



NORTH RISK PARTNERS™

Wage Theft Law in Minnesota: What You Need to Know

July 2019

Presented by:



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NORTH RISK PARTNERS™

Introduction

Minnesota employers should familiarize themselves and prepare to comply with new record-keeping and written notice requirements of the wage theft provisions that are set to go into effect on July 1, 2019 and that will likely increase the frequency of Minnesota Department of Labor and Industry (DLI) investigations and litigation.

Introduction

The business community must be mindful of the enhanced penalties and should consider performing regular compliance checks to avoid burdensome fines and penalties.

Introduction

During the 2019 legislative session, Minnesota legislators from the Democrat majority in the House and Democrat minority in the Senate prioritized passing several workforce mandate initiatives.

Introduction

The Republican-controlled Senate did not support most of this legislation. Like many controversial policy provisions, most of these employer mandates did not pass because a compromise on the state's budget took center stage.

Introduction

However, legislators in the House and Senate were ultimately able to find common ground on adding new “wage theft” provisions to Minnesota law as part of the Omnibus Jobs bill, which was signed into law by Gov. Tim Walz shortly after it passed during a one-day special session.

Introduction

Prior to the passage of this law, which includes numerous new notice and record-keeping requirements for Minnesota employers, there was no law explicitly prohibiting wage theft in the state of Minnesota.

Wage Theft Prohibition Passes

Cracking down on wage theft had bipartisan support in both the House and Senate, but the two bodies differed in their approach to address the issue. The final compromise included language from both the House and Senate bills as well as language agreed upon in conference committee. The new law makes it a crime for an employer to practice wage theft with an intent to defraud the employee.

Wage Theft Prohibition Passes

Here is a summary of some of the key provisions of the law, which applies to all Minnesota employers:

Wage Theft Prohibition Passes

- **Requires written notice to employees upon commencement of employment.** At the start of employment, employers are required to provide all employees with a written notice containing specified information, including:

Wage Theft Prohibition Passes

- The rate and basis of pay, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission or other method, and the specified application of any additional rates (such as a shift differential)



Wage Theft Prohibition Passes

- Vacation, sick and other paid time off accruals and terms of use

Wage Theft Prohibition Passes

- Allowances, if any, claimed pursuant to permitted meals and lodging

Wage Theft Prohibition Passes

- Employment status, including whether the employee is exempt from minimum wage, overtime and other provisions of Chapter 177, and on what basis

Wage Theft Prohibition Passes

- Any pay deductions that may be made from the employee's pay

Wage Theft Prohibition Passes

- The number of days in the standard pay period, the regularly scheduled payday and the payday on which the employee will receive the first payment of wages earned

Wage Theft Prohibition Passes

- Certain identifying employer information, including the legal name of the employer and the operating name of the employer if different from the legal name, the physical address of the employer's main office or principal place of business, and a mailing address if different, and the telephone number of the employer



Wage Theft Prohibition Passes

- This notice must be in English and signed by the employee and retained by the employer. The notice also must include text (to be provided by Minnesota Department of Labor and Industry (DLI) commissioner) that informs employees that they may request, by indicating on the form, the notice be provided in a particular language and, if requested, the employer must provide the notice in the language requested by the employee.



Wage Theft Prohibition Passes

- The employer must also provide the written notice to an employee whenever anything in the original written notice changes prior to the date the changes take effect. The law does not specifically address whether the wage notice may be provided electronically or signed by the employee electronically, but under the Minnesota Electronic Transactions Act, electronic notices and signatures should be permissible under the new law.



Wage Theft Prohibition Passes

- **Requires additional information on earnings statements.** At the end of each pay period, employers are now required to provide each employee with an earnings statement containing specified information, including the basis of pay (hourly, salary, piece rate, commission, etc.), any allowances for meals or lodging, and the physical address and phone number of the employer, covering that pay period.



Wage Theft Prohibition Passes

- **Requires additional employer record-keeping.** In addition to retaining copies of the newly required signed wage notices given to employees, the new law amends Minnesota Statutes § 177.30 to require Minnesota employers to retain records of the number of pieces completed at each piece rate for any employee paid at a piece rate (in addition to the current law's requirement for employers to retain records of each employee's name, address, occupation, rate of pay, total pay per pay period and hours worked)



Wage Theft Prohibition Passes

Minnesota employers must also now keep a list of personnel policies given to employees, including the date the policies were given to the employee and a brief description of the policies. These records must be kept for a minimum of three years on the employer's premises, with enhanced requirements relating to public works projects, and the records must be readily available for inspection by the DLI commissioner upon demand.



Wage Theft Prohibition Passes

Unlike the new wage notice requirement, the law does not appear to limit the additional record-keeping requirements – including maintaining a list of personnel policies given to employees, a brief description of these policies and the date the policies were given to the employee – to new employees.



Wage Theft Prohibition Passes

- **Clarifies and changes timing of payment of wages.** The law amends current state statute and specifies that all wages (including salary, earnings and gratuities) – other than commissions – be paid at least once every 31 days, and that all commissions earned by an employee be paid at least once every three months.



Wage Theft Prohibition Passes

The law removes the 15-day cap on penalties for late payment of wages, and now explicitly includes commissions in the types of wages that may be demanded for payment. If payment of commissions is not made within 10 days of a demand for payment, the DLI commissioner may charge and collect the commission earned and a penalty equal to one-fifteenth of the commissions earned but unpaid for each day beyond the 10-day limit.



Wage Theft Prohibition Passes

- **Penalizes retaliation against employees who report wage theft.** Employers are prohibited from retaliating against an employee for asserting rights or remedies under the new wage theft law. This includes filing a complaint with the DLI or informing the employer of the employee's intention to file a complaint. In addition to any other remedies provided by law, an employer who is found to retaliate is liable for a civil penalty of \$700 to \$3,000 per violation.

Wage Theft Prohibition Passes

- **Provides attorney general enforcement.** The law provides that the attorney general may enforce Chapter 177 in addition to enforcement by DLI.

Wage Theft Prohibition Passes

- **Expands the DLI enforcement.** The law amends current state statute to allow the DLI commissioner to enter and inspect places of employment during normal working hours and investigate facts, conditions, and practices or matters the DLI commissioner deems appropriate to enforce the laws. The DLI commissioner or authorized representative has broad powers to investigate violations, including issuing subpoenas.



Wage Theft Prohibition Passes

- **Creates a new maximum fine for repeat offenses.**
If an employer fails to submit or deliver records as requested by the DLI commissioner, the law creates a new maximum fine of \$5,000 for repeat violations.



Wage Theft Prohibition Passes

- **Adds wage theft to the list of theft crimes eligible for enhanced penalties (up to a felony) as well as aggregation of offenses.** The new law allows for the imposition of a felony or gross misdemeanor sentence for wage theft crimes. Also, the value of the money, property or services received by the defendant in violation of the law within any six-month period may be aggregated and the defendant will be charged accordingly.



Wage Theft Prohibition Passes

The civil components of the new law, including the notice and record-keeping requirements described above, went into effect July 1, 2019. The criminal provisions – those that amend Minnesota Statutes § 609.52 – become effective August 1, 2019 and apply to all wage theft crimes committed on or after that date.



How Minnesota Employers Should Prepare

DLI has issued some limited guidance for employers, and it is expected that DLI will issue additional informal guidance for employers and employees in the future, but likely will not resolve all questions employers may have.

How Minnesota Employers Should Prepare

In any event, Minnesota employers should take immediate steps to ensure compliance with the law beginning July 1, including:

How Minnesota Employers Should Prepare

- Create the form of the required wage notice, including all of the required information, and provide a wage notice to all new employees hired after July 1, 2019, and to all current employees if any of the information required to be included in the wage notice changes (with such notices being provided prior to the date any change takes effect).



How Minnesota Employers Should Prepare

- Create or revise a policy acknowledgement form, such as the employee handbook acknowledgement, that satisfies the new law's requirements (i.e., includes a list of the policies that are included in the employee handbook, and a brief description of the policies).

How Minnesota Employers Should Prepare

If personnel policies are maintained electronically, such as on the employer's intranet, then the employer should consider creating an annual acknowledgment form that includes a list of all of the policies (including a short description of each policy) and have employees acknowledge in writing that they have received access to the policies.



How Minnesota Employers Should Prepare

- Ensure earnings statements/pay stubs comply with the new law.

How Minnesota Employers Should Prepare

- Employers that contract with professional employer organizations or payroll vendors should contact those providers to ensure information provided to employees complies with the new law.

Employment-Related Laws That Did Not Pass

The following are employment-related bills considered by the Minnesota legislature in 2019 that did not pass:

Employment-Related Laws That Did Not Pass

1. **Paid Family Leave**

Paid Family Leave was a House-led proposal mandating up to 12 weeks of medical leave per year with partial wage replacement and/or up to 12 weeks of family leave per year for maternity, paternity, bonding and caregiving purposes.



Employment-Related Laws That Did Not Pass

2. **Safe and Sick Time**

This was another House-led proposal that would have allowed employees to earn a minimum of one hour of paid earned sick and safe time for every 30 hours worked. This time could be used for illness or preventative care of the employee or family members, absences related to domestic abuse or sexual assault, closure of the employee's workplace and certain other situations.

Employment-Related Laws That Did Not Pass

2. **Safe and Sick Time** (cont.)

The House Democrats' proposals of earned sick and safe time and paid family leave were passed through the House but failed to pass into law because the companion bills did not make it through the Senate.

Employment-Related Laws That Did Not Pass

3. **Sexual Harassment Standard**

Currently, the legal standard for discriminatory sexual harassment in the state comes from the 1986 U.S. Supreme Court ruling that says behavior must be so “severe or pervasive” as to alter the conditions of employment and create a hostile working environment in order to be actionable. This year, the House and Senate both sought to amend the definition of “sexual harassment” in the Minnesota Human Rights Act (MHRA), but the two bodies had differing approaches.



Employment-Related Laws That Did Not Pass

3. **Sexual Harassment Standard** (cont.)

The Senate introduced a separate bill that clarifies its interpretation and application of the law in regard to sexual harassment as defined in the MHRA. The Senate proposal upholds the severe or pervasive standard, and additionally amends state statute to reaffirm sexual harassment must be objectively and subjectively harassing.

Employment-Related Laws That Did Not Pass

3. **Sexual Harassment Standard** (cont.)

It clarifies that “severe or pervasive” includes a single significant instance of harassment as well as a series of instances of harassment. It also provides protections to employers when they exercise reasonable care to prevent sexual harassment. The bill did not pass off the Senate floor and there was no House companion.



Employment-Related Laws That Did Not Pass

3. **Sexual Harassment Standard** (cont.)

The two bodies could not come to a compromise on amending the definition, and as a result, no new language was passed regarding the sexual harassment standard this year. However, because changing the definition of sexual harassment has bipartisan support, the bills may come back next year.

Employment-Related Laws That Did Not Pass

3. **Sexual Harassment Standard** (cont.)

If either of the proposals pass, employers would assume increased risk and should be prepared for increasing sexual harassment litigation. Also, to mitigate their risk, employers should be cognizant of their duty to exercise reasonable care to prevent or correct sexual harassment. Training Managers and Supervisors is critical.



Employment-Related Laws That Did Not Pass

4. **Preemption of Local Mandates**

While the House focused its efforts on passing workforce mandates, Senate Republicans proposed state preemption of local workplace related ordinances. The Senate proposal would prohibit local governments from adopting or enforcing any ordinances requiring employers to pay higher than the state's minimum wage rate, requiring paid or unpaid leave, regulating the hours or scheduling of work time that an employer provides an employee, or requiring an employer to provide an employee a particular benefit or term of employment. The House did not hold a hearing on the bill and Senate attempts to include it in the final Omnibus Jobs bill were unsuccessful.



Looking Ahead to 2020

In 2020, if there is a Republican-controlled Senate, it is likely to oppose the workforce mandate proposals that did not pass in 2019 (at least in the form in which they were introduced this year).

Looking Ahead to 2020

The outcome of the November 2020 election is important because Minnesota is currently the only state with a legislature divided by party. If Republicans lose control of the Senate, then paid family leave and earned sick and safe time proposals – perhaps with some modifications to the versions of the bills introduced this year – are likely to pass into law during the 2020 legislative session.

Looking Ahead to 2020

Even if Republicans hold onto the Senate majority, the business community should be aware that paid family leave, earned sick and safe time, preemption and the sexual harassment standard will likely continue to be hot topics at the Minnesota legislature. Also, regardless of who controls the House and Senate, any attempt to preempt local governments from imposing workplace mandates through local ordinance is unlikely to become law while Gov. Walz is in office.

Notice for NEW Wage Theft Statute

Pursuant to the NEW Minnesota Wage Theft Statute, beginning 7-1-19, Minnesota employers will be required to provide a new and detailed notice to newly hired employees when they begin work. Alternatively, employers can develop their own written notice as long as it contains all of the nine areas of information we discussed earlier. The following was prepared by the Minnesota Department of Labor and Industry.



Notice for NEW Wage Theft Statute



Employee notice

1. Employee:	Address:
Phone number:	Email address:
Date employment began:	
2. Legal name of employer:	Main office/principal place of business address:
Phone number:	Email address:
Operating name of employer (if different):	
Mailing address (if different):	
3. Employment status (exempt or non-exempt):	
<input type="checkbox"/> Employee is exempt from: <input type="checkbox"/> minimum wage <input type="checkbox"/> overtime <input type="checkbox"/> other provisions of Minnesota Statutes 177	
Legal basis for exemption:	
<input type="checkbox"/> Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)	

Notice for NEW Wage Theft Statute



**DEPARTMENT OF
LABOR AND INDUSTRY**

Employee notice

1. Employee:		Address:		
Phone number:		Email address:		
Date employment began:				
2. Legal name of employer:		Main office/principal place of business address:		
Phone number:		Email address:		
Operating name of employer (if different):				
Mailing address (if different):				
3. Employment status (exempt or non-exempt):				
<input type="checkbox"/> Employee is exempt from: <input type="checkbox"/> minimum wage <input type="checkbox"/> overtime <input type="checkbox"/> other provisions of Minnesota Statutes 177				
Legal basis for exemption:				
<input type="checkbox"/> Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)				
4. Rate: \$		Additional rates (if applicable):		How applied:
Paid by:	Hour <input type="checkbox"/>	Shift <input type="checkbox"/>	Day <input type="checkbox"/>	Week <input type="checkbox"/>
	Salary <input type="checkbox"/>	Piece <input type="checkbox"/>	Commission <input type="checkbox"/>	Other method <input type="checkbox"/>
Overtime is owed after:		hours		



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Notice for NEW Wage Theft Statute

Allowances claimed:			
\$		per meal for meal allowance (max = 60% of one hour of adult minimum wage per meal)	
\$		per day for lodging allowance (max = 75% of one hour of adult minimum wage per day)	
		(or fair market value)	
5. Leave benefits available:			
<input type="checkbox"/> Sick leave <input type="checkbox"/> Paid vacation <input type="checkbox"/> Other paid time off			
How benefits are accrued: Number of hours _____ or days _____			
<input type="checkbox"/> Per year <input type="checkbox"/> Per month <input type="checkbox"/> Per pay period <input type="checkbox"/> Per hours worked			
Terms of use:			
6. Deductions that may be made from employee's pay and amounts:			
7. Number of days in the pay period:		Regularly scheduled payday:	
Date employee will receive first payment of wages earned:			
8. Other information relevant to this position:			
I, the employee, have received a copy of this notice: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Employer signature	Date	Employee signature	Date



Notice for NEW Wage Theft Statute

This document contains important information about your employment. Check the box at left to receive this information in this language.

Spanish / Español	Este documento contiene información importante sobre su acuerdo de empleo. Marque la casilla a la izquierda para recibir esta información en este idioma.
Hmong / Hmoob	Daim ntawv no muaj cov xov tseem ceeb txog koj txoj cog lus ua hauj lwm. Khij lub npauv ntawm sab laug kom tau txais cov xov tseem ceeb no yam siv hom lus no.
Vietnamese / Việt ngữ	Tài liệu này chứa thông tin quan trọng về thỏa thuận việc làm của quý vị. Đánh dấu vào ô bên trái để nhận thông tin này bằng Việt ngữ.
Simp. Chinese / 简体中文	本文件包含与您的雇用协议相关的重要信息。勾选左边的方框将接收以这种语言提供的信息。
Russian / русский	Данный документ содержит важную информацию о вашем трудовом договоре. Отметьте галочкой квадрат слева для получения этой информации на данном языке.
Somali / Soomaali	Dokumentigan waxaa ku qoran macluumaad muhiim ah oo ku saabsan heshiiska shaqadaada. Calaamadi sanduuqan haddii aad rabto inaad macluumaadkan ku hesho luqaddan.
Laotian / ພາສາລາວ	ເອກະສານນີ້ມີຂໍ້ມູນທີ່ສໍາຄັນກ່ຽວກັບສັນຍາການຈ້າງງານຂອງທ່ານ. ກວດເບິ່ງກ່ອງທີ່ຢູ່ເບື້ອງຊ້າຍເພື່ອຮັບຂໍ້ມູນນີ້ໃນພາສານີ້.
Korean / 한국어	이 문서에는 귀하의 고용 계약 조건에 대한 중요한 정보가 담겨있습니다. 이 언어로 이 정보를 받기를 원하시면 왼쪽 상자에 체크하여 주세요.
Tagalog / Tagalog	Ang dokumentong ito ay nagtataglay ng mahalagang impormasyon tungkol sa kasaunduan sa iyong pagtatrabaho. Lagyan ng tsek ang kahon sa kaliwa upang matanggap ang impormasyong ito sa wikang ito.
Oromo / Oromoo	Waraqaan kun waayee waliigaltee hojii keetii odeeffannoo barbaachisoo ta'an qabatee jira. Saaxinnii karaa bitaatti argamu kana irratti mallattoo godhi yop afaan Kanaan barreeffama argachuu barbaadde.
Amharic/ አማርኛ	ይህ ደብዳቤ ለደብዳቤዎን በሚመለከት ስለተደረሰው ስምምነት አስፈላጊ መረጃ የያዘ ነው። ይህንን ደብዳቤ ለስተግራ በኩል ባለው ቋንቋ ተተርጉሞ እንዲሰጥዎት ክፈለጉ በሰተግራ በኩል ባለው ሳጥን ውስጥ ምልክት ያድርጉ።
Karen / ကညီကျိာ်	လံာ်တီလံာ်မိတခါအံာ်ဟံာ်တုာ်တုာ်ကျိလၢအချ့ဒိၣ်ဘၣ်ဃးနတံာ်ဖဲတံာ်မၤအတံာ်အၢၣ်လီၤအီၤလီၤန့ၣ်လီၤ. တံာ်နီၣ်တံာ်အဖိလၢအအိၣ်လၢအစ့ၣ်လၢတံာ်ကဒီးန့ၣ်တံာ်တုာ်တုာ်ကျိလၢကျိာ်တခါအံာ်အဂီၢ်န့ၣ်တက့ၢ်.

Notice for NEW Wage Theft Statute

Translation providers approved by the Minnesota Department of Administration

Betmar Languages, Inc.
6260 Hwy. 65 N.E., #308
Minneapolis, MN 55432
763-572-9711
best@betmar.com

Global Translation and Interpreter
913 E. Franklin Ave., #206
Minneapolis, MN 55404
612-722-1244
sandor@globaltranslations.com

Lingualinx Language Solutions, Inc.
433 River Street, #6001
Troy, NY 12180
518-388-9000
abartlett@lingualinx.com

The Bridge World Language Center, Inc.
110 Second Street S., #213
Waite Park, MN 56387
320-259-9239
mini@bridgelanguage.com

Latin American Translators Network, Inc.
1720 Peachtree Street N.W., #532
Atlanta, GA 30309
800-943-5286, ext. 8641, translations@latn.com
800-943-5286, ext. 8620, idenis@latn.com

Prisma International, Inc.
1128 Harmon Place, #310
Minneapolis, MN 55403
612-349-3111
romano@prisma.com

Fox Translation Services
1152 Mae Street, #122
Hummelstown, PA 17033
866-369-1646 or 407-733-3720
dina@foxfoxcasemanagement.com

Latitude Prime, LLC
80 S. Eighth Street, #900
Minneapolis, MN 55402
888-341-9080, ext. 501
elle@latitude.com

Swits, LTD
110 S. Third Street
Delavan, WI 53115
262-740-2590
translations@swits.us





North Risk Partners Value-Added Services Hotline **(888) 667-4135**

Call the hotline to get personalized advice from HR and safety professionals on a variety of topics, including state and federal compliance, employer best practices, workplace programs and more.

*You may also reach Synergy Human Resources by emailing hr@northriskpartners.com