

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1328

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DATE	D-PG	OFFICIAL STATUS
03/04/2015	526	Introduction and first reading Referred to Jobs, Agriculture and Rural Development

A bill for an act

1.1 relating to employment; enacting the Wage Theft Protection Act; modifying
 1.2 labor standards; classifying data; modifying penalties; creating a new crime;
 1.3 appropriating money; amending Minnesota Statutes 2014, sections 13.7905, by
 1.4 adding a subdivision; 177.23, subdivision 7; 177.25, subdivision 1; 177.253,
 1.5 subdivision 1; 177.254, subdivision 1; 177.27, subdivisions 7, 8, 9, by adding
 1.6 subdivisions; 177.32; 181.032; 541.05, subdivision 1; 541.07; proposing coding
 1.7 for new law in Minnesota Statutes, chapters 177; 181; repealing Minnesota
 1.8 Rules, part 5200.0080, subpart 7.
 1.9

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. TITLE.

1.12 This act shall be known as the "Wage Theft Protection Act."

1.13 Sec. 2. Minnesota Statutes 2014, section 13.7905, is amended by adding a subdivision
 1.14 to read:

1.15 Subd. 7. **Complaints to the Department of Labor and Industry.** Certain data
 1.16 regarding employee complaints to the commissioner of labor and industry are classified
 1.17 under section 177.27, subdivision 11.

1.18 Sec. 3. Minnesota Statutes 2014, section 177.23, subdivision 7, is amended to read:

1.19 Subd. 7. **Employee.** "Employee" means any individual employed by an employer
 1.20 but does not include:

1.21 ~~(1) two or fewer specified individuals employed at any given time in agriculture on a~~
 1.22 ~~farming unit or operation who are paid a salary;~~

2.1 ~~(2) any individual employed in agriculture on a farming unit or operation who is~~
 2.2 ~~paid a salary greater than the individual would be paid if the individual worked 48 hours at~~
 2.3 ~~the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;~~

2.4 ~~(3)~~ (1) an individual under 18 who is employed in agriculture on a farm to perform
 2.5 services other than corn detasseling or hand field work when one or both of that minor
 2.6 hand field worker's parents or physical custodians are also hand field workers;

2.7 ~~(4)~~ (2) for purposes of section 177.24, an individual under 18 who is employed
 2.8 as a corn detasseler;

2.9 ~~(5)~~ (3) any staff member employed on a seasonal basis by an organization for work
 2.10 in an organized resident or day camp operating under a permit issued under section 144.72;

2.11 ~~(6)~~ (4) any individual employed in a bona fide executive, administrative, or
 2.12 professional capacity, or a salesperson who conducts no more than 20 percent of sales
 2.13 on the premises of the employer;

2.14 ~~(7)~~ (5) any individual who renders service gratuitously for a nonprofit organization;

2.15 ~~(8)~~ (6) any individual who serves as an elected official for a political subdivision or
 2.16 who serves on any governmental board, commission, committee or other similar body, or
 2.17 who renders service gratuitously for a political subdivision;

2.18 ~~(9)~~ (7) any individual employed by a political subdivision to provide police or fire
 2.19 protection services or employed by an entity whose principal purpose is to provide police
 2.20 or fire protection services to a political subdivision;

2.21 ~~(10)~~ (8) any individual employed by a political subdivision who is ineligible for
 2.22 membership in the Public Employees Retirement Association under section 353.01,
 2.23 subdivision 2b, clause (1), (2), (4), or (9);

2.24 ~~(11)~~ (9) any driver employed by an employer engaged in the business of operating
 2.25 taxicabs;

2.26 ~~(12)~~ (10) any individual engaged in babysitting as a sole practitioner;

2.27 ~~(13)~~ (11) for the purpose of section 177.25, any individual employed on a seasonal
 2.28 basis in a carnival, circus, fair, or ski facility;

2.29 ~~(14)~~ (12) any individual under 18 working less than 20 hours per workweek for a
 2.30 municipality as part of a recreational program;

2.31 ~~(15)~~ (13) any individual employed by the state as a natural resource manager 1, 2, or
 2.32 3 (conservation officer);

2.33 ~~(16)~~ (14) any individual in a position for which the United States Department of
 2.34 Transportation has power to establish qualifications and maximum hours of service under
 2.35 United States Code, title 49, section 31502;

3.1 ~~(17)~~ (15) any individual employed as a seafarer. The term "seafarer" means a
 3.2 master of a vessel or any person subject to the authority, direction, and control of the
 3.3 master who is exempt from federal overtime standards under United States Code, title 29,
 3.4 section 213(b)(6), including but not limited to pilots, sailors, engineers, radio operators,
 3.5 firefighters, security guards, pursers, surgeons, cooks, and stewards;

3.6 ~~(18)~~ (16) any individual employed by a county in a single-family residence owned
 3.7 by a county home school as authorized under section 260B.060 if the residence is
 3.8 an extension facility of that county home school, and if the individual as part of the
 3.9 employment duties resides at the residence for the purpose of supervising children as
 3.10 defined by section 260C.007, subdivision 4; or

3.11 ~~(19)~~ (17) nuns, monks, priests, lay brothers, lay sisters, ministers, deacons, and other
 3.12 members of religious orders who serve pursuant to their religious obligations in schools,
 3.13 hospitals, and other nonprofit institutions operated by the church or religious order.

3.14 Sec. 4. Minnesota Statutes 2014, section 177.25, subdivision 1, is amended to read:

3.15 Subdivision 1. **Compensation required.** No employer may employ an employee
 3.16 for a workweek longer than ~~48~~ 40 hours, unless the employee receives compensation for
 3.17 employment in excess of ~~48~~ 40 hours in a workweek at a rate of at least 1-1/2 times the
 3.18 regular rate at which the employee is employed. The state of Minnesota or a political
 3.19 subdivision may grant time off at the rate of 1-1/2 hours for each hour worked in excess of
 3.20 ~~48~~ 40 hours in a week in lieu of monetary compensation. An employer does not violate
 3.21 the overtime pay provisions of this section by employing any employees for a workweek
 3.22 in excess of ~~48~~ 40 hours without paying the compensation for overtime employment
 3.23 prescribed ~~(1)~~ if the employee is employed under an agreement meeting the requirement
 3.24 of section 7(b)(2) of the Fair Labor Standards Act of 1938, as amended, ~~or (2) if the~~
 3.25 ~~employee is employed as a sugar beet hand laborer on a piece rate basis, provided that the~~
 3.26 ~~regular rate of pay received per hour of work exceeds the applicable wage provided in~~
 3.27 ~~section 177.24, subdivision 1 by at least 40 cents.~~

3.28 Sec. 5. Minnesota Statutes 2014, section 177.253, subdivision 1, is amended to read:

3.29 Subdivision 1. **Rest breaks.** An employer must allow each employee ~~adequate time~~
 3.30 ~~from work within each four consecutive hours of work to utilize the nearest convenient~~
 3.31 ~~restroom~~ a rest break of at least ten minutes per four consecutive hours of work. Time
 3.32 spent by employees on rest breaks must be counted as hours worked.

3.33 Sec. 6. Minnesota Statutes 2014, section 177.254, subdivision 1, is amended to read:

4.1 Subdivision 1. **Meal break.** ~~An employer must permit each employee who is~~
4.2 ~~working for eight or more consecutive hours sufficient time to eat a meal.~~ An employer
4.3 must permit each employee who works for five or more consecutive hours a meal break of
4.4 at least 30 minutes, except that if the work period for the day is six consecutive hours or
4.5 less, the employee and employer may waive the meal break by mutual consent.

4.6 Sec. 7. Minnesota Statutes 2014, section 177.27, subdivision 7, is amended to read:

4.7 Subd. 7. **Employer liability.** (a) If an employer is found by the commissioner to
4.8 have violated a section identified in subdivision 4, or any rule adopted under section
4.9 177.28, and the commissioner issues an order to comply, the commissioner shall order
4.10 the employer to cease and desist from engaging in the violative practice and to take such
4.11 affirmative steps that in the judgment of the commissioner will effectuate the purposes
4.12 of the section or rule violated. The commissioner shall order the employer to pay to
4.13 the aggrieved parties back pay, gratuities, and compensatory damages, less any amount
4.14 actually paid to the employee by the employer, and for an additional ~~equal~~ amount as
4.15 liquidated damages equal to twice the unpaid wages, overtime pay, and gratuities.

4.16 (b) Any employer who is found by the commissioner to have repeatedly or willfully
4.17 violated a section or sections identified in subdivision 4 shall be subject to a civil penalty
4.18 of ~~up to \$1,000~~ at least \$5,000, but no more than \$10,000 for each violation for each
4.19 employee. In determining the amount of a civil penalty under this subdivision, the
4.20 appropriateness of such penalty to the size of the employer's business and the gravity of
4.21 the violation shall be considered. In addition, the commissioner may order the employer
4.22 to reimburse the department and the attorney general for all appropriate litigation and
4.23 hearing costs expended in preparation for and in conducting the contested case proceeding,
4.24 unless payment of costs would impose extreme financial hardship on the employer. If the
4.25 employer is able to establish extreme financial hardship, then the commissioner may
4.26 order the employer to pay a percentage of the total costs that will not cause extreme
4.27 financial hardship. Costs include but are not limited to the costs of services rendered by
4.28 the attorney general, private attorneys if engaged by the department, administrative law
4.29 judges, court reporters, and expert witnesses as well as the cost of transcripts. Interest
4.30 shall accrue on, and be added to, the unpaid balance of a commissioner's order from the
4.31 date the order is signed by the commissioner until it is paid, at an annual rate provided in
4.32 section 549.09, subdivision 1, paragraph (c). The commissioner may establish escrow
4.33 accounts for purposes of distributing damages.

5.1 (c) In addition to paragraph (b), when the commissioner finds that an employer
 5.2 has repeatedly or willfully violated a section or sections identified in subdivision 4, the
 5.3 commissioner shall take the following actions:

5.4 (1) the commissioner shall identify any state, county, or municipal agency, or
 5.5 municipality as defined in section 466.01, subdivision 1, that has issued licenses or permits
 5.6 necessary for the employer to conduct its business; and

5.7 (2) the commissioner shall order any identified state, county, or municipal agency,
 5.8 or municipality as defined in section 466.01, subdivision 1, to immediately revoke or
 5.9 suspend any such licenses or permits until the commissioner determines that the employer
 5.10 has remedied all violations.

5.11 (d) The commissioner has the power to take the actions described in paragraph (c),
 5.12 notwithstanding any conflicting statute, rule, ordinance, or other regulation. A state,
 5.13 county, or municipal agency, or municipality as defined in section 466.01, subdivision
 5.14 1, has the power to comply with an order of the commissioner under paragraph (c),
 5.15 notwithstanding any conflicting statute, rule, ordinance, or other regulation.

5.16 Sec. 8. Minnesota Statutes 2014, section 177.27, subdivision 8, is amended to read:

5.17 Subd. 8. **Court actions; suits brought by private parties.** An employee may
 5.18 bring a civil action seeking redress for a violation or violations of sections 177.21 to
 5.19 177.44 directly to district court. An employer who pays an employee less than the wages
 5.20 and overtime compensation to which the employee is entitled under sections 177.21 to
 5.21 177.44 is liable to the employee for the full amount of the wages, gratuities, and overtime
 5.22 compensation, less any amount the employer is able to establish was actually paid to the
 5.23 employee and for an additional equal amount as liquidated damages equal to twice the
 5.24 unpaid wages, overtime pay, and gratuities. In addition, in an action under this subdivision
 5.25 the employee may seek damages and other appropriate relief provided by subdivision 7
 5.26 and otherwise provided by law. An agreement between the employee and the employer to
 5.27 work for less than the applicable wage is not a defense to the action.

5.28 Sec. 9. Minnesota Statutes 2014, section 177.27, subdivision 9, is amended to read:

5.29 Subd. 9. **District court jurisdiction.** Any action brought under subdivision 8 may
 5.30 be filed in the district court of the county wherein a violation or violations of sections
 5.31 ~~177.21 to 177.44~~ are alleged to have been committed, where the respondent resides or
 5.32 has a principal place of business, or any other court of competent jurisdiction. The action
 5.33 may be brought by one or more employees. An employee may choose to have a person

6.1 or organization bring an action on the employee's behalf. In such a case, the person or
6.2 organization has the power to settle or adjust the claim.

6.3 Sec. 10. Minnesota Statutes 2014, section 177.27, is amended by adding a subdivision
6.4 to read:

6.5 Subd. 11. **Employee complaints.** (a) Any person or organization may file an
6.6 administrative complaint or an informal complaint with the department claiming an
6.7 employer has violated sections 177.21 to 177.44 as to any employee or person.

6.8 (b) The commissioner shall allow for anonymous informal and administrative
6.9 complaints. The commissioner shall take steps to keep the identity of a complaining
6.10 employee or other individual confidential if that employee or individual so chooses.

6.11 (c) If the commissioner investigates a complaint against an employer and the
6.12 commissioner chooses to review employer records related to the complaint, the
6.13 commissioner shall review the relevant records of all employees at that work site in order to:

6.14 (1) maintain the employee's anonymity; and

6.15 (2) determine whether a pattern of violations has occurred.

6.16 (d) Any information regarding a complaint under this subdivision is excluded from
6.17 any requirements for disclosure under the Minnesota Government Data Practices Act.

6.18 Sec. 11. Minnesota Statutes 2014, section 177.27, is amended by adding a subdivision
6.19 to read:

6.20 Subd. 12. **Wage bonds.** (a) If, upon investigation by the commissioner of any
6.21 complaint under sections 177.21 to 177.44, the commissioner finds that an employer is
6.22 not paying wages due its employees, the commissioner may require the employer to
6.23 give the department a bond, with sufficient surety, in an amount that the commissioner
6.24 deems reasonable and adequate under the circumstances. Forfeiture of the bond may be
6.25 conditioned on the employer continuing to conduct its business and paying its employees
6.26 in accordance with all laws for a definite period not to exceed six months.

6.27 (b) If, within ten days after the commissioner demands such a bond, the employer
6.28 fails to provide it, the commissioner may bring an action against the employer, in any
6.29 court of competent jurisdiction, to compel the employer to provide the bond or to cease
6.30 conducting business until the employer has done so. The employer shall have the burden
6.31 of proving the amount of the bond to be excessive.

6.32 Sec. 12. Minnesota Statutes 2014, section 177.27, is amended by adding a subdivision
6.33 to read:

7.1 Subd. 13. **Protecting immigrant workers.** The commissioner must execute all of
7.2 its duties under this section without regard to an employee's immigration status, unless
7.3 explicitly prohibited by federal law.

7.4 Sec. 13. **[177.311] GRANTS TO COMMUNITY ORGANIZATIONS.**

7.5 The commissioner must make grants to community organizations for the purpose of
7.6 outreach to and education for employees affected by sections 177.21 to 177.44 regarding
7.7 employee rights under those sections. The community-based organizations must be
7.8 selected based on their experience, capacity, and relationships in high-violation industries.
7.9 The work under any such grant may include the creation and administration of a statewide
7.10 worker hotline.

7.11 Sec. 14. **[177.315] EMPLOYER RETALIATION.**

7.12 No employer shall discharge or take any other adverse action against any person in
7.13 retaliation for asserting any claim or right under sections 177.21 to 177.44, for assisting
7.14 any other person in doing so, or for informing any person about the person's rights under
7.15 sections 177.21 to 177.44. An employer taking any adverse action against a person within
7.16 one year of a person's engaging in the foregoing activities shall raise a presumption that
7.17 such action was retaliation, which may be rebutted by clear and convincing evidence that
7.18 the action was taken for other permissible reasons.

7.19 Sec. 15. Minnesota Statutes 2014, section 177.32, is amended to read:

7.20 **177.32 PENALTIES.**

7.21 Subdivision 1. **Misdemeanors Crimes.** (a) An employer who does any of the
7.22 following is guilty of a misdemeanor:

7.23 (1) hinders or delays the commissioner in the performance of duties required under
7.24 sections 177.21 to 177.435;

7.25 (2) refuses to admit the commissioner to the place of business or employment of the
7.26 employer, as required by section 177.27, subdivision 1;

7.27 (3) repeatedly fails to make, keep, and preserve records as required by section 177.30;

7.28 (4) falsifies any record;

7.29 (5) refuses to make any record available, or to furnish a sworn statement of the
7.30 record or any other information as required by section 177.27;

7.31 (6) repeatedly fails to post a summary of sections 177.21 to 177.44 or a copy or
7.32 summary of the applicable rules as required by section 177.31;

8.1 (7) pays or agrees to pay wages at a rate less than the rate required under sections
 8.2 177.21 to 177.44, and the total of any such wages in relation to all affected employees
 8.3 is less than \$5,000;

8.4 (8) refuses to allow adequate time from work as required by section 177.253; or

8.5 (9) otherwise violates any provision of sections 177.21 to 177.44.

8.6 (b) An employer is guilty of a gross misdemeanor if the employer fails to pay any
 8.7 wages due to an employee or employees under sections 177.21 to 177.44, and the total of
 8.8 any such wages in relation to all affected employees is \$5,000 or more.

8.9 (c) An employer who is convicted of a crime under paragraph (a) or (b) and is
 8.10 subsequently convicted of a second crime under paragraph (a) or (b) within two years of
 8.11 the first conviction is guilty of a felony.

8.12 Subd. 2. ~~**Fine Fines.**~~ An employer shall be fined not less than ~~\$700~~ \$5,000 nor
 8.13 more than ~~\$3,000~~ \$10,000 if convicted of discharging or otherwise discriminating against
 8.14 any employee because:

8.15 (1) the employee has complained to the employer or to the department that wages
 8.16 have not been paid in accordance with sections 177.21 to 177.435;

8.17 (2) the employee has instituted or will institute a proceeding under or related to
 8.18 sections 177.21 to 177.435; or

8.19 (3) the employee has testified or will testify in any proceeding.

8.20 Sec. 16. **[177.321] PENALTIES; SPECIAL ACCOUNT.**

8.21 All civil penalties collected under Minnesota Statutes, sections 177.21 to 177.44,
 8.22 must be deposited in the state treasury and credited to a special account. Money in the
 8.23 account is annually appropriated to the commissioner of labor and industry to administer
 8.24 section 177.311.

8.25 Sec. 17. Minnesota Statutes 2014, section 181.032, is amended to read:

8.26 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER.**

8.27 (a) At the end of each pay period, the employer shall provide each employee an
 8.28 earnings statement, either in writing or by electronic means, covering that pay period. An
 8.29 employer who chooses to provide an earnings statement by electronic means must provide
 8.30 employee access to an employer-owned computer during an employee's regular working
 8.31 hours to review and print earnings statements.

8.32 (b) The earnings statement may be in any form determined by the employer but
 8.33 must include:

8.34 (1) the name of the employee;

- 9.1 (2) the hourly rate of pay (if applicable);
- 9.2 (3) the total number of hours worked by the employee unless exempt from chapter
- 9.3 177;
- 9.4 (4) the total amount of gross pay earned by the employee during that period;
- 9.5 (5) the total amount of overtime pay earned by the employee during that period;
- 9.6 (6) the total amount of gratuities earned by the employee during that period;
- 9.7 (7) the total amount of any additional compensation paid to the employee during
- 9.8 that period;
- 9.9 (8) the total amount of expense reimbursements paid to the employee during that
- 9.10 period;
- 9.11 ~~(5)~~ (9) a list of deductions made from the employee's pay;
- 9.12 ~~(6)~~ (10) the net amount of pay after all deductions are made;
- 9.13 ~~(7)~~ (11) the date on which the pay period ends; ~~and~~
- 9.14 ~~(8)~~ (12) the legal name of the employer and the operating name of the employer if
- 9.15 different from the legal name;
- 9.16 (13) the total amount of employer-provided leave used by the employee during
- 9.17 that pay period; and
- 9.18 (14) the total amount of employer-provided leave available for the employee to use.
- 9.19 (c) An employer must provide earnings statements to an employee in writing, rather
- 9.20 than by electronic means, if the employer has received at least 24 hours notice from an
- 9.21 employee that the employee would like to receive earnings statements in written form.
- 9.22 Once an employer has received notice from an employee that the employee would like to
- 9.23 receive earnings statements in written form, the employer must comply with that request
- 9.24 on an ongoing basis.

9.25 Sec. 18. **[181.724] CONTRACTS FOR LABOR OR SERVICES.**

9.26 Subdivision 1. **Contract; insufficient funds.** A person or entity shall not enter

9.27 into a contract or agreement for labor or services where the person or entity knows or

9.28 should know that the contract or agreement does not include funds sufficient to allow

9.29 the contractor to comply with all applicable local, state, and federal laws or regulations

9.30 governing the labor or services to be provided.

9.31 Subd. 2. **Rebuttable presumption.** There is a rebuttable presumption affecting the

9.32 burden of proof that there has been no violation of subdivision 1 where the contract or

9.33 agreement with a contractor meets all of the requirements in subdivision 4.

9.34 Subd. 3. **Exclusions.** Subdivision 1 does not apply to a person or entity who

9.35 executes a collective bargaining agreement covering the workers employed under the

10.1 contract or agreement, or to a person who enters into a contract or agreement for labor or
10.2 services to be performed on the person's home residence, provided that a family member
10.3 resides in the residence or residences for which the labor or services are to be performed
10.4 for at least part of the year.

10.5 Subd. 4. **Written contract; provisions.** To meet the requirements of subdivision
10.6 2, a contract or agreement with a contractor for labor or services shall be in writing, in
10.7 a single document, and contain all of the following provisions, in addition to any other
10.8 provisions that may be required by the commissioner:

10.9 (1) the name, address, and telephone number of the person or entity and the
10.10 contractor through whom the labor or services are to be provided;

10.11 (2) a description of the labor or services to be provided and a statement of when
10.12 those services are to be commenced and completed;

10.13 (3) the employer identification number for state tax purposes of the contractor;

10.14 (4) the workers' compensation insurance policy number and the name, address,
10.15 and telephone number of the contractor;

10.16 (5) the vehicle identification number of any vehicle that is owned by the contractor
10.17 and used for transportation in connection with any service provided pursuant to the
10.18 contract or agreement, the number of the vehicle liability insurance policy that covers the
10.19 vehicle, and the name, address, and telephone number of the insurance carrier;

10.20 (6) the address of any real property to be used to house workers in connection with
10.21 the contract or agreement;

10.22 (7) the total number of workers to be employed under the contract or agreement, the
10.23 total amount of all wages to be paid, and the date or dates when those wages are to be paid;

10.24 (8) the amount of the commission or other payment made to the contractor for
10.25 services under the contract or agreement;

10.26 (9) the total number of persons who will be utilized under the contract or agreement
10.27 as independent contractors, along with a list of the current local, state, and federal
10.28 contractor license identification numbers that the independent contractors are required to
10.29 have under local, state, or federal laws or regulations; and

10.30 (10) the signatures of all parties, and the date the contract or agreement was signed.

10.31 Subd. 5. **Material changes.** (a) To qualify for the rebuttable presumption in
10.32 subdivision 2, a material change to the terms and conditions of a contract or agreement
10.33 between a person or entity and a contractor must be in writing, in a single document, and
10.34 contain all of the provisions listed in subdivision 4 that are affected by the change.

10.35 (b) If a provision required to be contained in a contract or agreement under
10.36 subdivision 4, clause (7) or (9), is unknown at the time the contract or agreement is

11.1 executed, the best estimate available at that time is sufficient to satisfy the requirements of
11.2 subdivision 4. If an estimate is used in place of actual figures, the parties to the contract or
11.3 agreement have a continuing duty to ascertain the information required under subdivision
11.4 4, clause (7) or (9), and to reduce that information to writing according to the requirements
11.5 of paragraph (a) once that information becomes known.

11.6 Subd. 6. **Written contract; commissioner review.** A person or entity who enters
11.7 into a contract or agreement referred to in subdivision 4 or 5 shall keep a copy of the written
11.8 contract or agreement for a period of not less than four years following the termination of
11.9 the contract or agreement. Upon the request of the commissioner of labor and industry, any
11.10 person or entity who enters into the contract or agreement shall provide to the commissioner
11.11 a copy of the provisions of the contract or agreement, and any other documentation,
11.12 related to subdivision 4, clauses (1) to (10). Documents obtained under this section are
11.13 exempt from disclosure under the Minnesota Government Data Practices Act, chapter 13.

11.14 Subd. 7. **Penalties.** (a) An employee aggrieved by a violation of subdivision 1 may
11.15 file an action for damages to recover the greater of all actual damages or \$250 per employee
11.16 per violation for an initial violation and \$1,000 per employee for each subsequent
11.17 violation, and, upon prevailing in an action brought under this section, may recover costs
11.18 and reasonable attorney fees. An action under this section shall not be maintained unless it
11.19 is pleaded and proved that an employee was injured as a result of a violation of a labor law
11.20 or regulation in connection with the performance of the contract or agreement.

11.21 (b) An employee aggrieved by a violation of subdivision 1 may also bring an action
11.22 for injunctive relief and, upon prevailing, may recover costs and reasonable attorney fees.

11.23 Subd. 8. **Know or should know; definition.** (a) The term "know" as used in
11.24 this section includes the knowledge, arising from familiarity with the normal facts and
11.25 circumstances of the business activity engaged in, that the contract or agreement does not
11.26 include funds sufficient to allow the contractor to comply with applicable laws.

11.27 (b) The phrase "should know" as used in this section includes the knowledge of any
11.28 additional facts or information that would make a reasonably prudent person undertake
11.29 to inquire whether, taken together, the contract or agreement contains sufficient funds to
11.30 allow the contractor to comply with applicable laws.

11.31 (c) A failure by a person or entity to request or obtain any information from the
11.32 contractor that is required by any applicable statute, or by the contract or agreement
11.33 between them, constitutes knowledge of that information for purposes of this section.

11.34 Sec. 19. **[181.915] EMPLOYER STATEMENT TO EMPLOYEES.**

12.1 An employer must provide each newly hired employee, before the employee begins
12.2 the employee's duties, annually, a written statement, in English and in the principal
12.3 language of the employee, describing the terms and conditions of the employee's
12.4 employment. The statement must include, but is not limited to, the following:
12.5 (1) the full name, mailing address, and phone number of the employer;
12.6 (2) the federal and state tax identification numbers of each employer, but not
12.7 including Social Security numbers of employers who are individuals;
12.8 (3) the place or places of employment;
12.9 (4) the hours of work per day and number of days per week that the employee
12.10 will be required to work;
12.11 (5) the wages the employer will pay the employee per hour, day, week, or other
12.12 measure and the frequency and nature of payment of those wages;
12.13 (6) the anticipated period of employment;
12.14 (7) the circumstances and rate for which an employee will be paid a premium for
12.15 working in excess of a set number of hours per day, week, or month; or for working on
12.16 designated nights, weekends, or holidays;
12.17 (8) a description of any provision to the employee by the employer, how long such
12.18 provision will be provided by the employer, and any costs for such provision the employer
12.19 will require the employee to pay, including, but not limited to:
12.20 (i) transportation to and from work;
12.21 (ii) housing;
12.22 (iii) health insurance or health care;
12.23 (iv) any paid or unpaid leave or holidays;
12.24 (v) pension or retirement benefits;
12.25 (vi) personal protective equipment required for the work;
12.26 (vii) workers' compensation policies, including information about the employer
12.27 insurance policy or policies, and rules regarding the reporting of accidents or injuries; and
12.28 (viii) unemployment compensation;
12.29 (9) the nature of the work to be performed by the employee;
12.30 (10) information regarding any existing strike, lockout, or concerted work stoppage,
12.31 slowdown, or interruption of operations at the place of employment; and
12.32 (11) information regarding any known local, state, or federal investigations into the
12.33 employer's health or safety practices over the prior five years, and the outcome of such
12.34 investigations, if known.

12.35 Sec. 20. Minnesota Statutes 2014, section 541.05, subdivision 1, is amended to read:

13.1 Subdivision 1. **Six-year limitation.** Except where the Uniform Commercial Code
13.2 otherwise prescribes, the following actions shall be commenced within six years:

13.3 (1) upon a contract or other obligation, express or implied, as to which no other
13.4 limitation is expressly prescribed;

13.5 (2) upon a liability created by statute, other than those arising upon a penalty or
13.6 forfeiture or where a shorter period is provided by section 541.07;

13.7 (3) for a trespass upon real estate;

13.8 (4) for taking, detaining, or injuring personal property, including actions for the
13.9 specific recovery thereof;

13.10 (5) for criminal conversation, or for any other injury to the person or rights of
13.11 another, not arising on contract, and not hereinafter enumerated;

13.12 (6) for relief on the ground of fraud, in which case the cause of action shall not be
13.13 deemed to have accrued until the discovery by the aggrieved party of the facts constituting
13.14 the fraud;

13.15 (7) to enforce a trust or compel a trustee to account, where the trustee has neglected to
13.16 discharge the trust, or claims to have fully performed it, or has repudiated the trust relation;

13.17 (8) against sureties upon the official bond of any public officer, whether of the
13.18 state or of any county, town, school district, or a municipality therein; in which case the
13.19 limitation shall not begin to run until the term of such officer for which the bond was
13.20 given shall have expired;

13.21 (9) for damages caused by a dam, used for commercial purposes; ~~or~~

13.22 (10) for assault, battery, false imprisonment, or other tort resulting in personal
13.23 injury, if the conduct that gives rise to the cause of action also constitutes domestic abuse
13.24 as defined in section 518B.01-~~2~~;

13.25 (11) for the recovery of wages, overtime or damages, fees, or penalties accruing
13.26 under any federal or state law respecting the payment of wages, overtime or damages,
13.27 fees, or penalties. The term "wages" means all remuneration for services or employment,
13.28 including commissions, gratuities, and bonuses and the cash value of all remuneration in
13.29 any medium other than cash, where the relationship of master and servant exists and the
13.30 term "damages" means single, double, or treble damages, accorded by any statutory cause
13.31 of action whatsoever and whether or not the relationship of master and servant exists.

13.32 Sec. 21. Minnesota Statutes 2014, section 541.07, is amended to read:

13.33 **541.07 TWO- OR THREE-YEAR LIMITATIONS.**

14.1 Except where the Uniform Commercial Code, this section, section 541.05, 541.073,
 14.2 541.076, or 604.205 otherwise prescribes, the following actions shall be commenced
 14.3 within two years:

14.4 (1) for libel, slander, assault, battery, false imprisonment, or other tort resulting
 14.5 in personal injury, and all actions against veterinarians as defined in chapter 156, for
 14.6 malpractice, error, mistake, or failure to cure, whether based on contract or tort; provided
 14.7 a counterclaim may be pleaded as a defense to any action for services brought by a
 14.8 veterinarian after the limitations period if it was the property of the party pleading it at the
 14.9 time it became barred and was not barred at the time the claim sued on originated, but no
 14.10 judgment thereof except for costs can be rendered in favor of the party so pleading it;

14.11 (2) upon a statute for a penalty or forfeiture, except as provided in sections 541.074
 14.12 and 541.075;

14.13 (3) for damages caused by a dam, other than a dam used for commercial purposes;
 14.14 but as against one holding under the preemption or homestead laws, the limitations shall
 14.15 not begin to run until a patent has been issued for the land so damaged;

14.16 (4) against a master for breach of an indenture of apprenticeship; the limitation runs
 14.17 from the expiration of the term of service;

14.18 ~~(5) for the recovery of wages or overtime or damages, fees, or penalties accruing~~
 14.19 ~~under any federal or state law respecting the payment of wages or overtime or damages,~~
 14.20 ~~fees, or penalties except, that if the employer fails to submit payroll records by a specified~~
 14.21 ~~date upon request of the Department of Labor and Industry or if the nonpayment is willful~~
 14.22 ~~and not the result of mistake or inadvertence, the limitation is three years. (The term~~
 14.23 ~~"wages" means all remuneration for services or employment, including commissions and~~
 14.24 ~~bonuses and the cash value of all remuneration in any medium other than cash, where the~~
 14.25 ~~relationship of master and servant exists and the term "damages" means single, double, or~~
 14.26 ~~treble damages, accorded by any statutory cause of action whatsoever and whether or not~~
 14.27 ~~the relationship of master and servant exists);~~

14.28 ~~(6)~~ (5) for damages caused by the establishment of a street or highway grade or a
 14.29 change in the originally established grade; and

14.30 ~~(7)~~ (6) against the person who applies the pesticide for injury or damage to property
 14.31 resulting from the application, but not the manufacture or sale, of a pesticide.

14.32 Sec. 22. **APPROPRIATION.**

14.33 \$..... in fiscal year 2016 and \$..... in fiscal year 2017 are appropriated from the
 14.34 general fund to the commissioner of labor and industry to administer the Wage Theft
 14.35 Protection Act.

15.1 Sec. 23. **REVISOR'S INSTRUCTION.**

15.2 The revisor of statutes shall make any necessary cross-reference changes arising from
15.3 renumbering in this act, including any grammatical changes to preserve sentence structure.

15.4 Sec. 24. **REPEALER.**

15.5 Minnesota Rules, part 5200.0080, subpart 7, is repealed.

APPENDIX
Repealed Minnesota Rule: 15-3031

5200.0080 GRATUITIES/TIPS CREDITS.

Subp. 7. **Credit cards or charges.** Gratuities presented to a direct service employee via inclusion on a charge or credit card shall be credited to that pay period in which they are received by the direct service employee and for which they appear on the direct service employee's tip statement.

Where a tip is given by a customer through a credit or charge card, the full amount of tip must be allowed the direct service employee minus only the percentage deducted from the tip in the same ratio as the percentage deducted from the total bill by the service company.