

In the City Council, May 20, 2021

Upon the Recommendation of Councilor Gina-Louise Sciarra, Councilor William Dwight and Councilor Alex Jarrett

R-21.272

A RESOLUTION URGING ACTION ON AN ACT TO PREVENT WAGE THEFT, PROMOTE EMPLOYER ACCOUNTABILITY, AND ENHANCE PUBLIC ENFORCEMENT

WHEREAS, the practice known as "wage theft" harms employees, their families, and their communities; and

WHEREAS, according to the Economic Policy Institute, the amount of wage theft nationwide is estimated to be at least three times as much as all robberies, burglaries, larcenies, and motor vehicle thefts combined, yet enforcement at the federal level is less than it was in 1948 despite a workforce six times larger; and

WHEREAS, low-income, immigrant, and workers with limited English proficiency are most vulnerable to this practice; and

WHEREAS, workers, especially those in the construction and hospitality businesses, are vulnerable to and should be protected from employers, contractors, and subcontractors who engage in illegal practices such as paying in cash, failing to pay overtime, failing to make payroll deductions, not covering workers with worker's compensation or unemployment benefits, or misclassifying workers as independent contractors; and

WHEREAS, there are several practices injurious to workers and their families and the City that constitute wage theft including:

- the failure to pay a required minimum wage (MGL c. 151 § 1);
- the failure to pay overtime as required (MGL c. 151 §§ 1A, 1B);
- paying an unreasonable or oppressive wage to an employee in farming or agriculture or other occupations (MGL c. 151 §§ 2A, 7);
- the failure to pay wages timely or in full (MGL c. 149 §§ 148, 150, MGL c. 151 §§ 19, 20);
- the failure to properly classify an individual as an employee (MGL c. 149 § 148B);
- the failure of the employer to provide sick time at a minimum of one hour of earned sick time for every thirty hours worked by an employee (MGL c. 149 § 148C);
- improperly taking or requiring workers to pay any part of their tips to employers (MGL c 149 § 152A);
- a staffing agency charging prescribed fees or charging more for transportation than allowed (MGL c 140 § 159C(c) and (d));
- the failure to provide an individual with the status of employee when such status would be appropriate (MGL c 151 § 19); and

WHEREAS, in order to be protected against wage theft, employees must be fully informed about working conditions and their terms of employment, which, at the outset of employment, includes being provided with information regarding their rate of pay and whether that rate is based on hourly, shift, day week, salary, piece, or commission rate; and

WHEREAS, to be further protected against wage theft, an employee should also be informed about other employment terms, such as whether there are any allowances claimed as part of minimum wage (including meal, tip, or lodging allowances), the regular pay day, information about their employer's name, address, and phone number plus the name, address, and phone number of the employer's worker's compensation insurance carrier; and

WHEREAS, employers acting as lead contractors may employ labor contractors and labor subcontractors, all of whom must be held accountable if they engage in wage theft with any of their employees; and

WHEREAS, for the protection of workers in Massachusetts, the law must define wage theft and must provide rights and remedies for workers who have been victims of wage theft by employers; and further, that such rights and remedies should be enforceable by the Attorney General, the aggrieved individual worker, or by a whistleblower or representative organization; and

WHEREAS, employees should be protected in seeking their rights under the wages and hours laws, and should be free from employer discrimination or retaliation for asserting those rights (MGL c. 149 §148A); and

WHEREAS, in 2017 the Northampton City Council approved "An Order – Wage Compliance Certificates Required for Licenses," and Mayor David J. Narkewicz issued an "Executive Policy Order Establishing Wage Law Compliance Certification Requirements for Procurement and Contracts," and an "Executive Policy Order Establishing Wage Law Compliance Certification Requirements for Tax Increment Financing (TIF)," each of which support the City's desire to avoid doing business with vendors and/or their subcontractors who have engaged in wage theft or employment practices that violate MGL c 149 § 151, or the Fair Labor Standards Act; and

WHEREAS, H1959 / S1179, An Act To Prevent Wage Theft, Promote Employer Accountability, and Enhance Public Enforcement, which is co-sponsored by Northampton's State Senator Jo Comerford, and State Representative Lindsay Sabadosa, will codify the definition of "wage theft" within the laws of the Commonwealth, require employers to disclose terms of employment including those relating to pay, employer contact information, and worker's compensation coverage, and also provide a process for individuals, whistleblowers, the Attorney General, or the aggrieved employee to enforce violations constituting wage theft without fear of retaliation or discrimination.

NOW THEREFORE BE IT RESOLVED that the City Council of Northampton asks the State Legislature to pass with haste H1959 and S1179 to add state protection to the municipal protection for Northampton workers, and provide those protections to workers throughout the Commonwealth.

BE IT FURTHER RESOLVED that the Administrative Assistant to the City Council shall cause a copy of this resolution to be sent to Governor Charles Baker; Lead Sponsor on S.1179 Sal N. DiDomenico; Lead Sponsor on H.1959 Daniel M. Donahue; State Senator Jo Comerford; State Representative Lindsay Sabadosa, Chairs of the Joint Committee on Labor and Workforce Development State Senator Patricia D. Jehlen and State Representative Josh S. Cutler.