging from $100 to $500 per violation.

The requirements of this bill would not apply to showings of motion pictures that are produced and distributed without captioning.

The bill, if passed, would take effect 120 days after it becomes law.

1. **CONCLUSION**

At today’s hearing, the Committee will vote on a bill requiring that minimum and maximum salaries be posted for open positions, a bill providing open captioning in movie theaters at greater frequency, and a resolution declaring December 8 as Sri Guru Tegh Bahadur Jee Day in the city of New York.

Proposed Int. No. 1208-B

By Council Members Rosenthal, Brannan, Adams, Rose, Brooks-Powers, the Public Advocate (Mr. Williams), and Barron

..Title

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting employers from posting job listings without minimum and maximum salary information

..Body

Be it enacted by the Council as follows:

Section 1. Section 8-102 of title 8 of the administrative code of the city of New York is amended as follows:

Employer. For purposes of subdivisions 1, 2, 3, 10, 11-a, [and] 22, 23, 32, subparagraph 1 of paragraph a of subdivision 21, and paragraph e of subdivision 21 [and subdivision 23] of section 8-107, the term "employer" does not include any employer that has fewer than four persons in the employ of such employer at all times during the period beginning twelve months before the start of an unlawful discriminatory practice and continuing through the end of such unlawful discriminatory practice, provided however, that in an action for unlawful discriminatory practice based on a claim of gender-based harassment pursuant to subdivision one of section 8-107, the term "employer" shall include any employer, including those with fewer than four persons in their employ. For purposes of this definition, (i) natural persons working as independent contractors in furtherance of an employer's business enterprise shall be counted as persons in the employ of such employer and (ii) the employer's parent, spouse, domestic partner or child if employed by the employer are included as in the employ of such employer.

§ 2. Section 8-107 of the administrative code of the city of New York is amended by adding a new subdivision 32 to read as follows:

32. Employment; minimum and maximum salary in job listings. a. It shall be an unlawful discriminatory practice for an employment agency, employer, employee or agent thereof to advertise a job, promotion or transfer opportunity without stating the minimum and maximum salary for such position in such advertisement. In stating the minimum and maximum salary for a position, the range may extend from the lowest to the highest salary the employer in good faith believes at the time of the posting it would pay for the advertised job, promotion or transfer opportunity.

b. This subdivision does not apply to a job advertisement for temporary employment at a temporary help firm as such term is defined by subdivision 5 of section 916 of article 31 of the labor law.

§ 3. This local law takes effect 120 days after it becomes law, except that the commission may take such actions as are necessary to implement this local law, including the promulgation of rules, before such date.

MWC/JG

LS #3498

12/7/21 11:41 PM

[Page intentionally left blank]

Proposed Int. No. 2020-A

By Council Members Rosenthal, Gjonaj, Chin, Rivera, Dinowitz, Levin, Brooks-Powers, Lander, Riley, Koslowitz, Louis, the Public Advocate (Mr. Williams), and Barron

A Local Law to amend the administrative code of the city of New York, in relation to open captioning at motion picture theaters

Be it enacted by the Council as follows:

Section 1. Chapter 4 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 13 to read as follows:

SUBCHAPTER 13

MOTION PICTURE THEATERS

§ 20-699.7 Open captioning in motion picture theaters. a. Definitions. As used in this section, the following terms have the following meanings:

Motion picture. The term “motion picture” means a story or event recorded by a camera as a set of moving images.

Motion picture theater. The term “motion picture theater” means an entity in the business of providing showings of motion pictures to the general public.

Open motion picture captioning. The term "open motion picture captioning" means the written, on-screen display of a motion picture's dialogue and non-speech information, including music, the identity of the character who is speaking, and other sounds and sound effects.

Peak motion picture attendance hours. The term “peak motion picture attendance hours" means the hours between 5:59 p.m. and 11:01 p.m. on Friday and the hours between 11:29 a.m. and 11:01 p.m. on Saturday or Sunday.

b. Open motion picture captioning required. A motion picture theater that offers more than 10 motion picture showings per week shall provide scheduled showings of motion pictures with open motion picture captioning such that at least one quarter of all showings of a motion picture with four or more showings during a one-week time period shall have open motion picture captioning, except that no more than four open captioning showings of a single motion picture shall be required in a one-week time period.

c. Exceptions. A motion picture that is produced and distributed without open motion picture captioning is not subject to the provisions of subdivision b of this section.

d. Timing. 1. At least half of the scheduled showings required pursuant to subdivision b of this section shall begin and end within peak motion picture attendance hours, unless fewer than 1 in 8 showings of a motion picture is screened during peak motion picture attendance hours, in which case this requirement is met if all screenings of such motion picture during peak motion picture attendance hours have open motion picture captioning.

2. At least half of the scheduled showings required pursuant to subdivision b of this section that are scheduled outside of peak motion picture attendance hours shall start after 5:59 p.m. and finish before 11:01 p.m. on Mondays, Tuesdays, Wednesdays or Thursdays, unless fewer than 1 in 8 showings of a motion picture is screened after 5:59 p.m. on Mondays, Tuesdays, Wednesdays or Thursdays, in which case this requirement is met if all screenings of such motion picture during such times have open motion picture captioning.

3. No showing of a motion picture with open motion picture captioning that overlaps with another showing of a motion picture with open motion picture captioning shall be counted toward the minimum number of showings required by this section except where it is not practicable to avoid such overlap.

4. Nothing in this subchapter shall prevent a motion picture theater from showing more motion pictures with open captioning than required by subdivision b of this section.

e. Public notice. A motion picture theater subject to the provisions of subdivision b of this section shall advertise the date and time of motion picture showings required by subdivision b in the same manner as the motion picture theater advertises all other motion picture showings and shall indicate which showings will include open motion picture captioning.

f. Records. Every motion picture theater shall maintain documents sufficient to demonstrate compliance with the requirements of this subchapter for a period of at least three years.

g. Violations. Any motion picture theater that violates any of the provisions of this section shall be subject to a civil penalty of not less than $100 nor more than $500 for each violation.

§ 2. This local law takes effect 120 days after it becomes law.

AM/JG

LS #4891/13086/14038

12/7/21 6:19 PM

 [Page intentionally left blank]

Res. No. 1872

Resolution declaring December 8 as Sri Guru Tegh Bahadur Jee Day in the city of New York

By Council Member Vallone (by request of the Mayor)

 Whereas, Sri Guru Tegh Bahadur Jee, the ninth Guru of the Sikh religion, was born on April 1, 1621 in the city of Amritsar in the Indian state of Punjab; and

 Whereas, Sri Guru Tegh Bahadur Jee composed 116 divine hymns that have been included in the holy religious scripture of Sikhism, the Sri Guru Granth Sahib, and which preach the message of unity and compassion; and

 Whereas, Sri Guru Tegh Bahadur Jee undertook extensive tours of India to not only teach Sikhism, but to create awareness of human rights, social justice, secularism, and national unity; and

 Whereas, Sri Guru Tegh Bahadur Jee emphasized democratic ideals in his religious practice, including the protection of the dharma, or moral law, which is the basis of Sikh tradition, resistance to tyranny, and respect and tolerance for all lifestyles; and

 Whereas, Sri Guru Tegh Bahadur Jee advocated for religious freedom during the rule of Mughal Emperor Aurangzeb, and

Whereas, Sri Guru Tegh Bahadur Jee was publicly executed in 1675 for his opposition to religious persecution; and

 Whereas, the declaration of December 8 as Sri Guru Tegh Bahadur Jee Day in the city of New York will commemorate one of the founders of the Sikh religion and advocate for religious freedom and human rights; now, therefore, be it

 Resolved, That the city of New York declare December 8 as Sri Guru Tegh Bahadur Jee Day.

1. Also known as the “gender pay gap.” [↑](#footnote-ref-1)
2. Elise Gould, et al, *What is the Gender Pay Gap and is it Real?* Economic Policy Institute. (Oct. 20, 2016)

*Available at* https://www.epi.org/publication/what-is-the-gender-pay-gap-and-is-it-real/. [↑](#footnote-ref-2)
3. U.S. Dep’t of Labor. *Facts Over Time-Earnings and Ratios*. (1960-2020) *Available at*: https://www.dol.gov/agencies/wb/data/facts-over-time. [↑](#footnote-ref-3)
4. Eileen Patten. Pew Research Center. *Racial, Gender Wage Gaps Persist in U.S. Despite Some Progress*. (July 1, 2016) *Available at* https://www.pewresearch.org/fact-tank/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/ [↑](#footnote-ref-4)
5. *Id.* [↑](#footnote-ref-5)
6. In 2018, the Institute reported that the ratio of women’s to men’s median weekly full-time earning was 81.1 percent, leaving a wage gap of 18.9 percent. Institute for Women’s Policy Research, *The Gender Wage Gap: 2018-Earnings Differences by Race and Ethnicity*, (Mar. 2018) *Available at* <https://iwpr.org/wp-content/uploads/2019/03/C478_Gender-Wage-Gap-in-2018.pdf>. [↑](#footnote-ref-6)
7. Notably, data has not yet been made available for 2021 and the impact of the coronavirus fueled economic downturn. Amanda Barroso and Anna Brown. Pew Research Center. *Gender Pay Gap in U.S. Held Steady in 2020*. (May 25, 2021) *Available at* https://www.pewresearch.org/fact-tank/2021/05/25/gender-pay-gap-facts/. [↑](#footnote-ref-7)
8. Azi Paybarah. New York Times. *What Women in New York Earn Compared With Men.* (April 2, 2019) *Available at* https://www.nytimes.com/2019/04/02/nyregion/newyorktoday/nyc-news-women-equal-pay-day.html. [↑](#footnote-ref-8)
9. PowHer New York. *FACT SHEET: Salary Range Transparency Legislation*.(May 7, 2021) *Available at* https://www.powherny.org/2021/05/07/fact-sheet-salary-range-transparency-legislation/. [↑](#footnote-ref-9)
10. Francine D. Blau and Lawrence M. Kahn, *The Gender Wage Gap: Extend, Trends and Explanations*. (National Bureau of Economic Research Working Paper 21913, Jan. 2016), <https://www.nber.org/papers/w21913.pdf>. [↑](#footnote-ref-10)
11. Sarah Jane Glynn, Center for American Progress. *Explaining the Gender Wage Gap*, May 19, 2014. *Available at* <https://www.americanprogress.org/issues/economy/reports/2014/05/19/90039/explaining-the-gender-wage-gap/>. [↑](#footnote-ref-11)
12. Blau *supra* at 11. [↑](#footnote-ref-12)
13. Nolan Feeney, TIME. *Women are Now More Likely to Have a College Degree* (Oct. 7, 2015) *Available at* [e](http://time.com/4064665/women-college-degree/). [↑](#footnote-ref-13)
14. Blau *supra*. [↑](#footnote-ref-14)
15. Nikki Graf, et al., Pew Research Center. *The Narrowing, But Persistent, Gender Gap in Pay.* (Mar. 22, 2019) *Available at* <https://www.pewresearch.org/fact-tank/2019/03/22/gender-pay-gap-facts/>. [↑](#footnote-ref-15)
16. *Id.* [↑](#footnote-ref-16)
17. American Association of University Women. *The Simple Truth About the Gender Pay Gap: 2021 Update*.(2021) *Available at* https://www.aauw.org/app/uploads/2021/09/AAUW\_SimpleTruth\_2021\_-fall\_update.pdf. [↑](#footnote-ref-17)
18. *Id.* Notably, this report indicated that its results did not reflect the impact of unemployment on the racial and gender wage gap. While the share of men who are employed full-time fell from 52.2 percent in 2019 to 46.1 percent in 2020, the share of women who are employed full-time fell from 38.2 percent to 33.5 percent. As the people most likely to be unemployed are women with the lowest wages, the pay data reflects a narrower pay gap rather than progress towards pay equity. [↑](#footnote-ref-18)
19. New York City Commission on Gender Equity. *Leveling the Playing Field: Best Practices for Gender Pay Equity in the Workplace.* (Feb. 2018) *Available at* https://www1.nyc.gov/assets/genderequity/downloads/pdf/Pay-Equity-Brochure.pdf. [↑](#footnote-ref-19)
20. Miranda Marquit. Student Loan Hero. *Survey: 60% of LGBTQ Student Borrowers Regret Taking Out Student Loans*. (Dec. 3, 2018) *Available at* <https://studentloanhero.com/featured/survey-lgbtq-student-borrowers-regret-loans/>. Notably, a gender wage gap exists even among same-sex couples. A 2013 report by the Williams Institute found that women in same-sex couples have a median personal income of $38,000 compared to $47,000 for men in same-sex couples. M.V. Lee Badgett, et. al., The Williams Institute. *New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community*. (June 2013) *Available at* <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>. [↑](#footnote-ref-20)
21. National Women’s Law Center. *The Wage Gap: the Who, How, Why, and What to Do*. (Apr. 2016) *Available at* <https://nwlc.org/wp-content/uploads/2016/04/The-Wage-Gap-The-Who-How-Why-and-What-to-Do-1.pdf>. [↑](#footnote-ref-21)
22. Susan Milligan. U.S. News. *States with Largest and Smallest Gender Pay Gap*. (April 2, 2019) *Available at* <https://www.usnews.com/news/best-states/articles/2019-04-02/states-with-largest-and-smallest-gender-pay-gap>. [↑](#footnote-ref-22)
23. *Id.* [↑](#footnote-ref-23)
24. *Id.* [↑](#footnote-ref-24)
25. American Association of University Women. *The Pay Gap in 25 Major U.S. Cities*. (Oct. 3, 2019) *Available at* https://www.aauw.org/resources/article/pay-gap-in-metro-areas/. Note: City is defined as New York Metropolitan Statistical Area, commonly used in the American Community Survey. [↑](#footnote-ref-25)
26. American Association of University Women. *U.S. Cities Reveal a Wide Range of Gender and Racial Pay Gaps*. (Dec. 11, 2017) *Available at* https://www.aauw.org/article/u-s-cities-reveal-a-wide-range-of-gender-and-racial-pay-gaps/. [↑](#footnote-ref-26)
27. Dep’t of Ed. Paraprofessionals, Hum. Res. Admin./Dep’t of Soc. Serv., Dep’t of Prob., Dep’t of Ed. Admin., Admin. for Child. Serv., Landmarks Pres. Comm’n, Dep’t for the Aging, Mayor’s Off. of Cont. Serv., Dep’t of Youth and Cmty Dev., Dep’t of Ed. Pedagogical. *See* Page 5; Public Advocate for the City of New York. *Tipping the Scales. Wage and Hiring Inequity in New York City Agencies*. (Mar. 2018). [↑](#footnote-ref-27)
28. *Id.* Taxi and Limousine Comm’n, Dep’t of Parks and Recreation, Dep’t of Transp., Dep’t of Sanitation, Fire Dep’t, Dep’t of Env’t Prot., Dep’t of Buildings, Police Dep’t, Dep’t of Design and Constr., Fin. Info. Serv. Agency. [↑](#footnote-ref-28)
29. *Id.* at 6. [↑](#footnote-ref-29)
30. NYC Commission on Gender Equity. *About the Commission on Gender Equity*. *Available at* <https://www1.nyc.gov/site/genderequity/about/about.page>. [↑](#footnote-ref-30)
31. NYC Commission on Gender Equity. *Leveling the Paying Field: Best Practices for Gender Pay Equity in the Workplace*. (2017) *Available at* https://www1.nyc.gov/assets/genderequity/downloads/pdf/Pay-Equity-Brochure.pdf [↑](#footnote-ref-31)
32. *Id.* [↑](#footnote-ref-32)
33. *Id.* [↑](#footnote-ref-33)
34. NYC Commission on Gender Equity. *Pay Equity Resources*. *Available at* <https://www1.nyc.gov/site/genderequity/economic-equity/pay-equity-resources.page> [↑](#footnote-ref-34)
35. According to the company PayScale, pay transparency is “an approach to compensation that removes the mystery of how much employees make by establishing data informed pay ranges for job roles that are not cloaked in secrecy.” *Does Pay Transparency Close the Gender Wage Gap?* (PayScale 2020) https://www.payscale.com/content/whitepaper/Pay-Transparency-Closing-Gender-Wage-Gap.pdf. [↑](#footnote-ref-35)
36. Pay equity is a means of eliminating sex and race discrimination in the wage-setting system by requiring that the criteria employers use to set wages be sex- and race-neutral. *See* National Committee on Pay Equity. *Pay Equity Information*. *Available at* [https://www.pay-equity.org/info-Q&A.html](https://www.pay-equity.org/info-Q%26A.html). [↑](#footnote-ref-36)
37. Tatiana Follett and Iris Hentze, The Nat’l Conference of State Legislatures. *The Gender Pay Gap*. (Feb. 12, 2021) *Available at* <https://www.ncsl.org/research/labor-and-employment/the-gender-pay-gap.aspx>. Notably, New York already prohibits employers from asking for salary history effective 10/31/17. [↑](#footnote-ref-37)
38. *Id.* [↑](#footnote-ref-38)
39. *Id*. [↑](#footnote-ref-39)
40. PayScale *supra.* [↑](#footnote-ref-40)
41. *Id.* [↑](#footnote-ref-41)
42. Zoe B. Cullen and Bobak Pakzad-Hurson. *Equilibrium Effects of Pay Transparency*. (National Bureau of Economic Research Working Paper 28903, June 2021), http://www.nber.org/papers/w28903. [↑](#footnote-ref-42)
43. *Id.* [↑](#footnote-ref-43)
44. *Id.* [↑](#footnote-ref-44)
45. Tomasz Obloj, Todd Zenger. *The Influence of Pay Transparency on Inequity, Inequality,*

*and the Performance-Basis of Pay*. (May 2020) *Available at* [https://ssrn.com/abstract=3523828](https://ssrn.com/abstract%3D3523828). (studying the impacts of pay transparency efforts in academia). [↑](#footnote-ref-45)
46. *Id.* at 18 (Performance measures included publications, books, and grants in the context of academia). [↑](#footnote-ref-46)
47. *Id.* at 33 [↑](#footnote-ref-47)
48. U.S. Census Bureau. 2019 American Community Survey. *Disability Characteristics*. *Available at* <https://www.data.census.gov>. *See also* Daniel Krieger. New York Times. *Deaf And Hard Of Hearing Fight To Be Heard*.(Mar. 25, 2016) *Available at* <https://www.nytimes.com/2016/03/27/nyregion/deaf-and-hard-of-hearing-fight-to-be-heard.html>. [↑](#footnote-ref-48)
49. 28 CFR § 36 eff. Jan. 17, 2017. [↑](#footnote-ref-49)
50. 28 C.F.R. § 36.303(g)(1). *See generally* 28 CFR § 36.; *See also* Disabilities, Opportunities, Internetworking, and Technology Center. *What is the Difference Between Open and Closed Captioning?*” (April 8, 2021) *Available at* <https://www.washington.edu/doit/what-difference-between-open-and-closed-captioning>. [↑](#footnote-ref-50)
51. 28 C.F.R. § 36.303(g)(1)(iv). [↑](#footnote-ref-51)
52. 28 C.F.R. § 36.303(g)(1). *See generally* 28 CFR § 36. [↑](#footnote-ref-52)
53. National Association of the Deaf. *Television and Closed Captioning*. *Available at* <https://www.nad.org/resources/technology/television-and-closed-captioning/>. [↑](#footnote-ref-53)
54. National Association of the Deaf. *When is Captioning Required?* *Available at* <https://www.nad.org/resources/technology/captioning-for-access/when-is-captioning-required/>. [↑](#footnote-ref-54)
55. Shari Eberts. *Hearing Loss or Not – Everyone Loves Captions!* (Oct. 8, 2019) *Available at* <https://livingwithhearingloss.com/2019/10/08/hearing-loss-or-not-everyone-loves-captions/>. [↑](#footnote-ref-55)
56. Jamie Berke. Change.org. *Petition: Movie Theaters – Open Captions (Subtitles) Are Healthier for Everyone!* *Available at* <https://www.change.org/p/open-captions-subtitles-are-healthier-for-everyone>. [↑](#footnote-ref-56)
57. Disabilities, Opportunities, Internetworking, and Technology Center *supra*. [↑](#footnote-ref-57)
58. *See* Shari Eberts. *Are Movie Theater Caption Readers Properly Maintained?* (Feb. 26, 2019) *Available at* <https://livingwithhearingloss.com/2019/02/26/are-movie-theater-caption-readers-properly-maintained/>; *See* Vimal Patel, New York Times. *AMC to Add Onscreen Captions at Some Locations*. (Nov. 4, 2021) *Available at* <https://www.nytimes.com/2021/10/20/business/amc-theaters-open-captioning-deaf.html> (wherein advocates claim closed captioning devices are prone to malfunctioning); *see also* Sarah Bahr, *How Lauren Ridloff’s Deafness Became a Superpower in Marvel’s ‘Eternals’*. (Nov. 4, 2021) *Available at* <https://www.nytimes.com/2021/09/15/movies/lauren-ridloff-eternals-deaf-hero.html>; Andrea McCarren, WUSA9 *Captioning Devices Not Working at Movie Theaters*. (Nov. 17, 2016) *Available at* <https://www.wusa9.com/article/news/local/captioning-devices-not-working-at-movie-theaters/65-353590478>; Michael O’Sullivan, Washington Post. *For the Deaf and Hard of Hearing, Movies are Often Out of Reach. That Could Change.* (Sept. 20, 2019) *Available at* washingtonpost.com/entertainment/for-the-deaf-and-hard-of-hearing-movies-are-often-out-of-reach-that-could-change/2019/09/19/e35efa82-d895-11e9-ac63-3016711543fe\_story.html. (Noting that assistive devices “are notoriously cumbersome and prone to dead batteries and missing dialogue, are roundly derided by those who have to use them.”) [↑](#footnote-ref-58)
59. Robert Sunshine. National Association for Theater Owners. *Letter to Councilmember Helen Rosenthal*. (Oct. 13, 2021) On file with Committee staff. [↑](#footnote-ref-59)
60. *Id.* [↑](#footnote-ref-60)
61. *Id.* [↑](#footnote-ref-61)
62. State of Hawaii. Dep’t of Business, Econ. Dev. & Tourism, *Impact of Act 039 Relating to Movie Theaters*, Rsch and Econ. Analysis Div.. (Dec. 2017) *Available at* https://files.hawaii.gov/dbedt/economic/data\_reports/impact\_act39\_movie\_theaters.pdf [↑](#footnote-ref-62)
63. *Id.e* [↑](#footnote-ref-63)
64. *Id.* [↑](#footnote-ref-64)
65. Brad Adgate. Forbes. *The Impact COVID-19 Had On The Entertainment Industry In 2020*. (April 13, 2021) *Available at* https://www.forbes.com/sites/bradadgate/2021/04/13/the-impact-covid-19-had-on-the-entertainment-industry-in-2020/?sh=27ccae1250f0. [↑](#footnote-ref-65)
66. *Id.* [↑](#footnote-ref-66)
67. *Id.* [↑](#footnote-ref-67)
68. Sarah Whitten. CNBC. *AMC’s Aggressive Post-Pandemic Strategy Could Pay Off as Moviegoers Flock Back to Cinemas*. (June 7, 2021) *Available at* https://www.cnbc.com/2021/06/07/amcs-aggressive-post-pandemic-strategy-could-pay-off.html. [↑](#footnote-ref-68)
69. George Szalai. Hollywood Reporter. *Movie Theater Stocks Take Hit Amid Rising COVID-19 Cases, Streaming Uncertainty*. (July 6, 2021) *Available at* https://www.hollywoodreporter.com/business/business-news/cinema-stocks-fall-black-widow-delta-variant-1234983381/. [↑](#footnote-ref-69)