

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

3 SERIES OF 2021

COUNCIL BILL NO. CB21-

COMMITTEE OF REFERENCE:

[COMMITTEE NAME]

5 **A BILL**

6 **For an ordinance amending the Offenses, Miscellaneous Provisions chapter of**
7 **the Denver Revised Municipal Code to provide for the offense of wage theft.**

8 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

9 **Section 1.** Article III, Division 1 of Chapter 38 shall be amended by adding the language
10 underlined to read as follows:

11 **ARTICLE III. – OFFENSES AGAINST PROPERTY**

12 **DIVISION I. – GENERALLY**

13 **Section 38-51.9 – Wage Theft**

14 (a) It shall be unlawful for any employer or agent of an employer to knowingly refuse to pay
15 any wages or compensation owed to any worker or falsely deny the amount of wages owed, the
16 validity thereof, or that the same is due to any worker.

17 (b) Definitions.

18 (1) “Employer” shall have the meaning set forth in DRMC section 58-18.

19 (2) “Wages” shall have the same definition set forth in § 8-4-101, C.R.S., as amended.

20 (3) “Worker” shall have the meaning set forth in DRMC section 58-18. For purposes
21 of this section, a person is a “worker” rather than an independent contractor when the person
22 is economically dependent on the business to which he or she renders service, and a person
23 is an “independent contractor” when the person is, as a matter of economic fact, in business
24 for himself or herself. In making this determination, the trier of fact shall consider the totality
25 of the circumstances, and it shall be prima facie evidence that a person is a worker when:

26 a. The employer exerts a degree of control over the person at work, such as
27 setting working hours, controlling break and lunch times, or directing the person when
28 and where to work;

29 b. The person earns a set wage or salary or commission;

30 c. The person works exclusively for the employer, and does not provide similar
31 services to other employers; or

32 d. The person does not bring a level of skill and knowledge unique to the job,
33 but rather the employer provides on-the-job training for the work to be done.

1 (c) This section shall apply only where the value of loss involved is less than two thousand
2 dollars (\$2,000.00) per violation.

3 (d) It shall be unlawful for any employer or agent of an employer to interfere with, restrain,
4 deny, or attempt to deny, or assist another person in interfering with, restraining, denying or
5 attempting to deny, the exercise of the right to report a crime under this section or assist in the
6 enforcement or investigation of such crime.

7 (e) The city attorney's office shall provide annual reports to the city council on the first of
8 April outlining the number of cases prosecuted under this section and the disposition of each case
9 for the previous calendar year beginning in January and ending in December, subject to any laws
10 governing the release of criminal justice records.

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13 COMMITTEE APPROVAL DATE:
14 MAYOR-COUNCIL DATE:
15 PASSED BY THE COUNCIL: _____, 2021

16 _____ - PRESIDENT

17 APPROVED: _____ - MAYOR _____, 2021

18 ATTEST: _____ - CLERK AND RECORDER,
19 EX-OFFICIO CLERK OF THE
20 CITY AND COUNTY OF DENVER

21 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2021; _____, 2021

22 PREPARED BY: [NAME], Assistant City Attorney

23 DATE: _____, 2021

24 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
25 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
26 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
27 3.2.6 of the Charter.

28 Kristin Bronson, Denver City Attorney

29 BY: _____, Assistant City Attorney DATE: _____, 2021

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