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State of Minnesota  
**HOUSE OF REPRESENTATIVES**  
*First Division Engrossment*

NINETY-FIRST SESSION

**H. F. No. 6**

- 01/10/2019 Authored by Mahoney, Garofalo, Halverson, Nelson, Gunther and others  
The bill was read for the first time and referred to the Committee on Labor
- 02/14/2019 Adoption of Report: Re-referred to the Committee on Ways and Means
- Division Action**
- 03/05/2019 *Referred by Chair to the Judiciary Finance and Civil Law Division*  
*Division action, to adopt as amended and return to the Committee on Ways and Means*

1.1 A bill for an act

1.2 relating to employment; prohibiting wage theft; modifying payment of wages;

1.3 increasing civil and criminal penalties; allowing for administrative review;

1.4 appropriating money; amending Minnesota Statutes 2018, sections 16C.285,

1.5 subdivision 3; 177.27, subdivision 2, by adding a subdivision; 177.30; 177.32,

1.6 subdivision 1; 181.03, subdivision 1, by adding subdivisions; 181.032; 181.101;

1.7 609.52, subdivisions 1, 2, 3; proposing coding for new law in Minnesota Statutes,

1.8 chapters 177; 181.

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

1.10 Section 1. Minnesota Statutes 2018, section 16C.285, subdivision 3, is amended to read:

1.11 Subd. 3. **Minimum criteria.** "Responsible contractor" means a contractor that conforms

1.12 to the responsibility requirements in the solicitation document for its portion of the work

1.13 on the project and verifies that it meets the following minimum criteria:

1.14 (1) the contractor:

1.15 (i) is in compliance with workers' compensation and unemployment insurance

1.16 requirements;

1.17 (ii) is in compliance with Department of Revenue and Department of Employment and

1.18 Economic Development registration requirements if it has employees;

1.19 (iii) has a valid federal tax identification number or a valid Social Security number if

1.20 an individual; and

1.21 (iv) has filed a certificate of authority to transact business in Minnesota with the secretary

1.22 of state if a foreign corporation or cooperative;

2.1 (2) the contractor or related entity is in compliance with and, during the three-year period  
2.2 before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44,  
2.3 181.13, 181.14, or 181.722, and has not violated United States Code, title 29, sections 201  
2.4 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes of this clause,  
2.5 a violation occurs when a contractor or related entity:

2.6 (i) repeatedly fails to pay statutorily required wages or penalties on one or more separate  
2.7 projects for a total underpayment of \$25,000 or more within the three-year period, provided  
2.8 that a failure to pay is "repeated" only if it involves two or more separate and distinct  
2.9 occurrences of underpayment during the three-year period;

2.10 (ii) has been issued an order to comply by the commissioner of labor and industry that  
2.11 has become final;

2.12 (iii) has been issued at least two determination letters within the three-year period by  
2.13 the Department of Transportation finding an underpayment by the contractor or related  
2.14 entity to its own employees;

2.15 (iv) has been found by the commissioner of labor and industry to have repeatedly or  
2.16 willfully violated any of the sections referenced in this clause pursuant to section 177.27;

2.17 (v) has been issued a ruling or findings of underpayment by the administrator of the  
2.18 Wage and Hour Division of the United States Department of Labor that have become final  
2.19 or have been upheld by an administrative law judge or the Administrative Review Board;

2.20 ~~or~~

2.21 (vi) has been found liable for underpayment of wages or penalties or misrepresenting a  
2.22 construction worker as an independent contractor in an action brought in a court having  
2.23 jurisdiction; or

2.24 (vii) has been convicted of a violation of section 609.52, subdivision 2, clause (19).

2.25 Provided that, if the contractor or related entity contests a determination of underpayment  
2.26 by the Department of Transportation in a contested case proceeding, a violation does not  
2.27 occur until the contested case proceeding has concluded with a determination that the  
2.28 contractor or related entity underpaid wages or penalties;

2.29 (3) the contractor or related entity is in compliance with and, during the three-year period  
2.30 before submitting the verification, has not violated section 181.723 or chapter 326B. For  
2.31 purposes of this clause, a violation occurs when a contractor or related entity has been issued  
2.32 a final administrative or licensing order;

3.1 (4) the contractor or related entity has not, more than twice during the three-year period  
3.2 before submitting the verification, had a certificate of compliance under section 363A.36  
3.3 revoked or suspended based on the provisions of section 363A.36, with the revocation or  
3.4 suspension becoming final because it was upheld by the Office of Administrative Hearings  
3.5 or was not appealed to the office;

3.6 (5) the contractor or related entity has not received a final determination assessing a  
3.7 monetary sanction from the Department of Administration or Transportation for failure to  
3.8 meet targeted group business, disadvantaged business enterprise, or veteran-owned business  
3.9 goals, due to a lack of good faith effort, more than once during the three-year period before  
3.10 submitting the verification;

3.11 (6) the contractor or related entity is not currently suspended or debarred by the federal  
3.12 government or the state of Minnesota or any of its departments, commissions, agencies, or  
3.13 political subdivisions that have authority to debar a contractor; and

3.14 (7) all subcontractors and motor carriers that the contractor intends to use to perform  
3.15 project work have verified to the contractor through a signed statement under oath by an  
3.16 owner or officer that they meet the minimum criteria listed in clauses (1) to (6).

3.17 Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5),  
3.18 occurring prior to July 1, 2014, shall not be considered in determining whether a contractor  
3.19 or related entity meets the minimum criteria.

3.20 Sec. 2. Minnesota Statutes 2018, section 177.27, subdivision 2, is amended to read:

3.21 Subd. 2. **Submission of records; penalty.** The commissioner may require the employer  
3.22 of employees working in the state to submit to the commissioner photocopies, certified  
3.23 copies, or, if necessary, the originals of employment records which the commissioner deems  
3.24 necessary or appropriate. The records which may be required include full and correct  
3.25 statements in writing, including sworn statements by the employer, containing information  
3.26 relating to wages, hours, names, addresses, and any other information pertaining to the  
3.27 employer's employees and the conditions of their employment as the commissioner deems  
3.28 necessary or appropriate.

3.29 The commissioner may require the records to be submitted in a specific format by  
3.30 certified mail delivery or, if necessary, by personal delivery by the employer or a  
3.31 representative of the employer, as authorized by the employer in writing.

3.32 The commissioner may fine the employer up to \$1,000 for each failure to submit or  
3.33 deliver records as required by this section, and up to \$10,000 for each repeated failure. This

4.1 penalty is in addition to any penalties provided under section 177.32, subdivision 1. In  
4.2 determining the amount of a civil penalty under this subdivision, the appropriateness of  
4.3 such penalty to the size of the employer's business and the gravity of the violation shall be  
4.4 considered.

4.5 Sec. 3. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to  
4.6 read:

4.7 Subd. 11. **Subpoenas.** In order to carry out the purposes of this chapter and chapter 181,  
4.8 181A, or 184, the commissioner may issue subpoenas to compel persons to appear before  
4.9 the commissioner to give testimony and produce and permit inspection, copying, testing,  
4.10 or sampling of documents, electronically stored information, tangible items, or other items  
4.11 in the possession, custody, or control of that person that are deemed necessary or appropriate  
4.12 by the commissioner. A subpoena may specify the form or format in which electronically  
4.13 stored information is to be produced. Upon the application of the commissioner, a district  
4.14 court shall treat the failure of any person to obey a subpoena lawfully issued by the  
4.15 commissioner under this subdivision as a contempt of court.

4.16 Sec. 4. Minnesota Statutes 2018, section 177.30, is amended to read:

4.17 **177.30 KEEPING RECORDS; PENALTY.**

4.18 (a) Every employer subject to sections 177.21 to 177.44 must make and keep a record  
4.19 of:

4.20 (1) the name, address, and occupation of each employee;

4.21 (2) the rate of pay, and the amount paid each pay period to each employee, including  
4.22 whether each employee is paid by the hour, shift, day, week, salary, piece, commission, or  
4.23 other;

4.24 (3) the hours worked each day and each workweek by the employee, including for all  
4.25 employees paid at piece rate, the number of pieces completed at each piece rate;

4.26 (4) any personnel policies provided to employees;

4.27 (5) a copy of the notice provided to each employee as required by section 181.032,  
4.28 paragraph (d);

4.29 (6) for each employer subject to sections 177.41 to 177.44, and while performing work  
4.30 on public works projects funded in whole or in part with state funds, the employer shall  
4.31 furnish under oath signed by an owner or officer of an employer to the contracting authority

5.1 and the project owner every two weeks, a certified payroll report with respect to the wages  
5.2 and benefits paid each employee during the preceding weeks specifying for each employee:  
5.3 name; identifying number; prevailing wage master job classification; hours worked each  
5.4 day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions;  
5.5 net pay for week; dollars contributed per hour for each benefit, including name and address  
5.6 of administrator; benefit account number; and telephone number for health and welfare,  
5.7 vacation or holiday, apprenticeship training, pension, and other benefit programs; and

5.8 ~~(5)~~ (7) other information the commissioner finds necessary and appropriate to enforce  
5.9 sections 177.21 to 177.435. The records must be kept for three years in ~~or near~~ the premises  
5.10 where an employee works except each employer subject to sections 177.41 to 177.44, and  
5.11 while performing work on public works projects funded in whole or in part with state funds,  
5.12 the records must be kept for three years after the contracting authority has made final payment  
5.13 on the public works project.

5.14 (b) All records required to be kept under paragraph (a) must be readily available for  
5.15 inspection by the commissioner on the premises of employment during reasonable office  
5.16 hours under section 177.27, subdivision 1.

5.17 (c) The commissioner may fine an employer up to \$1,000 for each failure to maintain  
5.18 records as required by this section, and up to \$10,000 for each repeated failure. This penalty  
5.19 is in addition to any penalties provided under section 177.32, subdivision 1. In determining  
5.20 the amount of a civil penalty under this subdivision, the appropriateness of such penalty to  
5.21 the size of the employer's business and the gravity of the violation shall be considered.

5.22 (d) If the records maintained by the employer do not provide sufficient information to  
5.23 determine the exact amount of back wages due an employee, the commissioner may make  
5.24 a determination of wages due based on available evidence.

5.25 Sec. 5. Minnesota Statutes 2018, section 177.32, subdivision 1, is amended to read:

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

5.28 (1) hinders or delays the commissioner in the performance of duties required under  
5.29 sections 177.21 to 177.435, or chapter 181;

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

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

6.1 (4) falsifies any record;

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

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

6.6 (7) pays or agrees to pay wages at a rate less than the rate required under sections 177.21  
6.7 to 177.44, or described and provided by an employer to its employees under section 181.032;

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

6.9 (9) otherwise violates any provision of sections 177.21 to 177.44, or commits wage theft  
6.10 as described in section 181.03, subdivision 1.

6.11 Intent is not an element of a misdemeanor under this paragraph.

6.12 (b) An employer is guilty of a gross misdemeanor if the employer is found to have  
6.13 intentionally retaliated against an employee for asserting rights or remedies under sections  
6.14 177.21 to 177.44 or section 181.03.

6.15 Sec. 6. **[177.45] ENFORCEMENT; REMEDIES.**

6.16 Subdivision 1. **Violation as unlawful practice in business, commerce, or trade.** A  
6.17 violation of any provision of this chapter is an unlawful practice in business, commerce, or  
6.18 trade under section 8.31, subdivision 1.

6.19 Subd. 2. **Public enforcement.** In addition to the public enforcement of this chapter by  
6.20 the department, the attorney general shall enforce this chapter under section 8.31.

6.21 Subd. 3. **Remedies cumulative.** The remedies provided in this chapter are cumulative  
6.22 and do not restrict any remedy that is otherwise available, including remedies provided  
6.23 under section 8.31. The provisions of this section are not exclusive and are in addition to  
6.24 any other requirements, rights, remedies, and penalties provided by law.

6.25 Sec. 7. Minnesota Statutes 2018, section 181.03, subdivision 1, is amended to read:

6.26 Subdivision 1. **Prohibited practices.** ~~An employer may not, directly or indirectly and~~  
6.27 ~~with intent to defraud:~~ (a) No employer shall commit wage theft.

6.28 (b) For purposes of this section, wage theft is committed if:

6.29 (1) ~~cause~~ an employer has failed to pay an employee all wages, salary, gratuities, earnings,  
6.30 or commissions to which that employee is entitled, including all wages that are required to

7.1 be described and provided by an employer to its employees under section 181.032 or as  
7.2 required under sections 177.41 to 177.44;

7.3 (2) an employer directly or indirectly causes any employee to give a receipt for wages  
7.4 for a greater amount than that actually paid to the employee for services rendered;

7.5 ~~(2)~~ (3) an employer directly or indirectly demand demands or receive receives from any  
7.6 employee any rebate or refund from the wages owed the employee under contract of  
7.7 employment with the employer; or

7.8 ~~(3)~~ (4) an employer in any manner make makes or attempt attempts to make it appear  
7.9 that the wages paid to any employee were greater than the amount actually paid to the  
7.10 employee.

7.11 Sec. 8. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to  
7.12 read:

7.13 Subd. 4. **Enforcement.** The use of an enforcement provision in this section shall not  
7.14 preclude the use of any other enforcement provision provided by law.

7.15 Sec. 9. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to  
7.16 read:

7.17 Subd. 5. **Citations.** The commissioner of labor and industry may issue a citation for  
7.18 failure to pay wages of up to \$1,000 for any individual employee within any single pay  
7.19 period by serving the citation on the employer. The citation shall direct the employer to pay  
7.20 to the commissioner any back pay, gratuities, and compensatory damages owed to the  
7.21 employee within 15 days. The citation may require the employer to correct the violation,  
7.22 may require the employer to cease and desist from committing the violation, and may assess  
7.23 a monetary penalty of up to \$1,000. In determining the amount of the monetary penalty,  
7.24 the commissioner shall consider the factors described in section 14.045, subdivision 3. If  
7.25 the citation includes a penalty assessment, then the penalty is due and payable on the date  
7.26 the citation becomes final. The commissioner shall vacate the citation if: (1) before the  
7.27 citation was issued, the employer paid to the employee the back pay, gratuities, and  
7.28 compensatory damages specified in the citation; and (2) within the five days after the citation  
7.29 is issued, the employer provides to the commissioner evidence acceptable to the  
7.30 commissioner that the employer made the payment described in clause (1).

8.1 Sec. 10. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to  
8.2 read:

8.3 Subd. 6. **Administrative review.** Within 15 days after the commissioner of labor and  
8.4 industry issues a citation under subdivision 5, the employer to whom the citation is issued  
8.5 may request an expedited hearing to review the citation. The request for hearing must be  
8.6 in writing and must be served on the commissioner at the address specified in the citation.  
8.7 If the employer does not request a hearing or if the employer's written request for hearing  
8.8 is not served on the commissioner by the 15th day after the commissioner issues the citation,  
8.9 the citation becomes a final order of the commissioner and is not subject to review by any  
8.10 court or agency. The hearing request must state the reasons for seeking review of the citation.  
8.11 The employer to whom the citation is issued and the commissioner are the parties to the  
8.12 expedited hearing. The commissioner must notify the employer to whom the citation is  
8.13 issued of the time and place of the hearing at least 15 days before the hearing. The hearing  
8.14 shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by  
8.15 this section. If a hearing has been held, the commissioner shall not issue a final order until  
8.16 at least five days after the date of the administrative law judge's report. Any person aggrieved  
8.17 by the administrative law judge's report may, within those five days, serve written comments  
8.18 to the commissioner on the report and the commissioner shall consider and enter the  
8.19 comments in the record. The commissioner's final order shall comply with sections 14.61,  
8.20 subdivision 2, and 14.62, subdivisions 1 and 2a, and may be appealed in the manner provided  
8.21 in sections 14.63 to 14.69.

8.22 Sec. 11. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to  
8.23 read:

8.24 Subd. 7. **Effect on other laws.** Nothing in this section shall be construed to limit the  
8.25 application of other state or federal laws.

8.26 Sec. 12. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to  
8.27 read:

8.28 Subd. 8. **Retaliation.** An employer must not retaliate against an employee for asserting  
8.29 rights or remedies under this section, including but not limited to filing a complaint with  
8.30 the Department of Labor and Industry or telling the employer of intention to file a complaint.  
8.31 A rebuttable presumption of unlawful retaliation under this section exists whenever an  
8.32 employer takes adverse action against an employee within 90 days of the employee asserting  
8.33 rights or remedies under this section.

9.1 Sec. 13. Minnesota Statutes 2018, section 181.032, is amended to read:

9.2 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE**  
9.3 **TO EMPLOYEE.**

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

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

9.11 (1) the name of the employee;

9.12 (2) the hourly rate or rates of pay (if applicable) and basis thereof, including whether  
9.13 the employee is paid by hour, shift, day, week, salary, piece, commission, or other method;

9.14 (3) allowances, if any, claimed pursuant to permitted meals and lodging;

9.15 (4) the total number of hours worked by the employee unless exempt from chapter 177;

9.16 ~~(4)~~ (5) the total amount of gross pay earned by the employee during that period;

9.17 ~~(5)~~ (6) a list of deductions made from the employee's pay;

9.18 ~~(6)~~ (7) the net amount of pay after all deductions are made;

9.19 ~~(7)~~ (8) the date on which the pay period ends; and

9.20 ~~(8)~~ (9) the legal name of the employer and the operating name of the employer if different  
9.21 from the legal name;

9.22 (10) the physical address of the employer's main office or principal place of business,  
9.23 and a mailing address if different; and

9.24 (11) the telephone number of the employer.

9.25 (c) An employer must provide earnings statements to an employee in writing, rather  
9.26 than by electronic means, if the employer has received at least 24 hours notice from an  
9.27 employee that the employee would like to receive earnings statements in written form. Once  
9.28 an employer has received notice from an employee that the employee would like to receive  
9.29 earnings statements in written form, the employer must comply with that request on an  
9.30 ongoing basis.

10.1 (d) At the start of employment, an employer shall provide each employee a written notice  
10.2 containing the following information:

10.3 (1) the rate or rates of pay and basis thereof, including whether the employee is paid by  
10.4 the hour, shift, day, week, salary, piece, commission, or other method, and the specific  
10.5 application of any additional rates;

10.6 (2) allowances, if any, claimed pursuant to permitted meals and lodging;

10.7 (3) paid vacation, sick time, or other paid time off accruals and terms of use;

10.8 (4) whether the employee is exempt from minimum wage, overtime, and other provisions  
10.9 of chapter 177, and on what basis;

10.10 (5) a list of deductions that may be made from the employee's pay;

10.11 (6) the dates on which the pay periods start and end and the regularly scheduled payday;

10.12 (7) the legal name of the employer and the operating name of the employer if different  
10.13 from the legal name;

10.14 (8) the physical address of the employer's main office or principal place of business, and  
10.15 a mailing address if different; and

10.16 (9) the telephone number of the employer.

10.17 (e) The employer must keep a copy of the notice under paragraph (d) signed by each  
10.18 employee acknowledging receipt of the notice. The notice must be provided to each employee  
10.19 in English and in the employee's native language.

10.20 (f) An employer must provide the employee any written changes to the information  
10.21 contained in the notice under paragraph (d) at least seven calendar days prior to the time  
10.22 the changes take effect. The changes must be signed by the employee before the changes  
10.23 go into effect. The employer must keep a signed copy of all notice of changes as well as  
10.24 the initial notices under paragraph (d).

10.25 Sec. 14. Minnesota Statutes 2018, section 181.101, is amended to read:

10.26 **181.101 WAGES; HOW OFTEN PAID.**

10.27 (a) Except as provided in paragraph (b), every employer must pay all wages earned by  
10.28 an employee at least once every ~~31~~ 16 days on a regular payday designated in advance by  
10.29 the employer regardless of whether the employee requests payment at longer intervals.  
10.30 ~~Unless paid earlier, the wages earned during the first half of the first 31-day pay period~~  
10.31 ~~become due on the first regular payday following the first day of work.~~ An employer's pay

11.1 period must be no longer than 16 days. All wages earned in a pay period must be paid to  
 11.2 an employee within ten days of the end of that pay period. If wages earned are not paid, the  
 11.3 commissioner of labor and industry or the commissioner's representative may demand  
 11.4 payment on behalf of an employee. If payment is not made within ~~ten~~ five days of demand,  
 11.5 the commissioner may charge and collect the wages earned and a penalty in the amount of  
 11.6 double the employee's average daily earnings at the rate agreed upon in the contract of  
 11.7 employment or rates required to be described and provided by an employer to its employees  
 11.8 under section 181.032, or as required under sections 177.41 to 177.44, not exceeding 15  
 11.9 days in all, for each day beyond the ~~ten-day~~ five-day limit following the demand. Money  
 11.10 collected by the commissioner must be paid to the employee concerned. This section does  
 11.11 not prevent an employee from prosecuting a claim for wages. This section does not prevent  
 11.12 a school district, other public school entity, or other school, as defined under section 120A.22,  
 11.13 from paying any wages earned by its employees during a school year on regular paydays  
 11.14 in the manner provided by an applicable contract or collective bargaining agreement, or a  
 11.15 personnel policy adopted by the governing board. For purposes of this section, "employee"  
 11.16 includes a person who performs agricultural labor as defined in section 181.85, subdivision  
 11.17 2. For purposes of this section, wages are earned on the day an employee works.

11.18 (b) An employer of a volunteer firefighter, as defined in section 424A.001, subdivision  
 11.19 10, a member of an organized first responder squad that is formally recognized by a political  
 11.20 subdivision in the state, or a volunteer ambulance driver or attendant must pay all wages  
 11.21 earned by the volunteer firefighter, first responder, or volunteer ambulance driver or attendant  
 11.22 at least once every 31 days, unless the employer and the employee mutually agree upon  
 11.23 payment at longer intervals.

11.24 **Sec. 15. [181.1721] ENFORCEMENT; REMEDIES.**

11.25 Subdivision 1. **Violation as unlawful practice in business, commerce, or trade.** A  
 11.26 violation of any of the provisions of sections 181.01 to 181.172 is an unlawful practice in  
 11.27 business, commerce, or trade under section 8.31, subdivision 1.

11.28 Subd. 2. **Public enforcement.** In addition to any enforcement of provisions of this  
 11.29 chapter by the Department of Labor and Industry, the attorney general shall enforce sections  
 11.30 181.01 to 181.172 under section 8.31.

11.31 Subd. 3. **Remedies cumulative.** The remedies provided in sections 181.01 to 181.172  
 11.32 are cumulative and do not restrict any remedy that is otherwise available, including remedies  
 11.33 provided under section 8.31. The provisions of this section are not exclusive and are in  
 11.34 addition to any other requirements, rights, remedies, and penalties provided by law.

12.1 Sec. 16. Minnesota Statutes 2018, section 609.52, subdivision 1, is amended to read:

12.2 Subdivision 1. **Definitions.** In this section:

12.3 (1) "Property" means all forms of tangible property, whether real or personal, without  
12.4 limitation including documents of value, electricity, gas, water, corpses, domestic animals,  
12.5 dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility  
12.6 companies and articles, as defined in clause (4), representing trade secrets, which articles  
12.7 shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any  
12.8 trade secret represented by the article.

12.9 (2) "Movable property" is property whose physical location can be changed, including  
12.10 without limitation things growing on, affixed to, or found in land.

12.11 (3) "Value" means the retail market value at the time of the theft, or if the retail market  
12.12 value cannot be ascertained, the cost of replacement of the property within a reasonable  
12.13 time after the theft, or in the case of a theft or the making of a copy of an article representing  
12.14 a trade secret, where the retail market value or replacement cost cannot be ascertained, any  
12.15 reasonable value representing the damage to the owner which the owner has suffered by  
12.16 reason of losing an advantage over those who do not know of or use the trade secret. For a  
12.17 check, draft, or other order for the payment of money, "value" means the amount of money  
12.18 promised or ordered to be paid under the terms of the check, draft, or other order. For a  
12.19 theft committed within the meaning of subdivision 2, clause (5), items (i) and (ii), if the  
12.20 property has been restored to the owner, "value" means the value of the use of the property  
12.21 or the damage which it sustained, whichever is greater, while the owner was deprived of  
12.22 its possession, but not exceeding the value otherwise provided herein. For a theft committed  
12.23 within the meaning of subdivision 2, clause (9), if the property has been restored to the  
12.24 owner, "value" means the rental value of the property, determined at the rental rate contracted  
12.25 by the defendant or, if no rental rate was contracted, the rental rate customarily charged by  
12.26 the owner for use of the property, plus any damage that occurred to the property while the  
12.27 owner was deprived of its possession, but not exceeding the total retail value of the property  
12.28 at the time of rental. For a theft committed within the meaning of subdivision 2, clause (19),  
12.29 "value" means the difference between wages legally required to be reported or paid to an  
12.30 employee and the amount actually reported or paid to the employee.

12.31 (4) "Article" means any object, material, device or substance, including any writing,  
12.32 record, recording, drawing, sample specimen, prototype, model, photograph, microorganism,  
12.33 blueprint or map, or any copy of any of the foregoing.

13.1 (5) "Representing" means describing, depicting, containing, constituting, reflecting or  
13.2 recording.

13.3 (6) "Trade secret" means information, including a formula, pattern, compilation, program,  
13.4 device, method, technique, or process, that:

13.5 (i) derives independent economic value, actual or potential, from not being generally  
13.6 known to, and not being readily ascertainable by proper means by, other persons who can  
13.7 obtain economic value from its disclosure or use, and

13.8 (ii) is the subject of efforts that are reasonable under the circumstances to maintain its  
13.9 secrecy.

13.10 (7) "Copy" means any facsimile, replica, photograph or other reproduction of an article,  
13.11 and any note, drawing, or sketch made of or from an article while in the presence of the  
13.12 article.

13.13 (8) "Property of another" includes property in which the actor is co-owner or has a lien,  
13.14 pledge, bailment, or lease or other subordinate interest, property transferred by the actor in  
13.15 circumstances which are known to the actor and which make the transfer fraudulent as  
13.16 defined in section 513.44, property possessed pursuant to a short-term rental contract, and  
13.17 property of a partnership of which the actor is a member, unless the actor and the victim  
13.18 are husband and wife. It does not include property in which the actor asserts in good faith  
13.19 a claim as a collection fee or commission out of property or funds recovered, or by virtue  
13.20 of a lien, setoff, or counterclaim.

13.21 (9) "Services" include but are not limited to labor, professional services, transportation  
13.22 services, electronic computer services, the supplying of hotel accommodations, restaurant  
13.23 services, entertainment services, advertising services, telecommunication services, and the  
13.24 supplying of equipment for use including rental of personal property or equipment.

13.25 (10) "Motor vehicle" means a self-propelled device for moving persons or property or  
13.26 pulling implements from one place to another, whether the device is operated on land, rails,  
13.27 water, or in the air.

13.28 (11) "Motor fuel" has the meaning given in section 604.15, subdivision 1.

13.29 (12) "Retailer" has the meaning given in section 604.15, subdivision 1.

13.30 Sec. 17. Minnesota Statutes 2018, section 609.52, subdivision 2, is amended to read:

13.31 Subd. 2. **Acts constituting theft.** (a) Whoever does any of the following commits theft  
13.32 and may be sentenced as provided in subdivision 3:

- 14.1 (1) intentionally and without claim of right takes, uses, transfers, conceals or retains  
14.2 possession of movable property of another without the other's consent and with intent to  
14.3 deprive the owner permanently of possession of the property; or
- 14.4 (2) with or without having a legal interest in movable property, intentionally and without  
14.5 consent, takes the property out of the possession of a pledgee or other person having a  
14.6 superior right of possession, with intent thereby to deprive the pledgee or other person  
14.7 permanently of the possession of the property; or
- 14.8 (3) obtains for the actor or another the possession, custody, or title to property of or  
14.9 performance of services by a third person by intentionally deceiving the third person with  
14.10 a false representation which is known to be false, made with intent to defraud, and which  
14.11 does defraud the person to whom it is made. "False representation" includes without  
14.12 limitation:
- 14.13 (i) the issuance of a check, draft, or order for the payment of money, except a forged  
14.14 check as defined in section 609.631, or the delivery of property knowing that the actor is  
14.15 not entitled to draw upon the drawee therefor or to order the payment or delivery thereof;  
14.16 or
- 14.17 (ii) a promise made with intent not to perform. Failure to perform is not evidence of  
14.18 intent not to perform unless corroborated by other substantial evidence; or
- 14.19 (iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost  
14.20 report used to establish a rate or claim for payment for medical care provided to a recipient  
14.21 of medical assistance under chapter 256B, which intentionally and falsely states the costs  
14.22 of or actual services provided by a vendor of medical care; or
- 14.23 (iv) the preparation or filing of a claim for reimbursement for providing treatment or  
14.24 supplies required to be furnished to an employee under section 176.135 which intentionally  
14.25 and falsely states the costs of or actual treatment or supplies provided; or
- 14.26 (v) the preparation or filing of a claim for reimbursement for providing treatment or  
14.27 supplies required to be furnished to an employee under section 176.135 for treatment or  
14.28 supplies that the provider knew were medically unnecessary, inappropriate, or excessive;  
14.29 or
- 14.30 (4) by swindling, whether by artifice, trick, device, or any other means, obtains property  
14.31 or services from another person; or
- 14.32 (5) intentionally commits any of the acts listed in this subdivision but with intent to  
14.33 exercise temporary control only and:

- 15.1 (i) the control exercised manifests an indifference to the rights of the owner or the  
15.2 restoration of the property to the owner; or
- 15.3 (ii) the actor pledges or otherwise attempts to subject the property to an adverse claim;  
15.4 or
- 15.5 (iii) the actor intends to restore the property only on condition that the owner pay a  
15.6 reward or buy back or make other compensation; or
- 15.7 (6) finds lost property and, knowing or having reasonable means of ascertaining the true  
15.8 owner, appropriates it to the finder's own use or to that of another not entitled thereto without  
15.9 first having made reasonable effort to find the owner and offer and surrender the property  
15.10 to the owner; or
- 15.11 (7) intentionally obtains property or services, offered upon the deposit of a sum of money  
15.12 or tokens in a coin or token operated machine or other receptacle, without making the  
15.13 required deposit or otherwise obtaining the consent of the owner; or
- 15.14 (8) intentionally and without claim of right converts any article representing a trade  
15.15 secret, knowing it to be such, to the actor's own use or that of another person or makes a  
15.16 copy of an article representing a trade secret, knowing it to be such, and intentionally and  
15.17 without claim of right converts the same to the actor's own use or that of another person. It  
15.18 shall be a complete defense to any prosecution under this clause for the defendant to show  
15.19 that information comprising the trade secret was rightfully known or available to the  
15.20 defendant from a source other than the owner of the trade secret; or
- 15.21 (9) leases or rents personal property under a written instrument and who:
- 15.22 (i) with intent to place the property beyond the control of the lessor conceals or aids or  
15.23 abets the concealment of the property or any part thereof; or
- 15.24 (ii) sells, conveys, or encumbers the property or any part thereof without the written  
15.25 consent of the lessor, without informing the person to whom the lessee sells, conveys, or  
15.26 encumbers that the same is subject to such lease or rental contract with intent to deprive the  
15.27 lessor of possession thereof; or
- 15.28 (iii) does not return the property to the lessor at the end of the lease or rental term, plus  
15.29 agreed-upon extensions, with intent to wrongfully deprive the lessor of possession of the  
15.30 property; or
- 15.31 (iv) returns the property to the lessor at the end of the lease or rental term, plus  
15.32 agreed-upon extensions, but does not pay the lease or rental charges agreed upon in the  
15.33 written instrument, with intent to wrongfully deprive the lessor of the agreed-upon charges.

16.1 For the purposes of items (iii) and (iv), the value of the property must be at least \$100.

16.2 Evidence that a lessee used a false, fictitious, or not current name, address, or place of  
16.3 employment in obtaining the property or fails or refuses to return the property or pay the  
16.4 rental contract charges to lessor within five days after written demand for the return has  
16.5 been served personally in the manner provided for service of process of a civil action or  
16.6 sent by certified mail to the last known address of the lessee, whichever shall occur later,  
16.7 shall be evidence of intent to violate this clause. Service by certified mail shall be deemed  
16.8 to be complete upon deposit in the United States mail of such demand, postpaid and addressed  
16.9 to the person at the address for the person set forth in the lease or rental agreement, or, in  
16.10 the absence of the address, to the person's last known place of residence; or

16.11 (10) alters, removes, or obliterates numbers or symbols placed on movable property for  
16.12 purpose of identification by the owner or person who has legal custody or right to possession  
16.13 thereof with the intent to prevent identification, if the person who alters, removes, or  
16.14 obliterates the numbers or symbols is not the owner and does not have the permission of  
16.15 the owner to make the alteration, removal, or obliteration; or

16.16 (11) with the intent to prevent the identification of property involved, so as to deprive  
16.17 the rightful owner of possession thereof, alters or removes any permanent serial number,  
16.18 permanent distinguishing number or manufacturer's identification number on personal  
16.19 property or possesses, sells or buys any personal property knowing or having reason to  
16.20 know that the permanent serial number, permanent distinguishing number or manufacturer's  
16.21 identification number has been removed or altered; or

16.22 (12) intentionally deprives another of a lawful charge for cable television service by:

16.23 (i) making or using or attempting to make or use an unauthorized external connection  
16.24 outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or  
16.25 other connection; or by

16.26 (ii) attaching any unauthorized device to any cable, wire, microwave, or other component  
16.27 of a licensed cable communications system as defined in chapter 238. Nothing herein shall  
16.28 be construed to prohibit the electronic video rerecording of program material transmitted  
16.29 on the cable communications system by a subscriber for fair use as defined by Public Law  
16.30 94-553, section 107; or

16.31 (13) except as provided in clauses (12) and (14), obtains the services of another with  
16.32 the intention of receiving those services without making the agreed or reasonably expected  
16.33 payment of money or other consideration; or

17.1 (14) intentionally deprives another of a lawful charge for telecommunications service  
17.2 by:

17.3 (i) making, using, or attempting to make or use an unauthorized connection whether  
17.4 physical, electrical, by wire, microwave, radio, or other means to a component of a local  
17.5 telecommunication system as provided in chapter 237; or

17.6 (ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other  
17.7 component of a local telecommunication system as provided in chapter 237.

17.8 The existence of an unauthorized connection is prima facie evidence that the occupier  
17.9 of the premises:

17.10 (A) made or was aware of the connection; and

17.11 (B) was aware that the connection was unauthorized;

17.12 (15) with intent to defraud, diverts corporate property other than in accordance with  
17.13 general business purposes or for purposes other than those specified in the corporation's  
17.14 articles of incorporation; or

17.15 (16) with intent to defraud, authorizes or causes a corporation to make a distribution in  
17.16 violation of section 302A.551, or any other state law in conformity with it; or

17.17 (17) takes or drives a motor vehicle without the consent of the owner or an authorized  
17.18 agent of the owner, knowing or having reason to know that the owner or an authorized agent  
17.19 of the owner did not give consent; or

17.20 (18) intentionally, and without claim of right, takes motor fuel from a retailer without  
17.21 the retailer's consent and with intent to deprive the retailer permanently of possession of  
17.22 the fuel by driving a motor vehicle from the premises of the retailer without having paid  
17.23 for the fuel dispensed into the vehicle; or

17.24 (19) intentionally engages in or authorizes a prohibited practice of wage theft as described  
17.25 in section 181.03, subdivision 1.

17.26 (b) Proof that the driver of a motor vehicle into which motor fuel was dispensed drove  
17.27 the vehicle from the premises of the retailer without having paid for the fuel permits the  
17.28 factfinder to infer that the driver acted intentionally and without claim of right, and that the  
17.29 driver intended to deprive the retailer permanently of possession of the fuel. This paragraph  
17.30 does not apply if: (1) payment has been made to the retailer within 30 days of the receipt  
17.31 of notice of nonpayment under section 604.15; or (2) a written notice as described in section  
17.32 604.15, subdivision 4, disputing the retailer's claim, has been sent. This paragraph does not

18.1 apply to the owner of a motor vehicle if the vehicle or the vehicle's license plate has been  
18.2 reported stolen before the theft of the fuel.

18.3 Sec. 18. Minnesota Statutes 2018, section 609.52, subdivision 3, is amended to read:

18.4 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

18.5 (1) to imprisonment for not more than 20 years or to payment of a fine of not more than  
18.6 \$100,000, or both, if the property is a firearm, or the value of the property or services stolen  
18.7 is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4),  
18.8 (15), ~~or (16)~~, or (19), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or

18.9 (2) to imprisonment for not more than ten years or to payment of a fine of not more than  
18.10 \$20,000, or both, if the value of the property or services stolen exceeds \$5,000, or if the  
18.11 property stolen was an article representing a trade secret, an explosive or incendiary device,  
18.12 or a controlled substance listed in Schedule I or II pursuant to section 152.02 with the  
18.13 exception of marijuana; or

18.14 (3) to imprisonment for not more than five years or to payment of a fine of not more  
18.15 than \$10,000, or both, if any of the following circumstances exist:

18.16 (a) the value of the property or services stolen is more than \$1,000 but not more than  
18.17 \$5,000; or

18.18 (b) the property stolen was a controlled substance listed in Schedule III, IV, or V pursuant  
18.19 to section 152.02; or

18.20 (c) the value of the property or services stolen is more than \$500 but not more than  
18.21 \$1,000 and the person has been convicted within the preceding five years for an offense  
18.22 under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision  
18.23 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United  
18.24 States, or a foreign jurisdiction, in conformity with any of those sections, and the person  
18.25 received a felony or gross misdemeanor sentence for the offense, or a sentence that was  
18.26 stayed under section 609.135 if the offense to which a plea was entered would allow  
18.27 imposition of a felony or gross misdemeanor sentence; or

18.28 (d) the value of the property or services stolen is not more than \$1,000, and any of the  
18.29 following circumstances exist:

18.30 (i) the property is taken from the person of another or from a corpse, or grave or coffin  
18.31 containing a corpse; or

19.1 (ii) the property is a record of a court or officer, or a writing, instrument or record kept,  
19.2 filed or deposited according to law with or in the keeping of any public officer or office; or

19.3 (iii) the property is taken from a burning, abandoned, or vacant building or upon its  
19.4 removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing,  
19.5 or the proximity of battle; or

19.6 (iv) the property consists of public funds belonging to the state or to any political  
19.7 subdivision or agency thereof; or

19.8 (v) the property stolen is a motor vehicle; or

19.9 (4) to imprisonment for not more than one year or to payment of a fine of not more than  
19.10 \$3,000, or both, if the value of the property or services stolen is more than \$500 but not  
19.11 more than \$1,000; or

19.12 (5) in all other cases where the value of the property or services stolen is \$500 or less,  
19.13 to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000,  
19.14 or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3),  
19.15 (4), and (13), the value of the money or property or services received by the defendant in  
19.16 violation of any one or more of the above provisions within any six-month period may be  
19.17 aggregated and the defendant charged accordingly in applying the provisions of this  
19.18 subdivision; provided that when two or more offenses are committed by the same person  
19.19 in two or more counties, the accused may be prosecuted in any county in which one of the  
19.20 offenses was committed for all of the offenses aggregated under this paragraph.

19.21 Sec. 19. **APPROPRIATION.**

19.22 \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the general  
19.23 fund to the commissioner of labor and industry to address wage theft. The commissioner  
19.24 must use at least ... percent of the amounts appropriated for grants to community-based  
19.25 groups for the purpose of outreach, education, and technical assistance for employees and  
19.26 employers.