City of Chicago

O2019-4153

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 6/12/2019

Sponsor(s): King (4)
Hairston (5)
Ramirez-Rosa (35)
Tabares (23)
Waguespack (32)
Beale (9)
Scott, Jr. (24)
Taylor (20)
Sawyer (6)
Rodriguez (22)
Mitts (37)
Sadlowski Garza (10)
Villegas (36)
La Spata (1)
Maldonado (26)
Silverstein (50)
Lopez (15)
Hadden (49)
Austin (34)
Gardiner (45)
Osterman (48)
Cappleman (46)
Coleman (16)
Vasquez, Jr. (40)
Dowell (3)
Taliaferro (29)
Cardona, Jr. (31)
Curtis (18)
Mitchell (7)
Brookins (21)
Ervin (28)
Martin (47)
Cardenas (12)
Sigcho-Lopez (25)
Burnett (27)
Reboyras (30)
Rodriguez Sanchez (33)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 1-24 to further regulate Chicago Miniumum Wage and Paid Sick Leave Ordinance

Committee(s) Assignment: Committee on Workforce Development

Workforce

June 12, 2019
City Council Meeting

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO

SECTION 1. Chapter 1-24 of the Municipal Code of Chicago is hereby amended by deleting the language stricken and inserting the language underscored, as follows:

CHAPTER 1-24: THE CHICAGO MINIMUM WAGE AND PAID SICK LEAVE ORDINANCE

1-24-010 Definitions

(Omitted text is not affected by this ordinance)

"Employ" means to suffer or permit to work.

"Employee" means any individual employed by an employer for wage, renumeration, or other compensation. This includes individuals working any number of hours, including full-time or part-time. "Employee" does not include a college or university student permitted to work at an accredited Illinois college or university by the college or university who is covered under the provisions of the Fair Labor Standards Act of 1938, if the Federal Work-Study program is the source of payment for such work. "Employee" does not include a person who the employer establishes: (i) has been and will continue to be free from control and direction over the performance of his or her work, both under a contract of service and in fact; (ii) is engaged in an independently established trade, occupation, profession or business; or (iii) is deemed a legitimate sole proprietor or partnership. A sole proprietor or partnership shall be deemed to be legitimate if the employer establishes that:
(a) the sole proprietor or partnership is performing the service free from the direction or control over the means and manner of providing the service, subject only to the right of the employer for whom the service is provided to specify the desired result;
(b) the sole proprietor or partnership is not subject to cancellation or destruction upon severance of the relationship with the employer;
(c) the sole proprietor or partnership has a substantial investment of capital in the sole proprietorship or partnership beyond the ordinary tools and equipment and a personal vehicle;
(d) the sole proprietor or partnership owns the capital goods and gains the profits and bears the losses of the sole proprietorship or partnership;
(e) the sole proprietor or partnership makes its services available to the general public on a continuing basis;
(f) the sole proprietor or partnership includes services rendered on a Federal Income Tax Schedule as an independent business or profession;
(g) the sole proprietor or partnership performs services for the contractor under the sole proprietorship's or partnership's name;
(h) when the services being provided require a license or permit, the sole proprietor or partnership obtains and pays for the license or permit in the sole proprietorship's or partnership's name;
(i) the sole proprietor or partnership furnishes the tools and equipment necessary to provide the service;

(j) if necessary, the sole proprietor or partnership hires its own employees without approval of the employer, pays the employees without reimbursement from the employer and reports the employees' income to the Internal Revenue Service;

(k) the employer does not represent the sole proprietorship or partnership as an employee of the employer to the public; and

(l) the sole proprietor or partnership has the right to perform similar services for others on whatever basis and whenever it chooses. ~~, "Gratuities", and "Occupation" have the meanings ascribed to those terms in the Minimum Wage Law, with the exception that: (1) all Domestic Workers, including Domestic Workers employed by Employers with fewer than four employees, shall fall under the definition of the term; and (2) for purposes of Section 1-24-045, any individual permitted to work by an Employer in an Occupation, regardless of the number of persons the Employer employs, shall fall under the definition of the term "Employee".~~

"Employer" means any individual, partnership, association, corporation, limited liability company, business trust, the City of Chicago and all Sister Agencies, employment or labor placement agency or business where wages are made directly or indirectly by the agency or business for work undertaken by the employee under hire to a third party pursuant to a contract between the business or agency with the third part, any person or group acting directly or indirectly in the interest of an employer in relation to an employee, for which one or more persons is gainfully employed ~~or any person or group of persons that gainfully employs at least one Covered Employee~~. To qualify as an Employer, such individual, group, or entity must (1) maintain a business facility within the geographic boundaries of the City; ~~and/or~~ (2) be subject to one or more of the license requirements in Title 4 of this Code; and/or (3) the work performed requires one or more employees to be physically present within the geographic boundaries of the City.

"Gratuities" means voluntary monetary contributions to an employee from a guest, patron or customer in connection with services rendered. Employers must not reduce an employee's gratuities and pay employees less than what was contributed for any reason.

"Occupation" means an industry, trade, business or class of work in which employees are gainfully employed.

~~"Subsidized Temporary Youth Employment Program" means any publicly subsidized summer or other temporary youth employment program through which persons aged 24 or younger are employed by, or engaged in employment coordinated by, a nonprofit organization or governmental entity.~~

~~"Subsidized Transitional Employment Program" means any publicly subsidized temporary employment program through which persons with unsuccessful employment histories and/or members of statistically hard-to-employ populations (such as formerly homeless persons, the long-term unemployed, and formerly incarcerated persons) are provided temporary paid employment and case-managed services under a program administered by a nonprofit organization or governmental entity, with the goal of transitioning program participants into unsubsidized employment.~~

(Omitted text is not affected by this ordinance)

1-24-020 Minimum hourly wage

(Omitted text is not affected by this ordinance)

(f) Beginning on July 1, 2020, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) $14.00 per hour.

(g) Beginning on July 1, 2021, the greater of: (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) $15.00 per hour.

(h) Beginning on July 1, 2020~~2~~2, and on every July 1 thereafter, the greater of: (1) the minimum hourly wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) the City's minimum hourly Wage from the previous year, increased in proportion to the increase, if any, in the CPI, provided, however, that ~~if the CPI increases by more than 2.5 percent in any year, the City minimum Wage increase shall be capped at 2.5 percent, and that~~ there shall be no City minimum Wage increase pursuant to this subsection in any year when the unemployment rate in Chicago for the preceding year, as calculated by the Illinois Department of Employment Security, was equal to or greater than 8.5 percent. Any increase pursuant to subsection 1-24-020~~(f)~~ (h)(3) shall be rounded up to the nearest multiple of $0.05. Any increase pursuant to subsection 1-24-020~~(f)~~ (h) shall remain in effect until any subsequent adjustment is made. On or before June 1, 2020~~2~~2, and on or before every June 1 thereafter, the commissioner shall make available to Employers a bulletin announcing the adjusted minimum hourly Wage for the upcoming year.

1-24-030 Minimum hourly wage in occupations receiving gratuities.

(Omitted text is not affected by this ordinance)

(3) Beginning on July 1, 2017, and on every July 1 ~~thereafter~~ through July 1, 2019, the greater of (A) the minimum hourly Wage set by the Fair Labor Standards Act for tipped workers; (B) the minimum hourly Wage set by the Minimum Wage Law for workers who receive Gratuities; or (C) the City's minimum hourly Wage from the previous year for workers who receive Gratuities, increased in proportion to the increase, if any, in the CPI, provided, however, that ~~if the CPI increases by more than 2.5 percent in any year, the City minimum Wage increase for workers who receive Gratuities shall be capped at 2.5 percent, and that~~ there shall be no City minimum Wage increase for workers who receive Gratuities pursuant to this subsection in any year when the unemployment rate in Chicago for the preceding year, as calculated by the Illinois Department of Employment Security, was equal to or greater than 8.5 percent. Any increase pursuant to subsection 1-24-030(a)(3)(C) shall be rounded up to the nearest multiple of $0.05. Any increase pursuant to subsection 1-24-030(a)(3) shall remain in effect until any subsequent adjustment is made. On or before June 1, 2017, and on or before every June 1 ~~thereafter~~ through July 1, 2019, the commissioner shall make available to Employers a bulletin announcing the City's minimum hourly Wage for the upcoming year for workers who receive Gratuities.

(4) Beginning on July 1, 2020, the greater of: (A) the minimum hourly Wage set by the Fair Labor Standards Act for Tipped Employees, plus an additional $2.00 per hour; or (B) the minimum hourly Wage set by the Minimum Wage Law for workers who receive Gratuities, plus an additional $2.00 per hour; or (C) $8.55 per hour.

(5) Beginning on July 1, 2021, the greater of: (A) the minimum hourly Wage set by the Fair Labor Standards Act for Tipped Employees, plus an additional $3.00 per hour; or (B) the minimum hourly Wage set by the Minimum Wage Law for workers who receive Gratuities, plus an additional $3.00 per hour; or (C) $10.70 per hour.

(6) Beginning on July 1, 2022, the greater of: (A) the minimum hourly Wage set by the Fair Labor Standards Act for Tipped Employees, plus an additional $4.00 per hour; or (B) the minimum hourly Wage

set by the Minimum Wage Law for workers who receive Gratuities, plus an additional $4.00 per hour; or (C) $12.85 per hour.

(7) Beginning on July 1, 2023, and thereafter, there shall be no separate minimum wage for workers who receive Gratuities; such workers shall be covered by the Minimum hourly wage set forth in Section 1-24-020.

(Omitted text is not affected by this ordinance)

1-24-050 Exclusions.

(Omitted text is not affected by this ordinance)

~~(a) By any person subject to subsection 4(a)(2) of the Minimum Wage Law, with the exception that the categories of Employees described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Minimum Wage Law shall be entitled to the Wages described in Sections 1-24-020 and 1-24-030 above, whichever applies, as well as the overtime compensation described in Section 1-24-040;~~

(b) By ~~any person subject to subsection 4(a)(3), subsection 4(d), subsection 4(e), Section 5, or Section 6 of the Minimum Wage Law, with the exception that persons subject to Section 5 of the Minimum Wage Law~~ an Employee of a not-for-profit residential institution for individuals with an intellectual, developmental, or physical disability who resides at such institution, who may be paid a lesser wage approved by the Illinois Department of Labor if the employer can demonstrate that the Illinois Department of Labor has approved an application for a License to Employ Physically or Mentally Challenged at Sub-Minimum Wage Rate that is currently in effect, with the exception that such Employee shall be entitled to all the rights provided under Section 1-24-045 of this chapter.

(c) For any governmental entity other than the City or any Sister Agency, a category that, for purposes of this chapter, includes, but is not limited to, ~~any Sister Agency,~~ any unit of local government, the Illinois state government, and the government of the United States, as well as any other federal, state, or local governmental agency or department;

~~(d) For any Subsidized Temporary Youth Employment Program; or~~

~~(e) For any Subsidized Transitional Employment Program.~~

1-24-090 Enforcement – Administration – Regulations.

(a) The department of business affairs and consumer protection shall enforce this chapter, and the commissioner is authorized to adopt regulations for the proper administration and enforcement of its provisions.

(b) Starting in 2021, the department of business affairs and consumer protection Office of Labor Standards annually shall draft and deliver to City Council a report and recommendations on a minimum wage level adequate for a worker to hold one full-time job and support a household in the City.

(1) The report and recommendations shall take into account recent available data on the costs of housing, food, transportation, child care, health care, taxes, and other household necessities.

(A) Housing costs, as well as transportation, shall be based on costs of living in the City of Chicago, rather than commuting from outside the City.

(B) Child care costs shall be based on full-year costs of quality child care for at least one child between birth and five years of age.

(2) The report and recommendations shall be delivered to City Council each year by March 1st for Council to consider the adequacy of the minimum wage level under this chapter. The report and recommendations shall be made public contemporaneously through publication on the City's website.

SECTION 2. This ordinance shall take effect and be in force from and after its passage and publication.

Sophia King
Alderman, 4th Ward

(6) (35) (22) (23) 37 9th 36th 24 3rd 2nd 20th 50 10th 5

