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Supreme Court Delivers A Victory For Supporters Of Seattle's Minimum Wage Law

The justices won't hear a constitutional challenge brought by franchise owners.

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The U.S. Supreme Court on Monday rejected a sweeping constitutional challenge to Seattle's minimum wage law, in what could have been a test case for future legal attacks on similar measures across the country.

In a one-line order, the justices declined to hear a case by the International Franchise Association and a group of Seattle franchisees, which had said in court papers that the city's gradual wage increase to \$15 discriminates against them in a way that violates the Constitution's commerce clause.

"The franchise model not only allows small businesses to get started, it allows interstate consumers to see familiar trademarks and products when they cross state lines," said the challengers in their petition to the court. "Discrimination against franchise businesses is discrimination against interstate commerce."

The business groups had argued that Seattle's decision to raise the minimum wage was unconstitutional because its implementation over several years treated small business differently — with those associated with franchise networks hit harder than those that choose to remain autonomous.

"The effect on small franchisees is dramatic: a small sandwich shop with a handful of employees will need to pay its employees \$11 an hour in 2017 if it stays independent, but \$15 an hour if it signs a franchise agreement," the petition read. "That amounts to a \$160 per week per employee."

Lower courts rejected these and other arguments, including claims that Seattle's wage ordinance violates equal protection principles and even the First Amendment's free speech and association provisions. The challengers abandoned these latter claims in their Supreme Court appeal.

Ahead of Monday's action, the U.S. Chamber of Commerce and the libertarian Cato Institute both filed legal briefs urging the Supreme Court to get involved in the dispute. Paul Clement, a high-powered appellate attorney and former solicitor general under President George W. Bush, represented the franchise association.

The court's refusal to take the case didn't note the justices' rationale, but it is possible that the potential for a 4-to-4 split along ideological lines — as a result of Justice Antonin Scalia's death — might have played a role in the decision.

The challenge to the Seattle law was significant because more and more cities are likely to pass similar ordinances.

In 2014, Seattle became the first major U.S. city to pass a \$15 minimum wage, which has been the rallying cry of the Fight for \$15 labor movement. The law gradually phases in a \$15 minimum wage throughout the city, with businesses having to hit certain benchmarks depending on their size. Small employers must raise their wage floor to \$15 by 2021, while large employers must reach it by next January.

The Seattle legislation was a compromise between the mayor, the City Council, local labor unions and the business community. Many employers feared that voters would approve a more drastic ordinance at the ballot box and create an immediate \$15 minimum wage, so they came to the table to hash out a more moderate deal. To varying degrees, the Seattle ordinance has served as a model for other jurisdictions that have passed \$15 minimum wages, including San Francisco and Los Angeles, and most recently California and New York state.

Unions and progressive activists have had remarkable success in passing state and city minimum wage hikes in lieu of congressional action in recent years. For the first time ever, a majority of states now have a higher minimum wage than the federal level, which is just \$7.25 per hour and hasn't moved since 2009.