

## MINNESOTA

### NEW LAW: Minnesota New Wage Theft Law Imposes New Requirements On Employers

On July 1, 2019, Minnesota's new [Wage Theft Law](#) goes into effect. This new law amends existing state law and imposes four new wage and hour requirements that affect employers. The penalties for failing to comply with the new requirements are quite steep; therefore, compliance is extremely important.

#### #1 – New Wage Notice Requirements

Under existing Minnesota law, employers whom employ 10+ employees are required to provide new hires with certain information regarding their employment pursuant to Minn. Stat. §§ 181.55, which requires they provide new employees with a written and signed agreement of hire (or job offer letter) that plainly contains the following information:

- The date the agreement was entered into;
- The date employment begins;
- The employee's rate of pay or commission, so that wages may be easily calculated;
- The number of hours in a regular day's work and whether additional hours are counted as overtime;
- The rate of pay for overtime hours (if applicable); and
- A statement of any special responsibility of the employee's which, if not properly performed, allows the employer to deduct wages from the employee and the terms on which these deductions may be made.

The new law requires all Minnesota employers (regardless of size) to provide all new employees at the start of their employment with a written notice that contains the following information:

- The 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, and the specific application of any additional rates;
- Allowances, if any, claimed pursuant to permitted meals and lodging;
- Paid vacation, sick time, or other paid time-off accruals and terms of use;
- The employee's employment status and whether the employee is exempt from minimum wage, overtime, and other state wage and hour laws, and on what basis;
- A list of deductions that may be made from the employee's pay;
- The number of days in the pay period, the regularly scheduled pay day, and the pay day on which the employee will receive the first payment of wages earned;
- 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.

NOTE: For Minnesota employers with 10+ employees, these new wage notice requirements are in addition to the ones set forth in Minn. Stat. § 181.55.

In addition, any time the information in the notice provided to employees changes, employers are required to provide employees with written notice of these changes before the changes take effect.

The notice must be provided to each employee in English and the English version of the must include text provided by the Minnesota Department of Labor and Industry that informs employees that they may request, by indicating on the form, the notice be provided in a particular language. If requested, the employer shall provide the notice in the language requested by the employee. The Minnesota Department of Labor and Industry will assist with the translation.

Finally, employers are required to keep a signed (by the employee) copy of the notice given to each employee

## #2. New Pay Stub Requirements

The amended law also imposes new paystub reporting requirements on employers.

Currently, employers are required to provide the following information on employees' paystubs:

- the name of the employee;
- the hourly rate of pay, if applicable;
- the total hours worked;
- the gross pay;
- a list of all deductions (taxes, insurance, union dues, other);
- the net pay (after all deductions are made);
- the pay period ending date; and
- the employer's legal name and d/b/a if different.

Starting July 1st, employees' paystub must also include the following information:

- 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
- Employer's telephone contact
- Physical address of employer's main office or principal place of business and a mailing address, if different

## #3 Clarifying Wage Payment Requirements

Currently, Minnesota employers are required to pay all wages earned by an employee at least once every 31 days. The new law clarifies that salary, earnings, and gratuities are included in the types of wages that must be paid at least once every 31 days.

The new law also adds a new requirement – that all commissions earned by an employee must be paid at least once every three months.

The new law also removes the 15-day cap on penalties for late payment of wages.

In addition, the law now includes commissions in the types of wages that may be demanded for payment. Moreover, under the new law, if the Minnesota Department of Labor and Industry is not paid within 10 days of a demand for payment for commissions, the Department may charge and collect the commission earned along with a penalty equal to 1/15th of the commissions earned but unpaid for each day beyond the 10-day limit.

## #4 New Recordkeeping Requirements

Under the current law, employers are required to keep the following employment records for three years:

- Each employee's name, address and occupation.
- Each employee's rate of pay and the amount paid each pay period.
- For each employer subject to the Minnesota Prevailing Wage Act, and while performing work on public works projects funded in whole or in part with state funds, the employer shall furnish under oath signed by an owner or officer of an employer to the contracting authority and the project owner every two weeks, a certified payroll report with respect to the wages and benefits paid each employee during the preceding weeks specifying for each employee:

- Name;
- Identifying number;
- Prevailing-wage master job classification;
- Hours worked each day;
- Total hours;
- Rate of pay; gross amount earned;
- Each deduction for taxes;
- Total deductions;
- Net pay for week;
- Dollars contributed per hour for each benefit, including
  - Name and address of administrator;
  - Benefit account number; and
  - Telephone number for health and welfare, vacation or holiday, apprenticeship training, pension and other benefit programs.
- Other information the commissioner finds necessary and appropriate to enforce the Minnesota wage and hour statutes.

Starting July 1st, employers will also need to keep the following records:

- Each 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 personnel policies with brief descriptions of each policy that were provided to each employee, including the date the policies were given to the employee.
- A copy of the new notice that is required to be provided to and signed by each employee at the start of employment and a copy of any written changes to the notice that were provided to each employee.
- The records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply with a demand for inspection from the Minnesota Department of Labor and Industries within 72 hours.

#### Take Home For Employers

It is recommended that all Minnesota employers familiarize themselves with these new requirements and verify that their company is prepared to comply with this new law. It is recommended that Minnesota employers do the following:

- Create the required wage notice (including the language required by the Minnesota Department of Labor and Industry) and start distributing the notices to new employees starting July 1st.
- Develop a plan to provide written notice to existing employees of changes contained in the notices
- Review all paystubs and verify they contain all information required by the new law
- Verify that all wages are being paid in compliance with the new requirements; and
- Verify that your company is retaining the required records.