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Int. No. 757

By Council Members Nurse, Cabán, Avilés, Marte, Hanif, Hudson, Ossé, Epstein, Stevens, Aldebol, De La Rosa, Brewer, Gutiérrez, Restler and Salaam

A Local Law to amend the administrative code of the city of New York, in relation to the establishment of the minimum wage

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. The council finds that a living wage in the New York City metropolitan area as of February 2025 is $36.99 for a single adult without children, $54.98 for a single adult raising one child, $66.77 for a single adult raising two children, and $36.88 per adult in a household with two adults and two children. The council further finds that the average Fair Market Rent in the New York City metropolitan area in 2025 was $2,511 for a 1-bedroom apartment and $2,780 for a 2-bedroom apartment, requiring wages of at least $48.29 and $53.46, respectively, to afford those rents. The council further finds that the poverty rate in New York City in 2023 was 18.0 percent, which is higher than the state (14.1 percent) and the national (12.5 percent) poverty rates, and that New York City is consistently ranked as one of the most expensive cities in the U.S. Notwithstanding these findings, the state minimum wage rate is currently just $17 per hour in New York City. The Council further finds that the inadequacy of the state minimum wage disproportionately harms immigrants and people of color who live in New York City, and that a legal framework imposing a New York State minimum wage on New York City perpetuates historical injustice and results in substantial and unjustified deprivation and hardship to the residents of New York City. In light of this unique local situation, the council therefore finds it necessary and appropriate to establish a minimum wage rate for the city.

§ 2. Title 20 of the administrative code of the city of New York is amended by adding a new chapter 17 to read as follows:

CHAPTER 17

MINIMUM WAGE

§ 20-1701 Short title. This chapter shall be known and may be cited as the "New York City Minimum Wage Act."

§ 20-1702 Definitions. As used in this chapter, the following terms have the following meanings:

Employee. The term "employee" means any "employee" as defined in section 190 of the labor law who is employed for hire within the city of New York, but not including those who are employed by (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by section 92 of the general municipal law or section 207 of the county law.

Employer. The term "employer" means any "employer" as defined in subdivision (3) of section 190 of the labor law, but not including (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality, or county or any entity governed by general municipal law section 92 or county law section 207.

Food service worker. The term "food service worker" has the same meaning as set forth in section 146-3.4 of title 12 of the New York codes, rules and regulations.

Franchise. The term "franchise" has the same meaning as set forth in in section 681 of the general business law.

Franchisee. The term "franchisee" means a person to whom a franchise is granted.

Franchisor. The term "franchisor" means a person who grants a franchise to another person.

Minimum wage. The term “minimum wage” means the hourly rate that an employer must pay an employee pursuant to section 20-1703.

Schedule 1 employer. The term “schedule 1 employer" means any employer that employs more than 500 employees nationwide and all franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 500 employees in the aggregate nationwide.

Schedule 2 employer. The term “schedule 2 employer" means any employer that employs 500 or fewer employees nationwide. Schedule 2 employers do not include franchisees that employ more than 500 employees in aggregate nationwide.

Tip. The term “tip” means a verifiable sum of money paid voluntarily by a customer to an employee that is in addition to the purchase price for goods, services, and any mandatory charges such as taxes and fees.

§ 20-1703 Minimum wage. a. Schedule 1 employers shall pay employees no less than a minimum wage of:

1. On or after January 1, 2027, $20 an hour;

2. On or after January 1, 2028, $23 an hour;

3. On or after January 1, 2029, $26 an hour;

4. On or after January 1, 2030, $30 an hour; and

5. On or after January 1, 2031, the minimum wage is set forth in subdivision c of this section.

b. Schedule 2 employers shall pay employees no less than a minimum wage of:

1. On or after January 1, 2027, $19 an hour;

2. On or after January 1, 2028, $21.50 an hour;

3. On or after January 1, 2029, $24 an hour;

4. On or after January 1, 2030, $27 an hour;

5. On or after January 1, 2031, $29 an hour; and

6. On or after January 1, 2032, the minimum wage is set forth in subdivision c of this section.

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c. On January 1, 2031 for schedule 1 employers and on January 1, 2032 for schedule 2 employers, and annually by January 1 thereafter, the minimum wages in effect for schedule 1 and schedule 2 employers under subdivisions a and b of this section shall each be adjusted based on any increase in the cost of living in such year. Each such adjusted minimum wage shall be determined by increasing the then-current year's minimum wage by the rate of inflation for the most recent twelve month period ending in June of that year and based on the consumer price index for all urban consumers on a national and seasonally adjusted basis (CPI-U), or a successor index as calculated by the United States department of labor with the result rounded up to the nearest 5 cents.

d. Notwithstanding subdivisions a, b and c of this section, until December 1, 2031, the minimum wage for an employee who is a food service worker receiving tips shall be (1) a minimum wage of at least two-thirds of the applicable minimum wage set forth in subdivisions a, b or c of this section; or (2) the minimum wage set under section 146-1.3 of title 12 of the New York codes, rules and regulations, whichever is higher, provided that the tips of such an employee, when added to such minimum wage, are equal to or exceed the applicable minimum wage in effect pursuant to subdivisions a, b or c of this section, such employee has been informed by the employer in writing about the tip notice provisions required by this chapter, and such employee retains all tips that they receive. All tips received by such an employee are the sole property of such employee and shall be retained by such employee; except that nothing in this section shall prohibit a valid tip pool under which tips are pooled and distributed among employees receiving tips, provided that only the amount of tips actually retained by each employee shall be considered part of that employee's wages for purposes of this subdivision.

e. On January 1, 2032, and on each January 1 thereafter, the minimum wage set forth in subdivision d of this section for an employee who is a food service worker receiving tips shall be increased by $1.50 each year, except that if the difference between the minimum wage in effect under this subdivision and the minimum wage set forth in subdivision c of this section is less than $1.50, then the minimum wage rate for such an employee under this subdivision shall increase an amount to match the minimum wage set forth in subdivision c of this

section. On and after the increase pursuant to this subdivision that matches the cash wage set forth in subdivision d of this section and the minimum wage set forth in subdivision c of this section, the minimum wage for an employee who is a food service worker receiving tips shall be the minimum wage then in effect under subdivision c of this section and no employer may take an allowance of gratuities toward the payment of such minimum wage.

f. Employees entitled to overtime pay under subdivision 5 of section 651 of the labor law and section 142-3.2 of title 12 of the New York code, rules and regulations, shall be entitled to overtime pay under this section in accordance with New York law and regulation concerning overtime compensation. Such overtime pay shall be calculated based on the employee's regular rate of pay or the minimum wage set forth in this section, whichever is higher.

§ 20-1704 Employer schedule determination.

a. The determination of employer schedule for the current calendar year will be calculated based upon the average number of employees who worked for compensation nationwide per calendar week during the preceding calendar year for any and all weeks during which at least one employee worked for compensation. For employers that did not have any employees during the previous calendar year, the employer schedule will be calculated based upon the average number of employees who worked for compensation nationwide per calendar week during the first 90 calendar days of the current year in which the employer engaged in business. All employees who worked for compensation shall be counted, including but not limited to, employees who worked in full-time employment, part-time employment, joint employment, temporary employment, or through the services of a temporary services or staffing agency or similar entity.

b. Separate entities that form an integrated enterprise shall be considered a single employer under this chapter. Separate entities will be considered an integrated enterprise and a single employer under this chapter where a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

1. degree of interrelation between the operations of multiple entities;

2. degree to which the entities share common management;

3. centralized control of labor relations; and

4. degree of common ownership or financial control over the entities.

c. There shall be a presumption that separate legal entities, which may share some degree of interrelated operations and common management with one another, shall be considered separate employers for purposes of this chapter as long as (1) the separate legal entities operate substantially in separate physical locations from one another, and (2) each separate legal entity has partially different ultimate ownership.

§ 20-1705 Notice of employee rights. a. The department shall publish and make available on the city's website in accordance with the requirements for language access pursuant to chapter 11 of title 23, and including Yiddish and French-Creole, and any other language deemed appropriate by the department, the following:

1. a bulletin announcing the adjusted minimum wage for the upcoming year and its effective date no less than 2 months before such date; and

2. a notice informing employees of the current minimum wage and their rights to such wage, including information about the right to be free from retaliation and the right to file a complaint, and any other information that the commissioner deems appropriate. Such notice shall allow for an employer to fill in such employer's business name, address and telephone number.

b. No later than January 1 of each year, an employer shall post the notice referred to in subdivision a of this section, including such employer's business name, address, and telephone number, in a conspicuous manner in an area accessible to employees at any workplace in English, Spanish, and any language spoken as a primary language by at least 5 percent of employees if such primary language is known to the employer and the commissioner has made the notice available in that language pursuant to subdivision a of this section.

c. No later than January 1 of each year, an employer shall also provide the notice referred to in

subdivision a of this section, including such employer's business name, address, and telephone number, to each employee, at the commencement of employment or by October 1, 2026, whichever is later. An employer shall provide such notice to an employee in English and the primary language spoken by such employee, provided that the commissioner has made available a translation of such notice in such language pursuant to subdivision a of this section.

§ 20-1706 Recordkeeping. a. An employer shall retain records documenting such employer's compliance with the applicable requirements of this chapter, including but not limited to, payroll records showing the hours worked for each day worked, pay statements provided to employees showing the wages paid to each employee, and any other information the department determines by rule, for a period of 6 years, and shall allow the department to access such records and other relevant information, consistent with applicable law and in accordance with rules of the department and with appropriate notice, in furtherance of an investigation conducted pursuant to this chapter.

b. An employer must maintain records in their original format and provide such records to the department in their original format or an electronic format as set forth in the rules of the department.

c. If an employer fails to maintain, retain, or produce a true and accurate record required to be maintained by this chapter, there is a rebuttable presumption that the employer did not pay the required minimum wage. The factfinder shall rely on the employee's reasonable estimate regarding hours worked and wages paid to calculate any underpayment, unless there is clear and convincing evidence that the employee's estimate is not reasonable. In addition, any failure of an employer to maintain, retain, or produce a record or other information required to be maintained by this chapter and requested by the department in furtherance of an investigation conducted pursuant to this chapter that is relevant to a material fact alleged by the department in a notice of violation issued pursuant to this chapter creates a rebuttable presumption that such fact is true.

§ 20-1707 Retaliation. a. No person shall take any adverse action against any person that penalizes such person for, or is reasonably likely to deter such person from, exercising or attempting to exercise any right

protected under this chapter, including participating in or assisting an investigation, proceeding, or hearing pursuant to this chapter, asserting a claim or right under this chapter, assisting any other person in doing so, or for informing any person about their rights under this chapter.

b. Adverse actions include, but are not limited to, any threat, discharge, suspension, demotion, intimidation, discipline, harassment, reduction of hours or pay, discrimination, including actions related to the actual or perceived citizenship and immigration status of a person or their family member, or informing another employer that a person has engaged in activities protected by this chapter.

c. A person need not explicitly refer to this chapter or the rights enumerated herein to be protected from retaliation.

d. The protections of this section shall apply to a person who mistakenly but in good faith asserts their rights or alleges a violation of this chapter.

e. A violation is established when it is shown that a protected activity was a motivating factor for an adverse action, whether or not other factors motivated the adverse action.

f. Taking adverse action against an employee within 90 days of such employee's exercise or attempted exercise of rights under this chapter, assisting any other person in doing so, or informing any person about their rights under this chapter, shall create a presumption that such action was not taken for other permissible reasons.

§ 20-1708 Administrative enforcement; jurisdiction and complaint procedures. a. The department shall enforce the provisions of this chapter. In effectuating such enforcement, the department shall establish a system that uses multiple communication channels to receive complaints for noncompliance with this chapter. The department may open an investigation upon receipt of a complaint or on its own initiative.

b. Any person alleging a violation of this chapter shall have the right to file a complaint with the department within 4 years of the date the person knew or should have known of the alleged violation. The department shall maintain confidential the identity of any natural person providing information relevant to

enforcement of this chapter unless disclosure of such person's identity is necessary for resolution of the investigation or otherwise required by law. The department shall, to the extent practicable, notify such person that the department will be disclosing such person's identity prior to such disclosure.

c. Upon receiving a complaint alleging a violation of this chapter, the department shall investigate such complaint. Provided, however, that if a complaint commences a civil action pursuant to section 20-1709 for the same alleged violation, the department shall stay such investigation until the department is notified such civil action is withdrawn or dismissed without prejudice. Upon notice of a final judgment or settlement in such a civil action, the department shall dismiss the complaint unless the department determines the complaint alleges a violation not resolved by such judgment or settlement. The complainant must notify the department, in a manner prescribed by the commissioner and described on the department's website, within 30 days of the date that the time for any appeal has lapsed that such complaint is withdrawn, dismissed without prejudice, or resolved by final judgment or settlement. Nothing in this subdivision shall affect the authority of the department to open an investigation on its own initiative pursuant to subdivision a of this section.

d. A person under investigation shall, in accordance with the rules of the department and applicable law, provide the department with relevant information or evidence that the department requests pursuant to the investigation.

e. The department shall keep complainants reasonably notified regarding the status of their complaint and any resulting investigation.

f. If, as a result of an investigation of a complainant or an investigation conducted upon its own initiative, the department believes that a violation has occurred, the department may attempt to resolve an investigation concerning a violation of this chapter through any action authorized by chapter 64 of the charter. Adjudicatory powers pursuant to this chapter may be exercised by the commissioner or by the office of administrative trials and hearings pursuant to chapter 64 of the charter, in accordance with any delegation of such adjudicatory powers by the department to such office pursuant to paragraph 1 of subdivision h of section

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2203 of the charter.

g. The commissioner may promulgate rules necessary and appropriate to the administration of this chapter.

§ 20-1709 Private right of action. a. Any person alleging a violation of this chapter may commence a civil action in any court of competent jurisdiction to seek compensatory damages, including, but not limited to, the relief set forth in section 20-1713 of this chapter, injunctive and declaratory relief, attorney's fees and costs, and such other relief as such court deems appropriate. A prevailing plaintiff shall be entitled to reasonable attorney's fees and costs of suit. Such civil action shall be commenced within 6 years of the date the person knew or should have known of the alleged violation, and may encompass all violations that occurred as part of a continuing course of employer conduct regardless of their date.

b. The statute of limitations for bringing a civil action pursuant to this section shall be tolled during any investigation of an employer by the department or other law enforcement entity. Filing a complaint with the department in accordance with section 20-1708 shall be neither a prerequisite nor a bar to bringing a civil action pursuant to this section.

§ 20-1710 Enforcement by corporation counsel. a. The corporation counsel or such other persons designated by the corporation counsel on behalf of the department may initiate in any court of competent jurisdiction any action or proceeding that may be appropriate or necessary for the enforcement of any order issued by the department pursuant to this chapter or for the correction of any violation issued pursuant to section 20-1708, including actions to secure permanent injunctions, enjoining any acts or practices that constitute such violation, mandating compliance with the provisions of this chapter or such other relief as may be appropriate.

§ 20-1711 Civil action by corporation counsel for pattern or practice violations. a. Where reasonable cause exists to believe that an employer is engaged in a pattern or practice of violations of this chapter, the corporation counsel or such other persons designated by the corporation counsel may commence a civil action

on behalf of the city in a court of competent jurisdiction.

b. The corporation counsel or its designee may initiate any investigation to ascertain such facts as may be necessary for the commencement of a civil action pursuant to this section, and in connection therewith shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths and to examine such persons as are deemed necessary.

c. The corporation counsel or its designee shall commence a civil action pursuant to this section by filing a complaint setting forth facts relating to such pattern or practice and requesting relief, which may include injunctive relief, relief for employees and civil penalties set forth in section 20-1713, and any other appropriate relief.

d. In any civil action commenced pursuant to this section, the trier of fact may impose an additional civil penalty of not more than $15,000 for a finding that an employer has engaged in a pattern or practice of violations of this chapter. Any civil penalty so recovered shall be paid into the general fund of the city.

e. Nothing in this section prohibits (i) the department from exercising its authority under this chapter or (ii) a person alleging a violation of this chapter from filing a complaint pursuant to section 20-1708 or a civil action pursuant to section 20-1709 based on the same facts pertaining to such a pattern or practice, provided that a civil action pursuant to this section shall not have previously been commenced.

§ 20-1712 Reporting. a. The department shall annually report on its website: the number and nature of the complaints filed pursuant to this chapter, including the number of such complaints not substantiated and the number of notices of violations issued; the number of civil actions, to the extent the department is notified of such civil actions pursuant to this chapter; the number of investigations opened and closed pursuant to this chapter; and the average time for a complaint to be resolved pursuant to this chapter.

§ 20-1713 Civil penalties and remedies. a. Any employer that fails to pay the wages required under this chapter shall be required to pay the employee the balance of wages owed, including interest thereon, and an additional amount equal to twice the underpaid wages as liquidated damages.

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b. An employer that retaliates against an employee or other person in violation of this chapter shall be required to pay the employee a penalty set by the department or a court sufficient to compensate the employee and deter future violations, but not less than the greater of 3 times the wages that should have been paid under this chapter or $250 for each day that the violation continued or until legal judgment is final. In any case where an employee has been discharged in retaliation for exercising rights under this chapter, the period of violation extends from the day of discharge until the day the employee is reinstated, the day the employee agrees to waive reinstatement or, in the case of an employee who may not be rehired, from the day of discharge until the day legal judgment is final.

c. Any employer that violates the notice, recordkeeping, or other requirements that the department may establish under this chapter shall be subject to a civil penalty not to exceed $500 for a first violation, and at least $1,000 for each subsequent or willful violation and may, if the department or court determines appropriate, be subject to special monitoring and inspections.

d. To compensate the city for the costs of investigating and remedying violations under this chapter, the department may also order a violating employer or person to pay to the city a civil penalty of not more than $50 for each day and for each employee or person as to whom a violation of this chapter occurred or continued. To the extent allowable by law, such funds shall be allocated to the department and shall be used to offset the costs of implementing and enforcing this chapter. A portion of such funds, and any other civil penalties assessed and retained by the city pursuant to this chapter, may be used for the funding of the community-based outreach program provided for in this section.

e. The department and the courts shall have the authority to order payment of such unpaid wages, liquidated damages, and civil penalties and to order any other appropriate legal or equitable relief for violations of this chapter. To the extent allowable by law, civil penalties paid to the city shall be retained by the department and used to finance activities to enforce this chapter.

f. The department shall establish an education and outreach program in partnership with community-

based organizations to conduct education and outreach to employees and employers of their rights and obligations under this chapter.

§ 3. This local law takes effect 180 days after it becomes law.

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