

0-2014-011

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: Richard J. Berry, Mayor

FROM: Jon K. Zaman, Director of Council Services

JKZ 5/16/14

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. O-13-58 Amending Section 13-12-5 ROA 1994 To Establish A Criminal Penalty For The Violation Of The Albuquerque Minimum Wage Ordinance, And To Clarify The Enforcement And Implementation Of The Minimum Wage Ordinance (Sanchez), which was passed at the Special Council meeting of May 8, 2014 by a vote of 7 FOR AND 2 AGAINST.

Against: Harris, Jones

In accordance with the provisions of the City Charter, your action is respectfully requested.

JKZ:mh
Attachment

CITY of ALBUQUERQUE

TWENTIETH COUNCIL

COUNCIL BILL NO. O-13-58 ENACTMENT NO. O-2014-011

SPONSORED BY: Ken Sanchez

1 ORDINANCE
2 AMENDING SECTION 13-12-5 ROA 1994 TO ESTABLISH A CRIMINAL
3 PENALTY FOR THE VIOLATION OF THE ALBUQUERQUE MINIMUM WAGE
4 ORDINANCE, AND TO CLARIFY THE ENFORCEMENT AND IMPLEMENTATION
5 OF THE MINIMUM WAGE ORDINANCE.
6 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
7 ALBUQUERQUE:

8 Section 1. Section 13-12-5 ROA 1994 is amended to read as follows:
9 “§ 13-12-5 IMPLEMENTATION AND ENFORCEMENT.

10 (A) Implementation and Rulemaking. The city shall implement and
11 enforce this article and shall promulgate appropriate guidelines or rules for
12 such purposes. Any guidelines or rules promulgated by the city shall have the
13 force and effect of law and may be relied on by employers, employees, and
14 other parties to determine their rights and responsibilities under this article.
15 Any such guidelines or rules shall establish procedures for ensuring fair,
16 efficient and cost-effective implementation of this article, including
17 supplementary procedures, such as a hotline, for helping to inform employees
18 of their rights under this article and for monitoring employer compliance with
19 this article.

20 (B) Civil enforcement. Any employee receiving less than the wage to
21 which the employee is entitled under this article may bring a civil action in a
22 court of competent jurisdiction and, upon prevailing, shall recover the balance
23 of the wages owed, including interest thereon, and an additional amount equal
24 to twice the wages owed, and any other appropriate legal or equitable relief.
25 Any employee who has suffered discrimination in any manner or had adverse
26 action taken against that employee in retaliation for exercising rights

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1 protected under this article may bring a civil action in a court of competent
2 jurisdiction and, upon prevailing, shall recover actual damages plus
3 reinstatement in the case of discharge. In any case where an employee has
4 been discharged in retaliation for exercising rights under this article, the
5 period of violation extends from the day of discharge until the day the
6 employee is reinstated, the day the employee agrees to waive reinstatement
7 or, in the case of an employee who may not be rehired, from the day of
8 discharge until the day legal judgment is final. In such case, unpaid wages
9 and actual damages recovered shall be payable to the individual employee as
10 to whom the violation occurred. A plaintiff prevailing in an action to enforce
11 this article shall be entitled to recover his or her costs and expenses of suit
12 and reasonable attorney's fees.

13 (C) Criminal penalty. Any person who violates this article shall be
14 deemed guilty of a petty misdemeanor and upon conviction shall be subject to
15 the criminal penalty provisions set forth in Section 1-1-99 of this code of
16 ordinances. Each separate violation shall constitute a separate offense and
17 each day of violation shall constitute a separate offense.

18 (D) The City Attorney shall enforce this article.”

19 Section 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
20 clause, word or phrase of this ordinance is for any reason held to be invalid or
21 unenforceable by any court of competent jurisdiction, such decision shall not
22 affect the validity of the remaining provisions of this ordinance. The Council
23 hereby declares that it would have passed this ordinance and each section,
24 paragraph, sentence, clause, word or phrase thereof irrespective of any
25 provision being declared unconstitutional or otherwise invalid.

26 Section 3. COMPILATION. This ordinance shall be incorporated in and
27 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

28 Section 4. EFFECTIVE DATE. This ordinance shall take effect five days
29 after publication by title and general summary.

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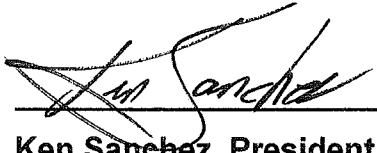
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1 PASSED AND ADOPTED THIS 8th DAY OF May 2014
2 BY A VOTE OF: 7 FOR 2 AGAINST.

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4 Against: Harris, Jones

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8 Ken Sanchez, President
9 City Council

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13 APPROVED THIS 22nd DAY OF May, 2014

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17 Bill No. O-13-58

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22 Richard J. Berry, Mayor
23 City of Albuquerque

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26 ATTEST:

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29 Trina M. Gurule, Acting City Clerk

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