



**DEPARTMENT OF  
LABOR AND INDUSTRY**

## Minnesota Labor Standards and the Wage Theft Prevention Act

# Labor Standards Enforced by MN DLI

- Minnesota Fair Labor Standards Act
- Women's Economic Security Act
- Child Labor Standards Act
- Minnesota Prevailing Wage Act
- Wage Theft Prevention Act
- Other laws related to employment, wages, conditions, hours.



# Labor Standards/Wage & Hour Agencies in MN

**Minnesota Department of Labor and Industry, Labor Standards**

[www.dli.mn.gov](http://www.dli.mn.gov) or 651-284-5075

**U.S. Department of Labor, Wage and Hour Division**

[www.dol.gov/whd](http://www.dol.gov/whd) or 612-370-3341

**Minnesota Attorney General's Office**

[www.ag.state.mn.us](http://www.ag.state.mn.us) or 651-296-3353

**Saint Paul, Labor Standards Enforcement and Education Division**

[www.stpaul.gov/departments/human-rights-equal-economic-opportunity](http://www.stpaul.gov/departments/human-rights-equal-economic-opportunity) or 651-266-8900

**Minneapolis, Labor Standards Enforcement Division**

[www.ci.minneapolis.mn.us/civilrights/LaborStandardsEnforcement/](http://www.ci.minneapolis.mn.us/civilrights/LaborStandardsEnforcement/) or 612-673-3012

**Duluth, City Clerk's Office**

<https://duluthmn.gov/city-clerk/> or 218-730-5500

# State law – Hours worked

- The minimum wage must be paid for **all** hours worked.
- Hours worked include:
  - *training time*
  - *call time*
  - *cleaning time*
  - *waiting time*
  - *travel time*



# Final wages upon separation of employment

- Employees **terminated, discharged, or fired** are due all wages and commissions within 24 hours of a written demand for payment.
- For employees who **voluntarily leave employment**, wages and commissions are due on the next regularly scheduled payday. If the payday is within five days of the last day of work, the employer has up to 20 days to make final payment.
- **Penalties:** The employer may be liable to pay their former employee's average daily earnings for up to 15 days the employer is late paying wages.

# Overtime

## **Minnesota law: Over 48 hours**

This is a general guideline that applies in most situations. DLI refers many overtime cases to the U.S. Department of Labor because the general federal threshold is lower.

## **Federal law: Over 40 hours**

This is a general guideline that applies in most situations. The U.S. Department of Labor should be contacted for further details.

# Overview

- Effective dates of the new laws
- New employer responsibilities
- Clarification of wages and commissions – what must be paid and when
- Retaliation prohibited
- Responsible contractor requirements
- DLI and Attorney General enforcement authority
- Crime of wage theft

# Effective dates of the Wage Theft Prevention Act

- Criminal provisions went into effect Aug. 1, 2019.
- Everything else went into effect July 1, 2019.

# Employee notice



## 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 or rates of pay			
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"/>			

# Employee notice

- The employee notice must provide:
  - Employee's employment status and whether an employee is exempt from minimum wage, overtime and other state wage and hour laws, and on what basis.
    - For information regarding who can be considered exempt, as well as information regarding other exceptions that may apply to minimum wage and overtime, reference Minnesota Statutes 177.23 and Minnesota Administrative Rules, Chapter 5200.0180 through 5200.0220.
  - Number of days in the employee's pay period and the regularly scheduled payday.
  - Date the employee will receive the first payment of wages earned.

# Employee notice



- The employee notice must provide:
  - Employee's rate or rates of pay and the basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission or other method and the specific application of any additional rates.
  - Allowances, if any, that may be claimed for permitted meals and lodging.
    - For further information regarding meal and lodging allowances reference Minnesota Rules, Chapter 5200.0060 and 5200.0070.

# Employee notice

- The employee notice must provide:
  - Provision of paid vacation, sick time or other paid time off (PTO), how the paid time off will accrue and terms for its use.
  - A list of deductions that may be made from the employee's pay.
  - Employer's legal name and the operating name, if different.
  - Physical address of employer's main office or principal place of business and a mailing address, if different.
  - Employer's telephone number.



# Employee notice

- Employers are required to keep a copy of the notice signed by each employee.
- Employers are also required to provide employees in writing any changes to the information in the notice before the date the changes take effect.



# Earnings statements

- Earnings statement requirements:
  - Name of the employee.
  - Total hours worked by the employee in the pay period.
  - Total amount of gross pay earned by employee in the pay period.
  - Net amount of pay after all deductions are made.
  - List of deductions made from the employee's pay.
  - Date pay period ended.
  - Employer's legal and operating name.

Earnings Information	Current	Year to Date
Normal Gross	4,389.30	
Deductions	0.00	
Adjustments	0.00	
Overtime	0.00	
<b>EARNINGS TOTAL</b>	<b>4,389.30</b>	<b>5,277.30</b>
Non-Taxable Gross	351.14	418.18
Taxable Gross	3,971.12	4,859.12

  

Statutory & Other Deductions	Current	Year to Date
Federal Withholding	311.17	311.17
Additional Federal Withholding	0.00	*****
State Withholding	135.96	135.96
Additional State Withholding	0.00	*****
FICA	0.00	55.06
Medicare	62.67	75.55
Medicare Buyout	0.00	0.00
State Disability Insurance	0.00	0.00
RS	351.14	351.14
RS	0.00	0.00
Corporate Retirement	0.00	
	67.04	0.00

# Earnings statements

- Additional earnings statements requirements:
  - Employee's rate or rates of pay and basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission or other method.
  - Allowances claimed for permitted meals and lodging.
    - For further information refer to Minnesota Rules, Chapter 5200.0060 and 5200.0070.
  - Employer's telephone number.
  - Physical address of employer's main office or principal place of business and a mailing address, if different.



# Recordkeeping

- Recordkeeping requirements:
  - Employee's name, address and occupation.
  - Employee's rate(s) of pay and the amount paid each pay period.
  - Employee's hours worked each day and each workweek.
  - Certified payroll (for prevailing-wage projects only).
  - Other information the commissioner finds necessary and appropriate to enforce Minnesota Statutes §§ 177.21 to 177.435.



# Recordkeeping

- Additional records employers are now required to maintain:
  - Employee's hours worked each day and each workweek, including, for all employees paid at piece rate, the number of pieces completed at each piece rate.
  - A list of the personnel policies provided to the employee, including the date the policies were given to the employee and a brief description of the policies.
  - A copy of the employee notice. Plus, a copy of any written changes to the notice that were provided to each employee.



# Recordkeeping

- Records must be available for inspection upon demand from the Department of Labor and Industry (DLI).
- Records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply with the demand within 72 hours.
- If records maintained by the employer do not provide sufficient information to determine the exact amount of back wages due, DLI may make a determination of back wages due based on available evidence.



# Clarification of "wages" and "commissions"

Clarifications and requirements for what wages and commissions an employer must pay and when employers must pay wages and commissions to employees:

- Employers must pay all wages, including salary, earnings and gratuities earned by an employee at least once every 31 days and all commissions earned by an employee at least once every three months on a regular payday.
- The new Wage Theft Law further clarifies that Minn. Stat. § 181.101 provides a substantive right to the payment of commissions and wages, at the employee's rate or rates of pay or the rate or rates required by law, whichever is greater, as well as the right to be paid wages and commissions earned on a regular pay day.

# Retaliation prohibited

- An employer is prohibited from retaliating against an employee for asserting rights or remedies under the Minnesota Fair Labor Standards Act, the Minnesota Prevailing Wage Act and certain provisions of Minn. Stat. Chapter 181 (Payment of Wages Act), including filing a complaint with DLI or telling the employer of the employee's intention to file a complaint.
- In addition to any other remedies provided by law, an employer that violates this subdivision is liable for a civil penalty of \$700 to \$3,000 for each violation.

# Responsible contractor requirements

The "responsible contractor" requirements have been amended to include Minn. Stat. §§ 181.03 (prohibited wage practices and retaliation), 181.101 (payment of wages) and 609.52, subd. 2 (19) (criminal wage theft), in the list of laws that contractors must verify they are in compliance with and have not violated during the past three years, to be considered eligible to bid on public contracts.

# DLI enforcement authority

The application of remedies under existing law was clarified and penalty amounts were increased for repeated violations of the recordkeeping laws. The commissioner's enforcement authority was also clarified and expanded:

- Enter and inspect places of employment without unreasonable delay to carry out purposes of Minn. Stat., Chapters 177, 181, 181A and 184.
- Apply for an inspection order in district court in the county where the place of employment is located to require employer to permit entry of the commissioner or an authorized representative if the entry has been denied.
- Interview nonmanagement employees in private regarding an investigation.

# DLI enforcement authority

- DLI, its commissioner or its authorized representative shall provide a copy of an order to comply issued to an employer and the disposition of the order or the data set out in the order to comply and its disposition to the following entities:
  - A licensing or regulatory authority of one or more state agencies or agencies of political subdivision to which the employer is subject.
  - A public contracting authority with which the employer is party to a public contract.
  - The employees whose interests are affected by the order.

# Attorney general enforcement authority

The Minnesota Attorney General's Office, in addition to the Department of Labor and Industry, has the authority to enforce Minn. Stat., Chapters 177 (Minnesota Fair Labor Standards Act and Prevailing Wage Act) and 181 (Payment of Wages) under Minn. Stat. § 8.31.

# Criminal wage theft

- The crime of "wage theft" occurs when an employer, with intent to defraud:
  - Fails to pay an employee all wages, salary, gratuities, earnings or commissions at the employee's rate or rates of pay or at the rate or rates required by law, whichever is greater.
  - Directly or indirectly causes any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered.
  - Directly or indirectly demands or receives from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer.
  - Makes or attempts to make it appear in any manner the wages paid to any employee were greater than the amount actually paid to the employee.

# Criminal Wage Theft

“Employer” and “employee” are defined broadly under criminal law:

“Employer” is defined as “any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.”

“Employee” is defined as “any individual employed by an employer.”

# Criminal Wage Theft

Sanctions for committing wage theft :

Wages stolen (per employee*)	Max Prison Sentence	Maximum Fine
More than \$35K	20 Years	\$100,000
\$5K - \$34,999	10 years	\$20,000
\$1K - \$4,999	5 years	\$10,000
\$500 - \$999	1 year	\$3,000

\*When determining the value of the wages stolen, the law allows for the amount of employee wages that were stolen through wage theft to be aggregated within any six-month period.

# For more information

- Visit our web site at [www.dli.mn.gov/laborlaw](http://www.dli.mn.gov/laborlaw).
- Sign up for the *Wage and Hour Bulletin* on our website.
- Contact DLI's Labor Standards at 651-284-5075 or [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us).