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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 748

02/20/2013 Authored by Simon, Hornstein, Nelson, Atkins, Davnie and others

The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries

1.1 A bill for an act
1.2 relating to employment; modifying prompt payment of wages requirements;
1.3 modifying penalties; amending Minnesota Statutes 2012, sections 181.13; 181.14.

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

1.5 Section 1. Minnesota Statutes 2012, section 181.13, is amended to read:

1.6 **181.13 PENALTY FOR FAILURE TO PAY WAGES PROMPTLY.**

1.7 (a) When any employer employing labor within this state discharges an employee,
1.8 the wages or commissions actually earned and unpaid at the time of the discharge are
1.9 immediately due and payable upon demand of the employee. Wages are actually earned
1.10 and unpaid if the employee was not paid for all time worked at the employee's regular rate
1.11 of pay or at the rate required by law, including any applicable statute, regulation, rule,
1.12 ordinance, government resolution or policy, contract, or other legal authority, whichever
1.13 rate of pay is greater. If the employee's earned wages and commissions are not paid within
1.14 24 hours after demand, whether the employment was by the day, hour, week, month, or
1.15 piece or by commissions, the employer is in default. The discharged employee may charge
1.16 and collect a penalty equal to the amount of the employee's average daily earnings at the
1.17 ~~rate agreed upon in the contract of employment,~~ employee's regular rate of pay or the rate
1.18 required by law, whichever rate is greater, for each day up to 15 days, that the employer is
1.19 in default, until full payment or other settlement, satisfactory to the discharged employee,
1.20 is made. The discharged employee may recover an additional amount as compensatory
1.21 damages equal to the amount of wages and commissions that were earned and unpaid. In
1.22 the case of a public employer where approval of expenditures by a governing board is
1.23 required, the 24-hour period for payment does not commence until the date of the first
1.24 regular or special meeting of the governing board following discharge of the employee.

2.1 An employee's demand for payment under this section need not be in writing or state the
 2.2 precise amount of unpaid wages or commissions. An employee may directly seek and
 2.3 recover payment from an employer under this section even if the employee is not a party
 2.4 to a contract that requires the employer to pay the employee at the rate of pay demanded
 2.5 by the employee, so long as the contract or any applicable statute, regulation, rule,
 2.6 ordinance, government resolution or policy, or other legal authority requires payment to
 2.7 the employee at the particular rate of pay. The employee shall be able to directly seek
 2.8 payment at the highest rate of pay provided in the contract or applicable law, and any other
 2.9 related remedies as provided in this section.

2.10 (b) The wages and commissions must be paid at in the usual ~~place~~ manner of
 2.11 payment unless the employee requests that the wages and commissions be sent through
 2.12 the mails. If, in accordance with a request by the employee, the employee's wages and
 2.13 commissions are sent to the employee through the mail, the wages and commissions
 2.14 are paid as of the date of their postmark.

2.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.16 Sec. 2. Minnesota Statutes 2012, section 181.14, is amended to read:

2.17 **181.14 PAYMENT TO EMPLOYEES WHO QUIT OR RESIGN;**
 2.18 **SETTLEMENT OF DISPUTES.**

2.19 Subdivision 1. **Prompt payment required.** (a) When any such employee quits
 2.20 or resigns employment, the wages or commissions earned and unpaid at the time the
 2.21 employee quits or resigns shall be paid in full not later than the first regularly scheduled
 2.22 payday following the employee's final day of employment, unless an employee is subject
 2.23 to a collective bargaining agreement with a different provision. Wages are earned and
 2.24 unpaid if the employee was not paid for all time worked at the employee's regular rate
 2.25 of pay or at the rate required by law, including any applicable statute, regulation, rule,
 2.26 ordinance, government resolution or policy, contract, or other legal authority, whichever
 2.27 rate of pay is greater. If the first regularly scheduled payday is less than five calendar days
 2.28 following the employee's final day of employment, full payment may be delayed until
 2.29 the second regularly scheduled payday but shall not exceed a total of 20 calendar days
 2.30 following the employee's final day of employment.

2.31 (b) Notwithstanding the provisions of paragraph (a), in the case of migrant workers,
 2.32 as defined in section 181.85, the wages or commissions earned and unpaid at the time the
 2.33 employee quits or resigns shall become due and payable within five days thereafter.

3.1 Subd. 2. **Nonprompt payment.** Wages or commissions not paid within the required
3.2 time period shall become immediately payable upon the demand of the employee. If the
3.3 employee's earned wages or commissions are not paid within 24 hours after the demand,
3.4 the employer shall be liable to the employee for ~~an additional sum~~ a penalty equal to the
3.5 amount of the employee's average daily earnings ~~provided in the contract of employment,~~
3.6 at the employee's regular rate of pay or the rate required by law, whichever rate is greater,
3.7 for every day, not exceeding 15 days in all, until such payment or other settlement
3.8 satisfactory to the employee is made. The employer shall also be liable to the employee for
3.9 an additional amount as compensatory damages in the amount of wages and commissions
3.10 that are earned and unpaid. An employee's demand for payment under this section need not
3.11 be in writing or state the precise amount of unpaid wages or commissions. An employee
3.12 may directly seek and recover payment from an employer under this section even if the
3.13 employee is not a party to a contract that requires the employer to pay the employee at the
3.14 rate of pay demanded by the employee, so long as the contract or any applicable statute,
3.15 regulation, rule, ordinance, government resolution or policy, or other legal authority
3.16 requires payment to the employee at the particular rate of pay. The employee shall be able
3.17 to directly seek payment at the highest rate of pay provided in the contract or applicable
3.18 law, and any other remedies related thereto as provided in this section.

3.19 Subd. 3. **Settlement of disputes.** If the employer disputes the amount of wages
3.20 or commissions claimed by the employee under the provisions of this section or section
3.21 181.13, and the employer makes a legal tender of the amount which the employer in
3.22 good faith claims to be due, the employer shall not be liable for any sum greater than the
3.23 amount so tendered and interest thereon at the legal rate, unless, in an action brought in
3.24 a court having jurisdiction, the employee recovers a greater sum than the amount so
3.25 tendered with interest thereon; and if, in the suit, the employee fails to recover a greater
3.26 sum than that so tendered, with interest, the employee shall not pay the cost of the suit,
3.27 otherwise the cost shall be paid by the employer.

3.28 Subd. 4. **Employees entrusted with money or property.** In cases where the
3.29 discharged or quitting employee was, during employment, entrusted with the collection,
3.30 disbursement, or handling of money or property, the employer shall have ten calendar days
3.31 after the termination of the employment to audit and adjust the accounts of the employee
3.32 before the employee's wages or commissions shall be paid as provided in this section,
3.33 and the penalty herein provided shall apply in such case only from the date of demand
3.34 made after the expiration of the period allowed for payment of the employee's wages or
3.35 commissions. ~~If, upon such audit and adjustment of the accounts of the employee, it is~~
3.36 ~~found that any money or property entrusted to the employee by the employer has not been~~

4.1 ~~properly accounted for or paid over to the employer, as provided by the terms of the~~
 4.2 ~~contract of employment, the employee shall not be entitled to the benefit of sections~~
 4.3 ~~181.13 to 181.171, but the claim for unpaid wages or commissions of such employee,~~
 4.4 ~~if any, shall be disposed of as provided by existing law~~ No employer shall make any
 4.5 deduction, directly or indirectly, from the wages due or earned by any employee unless
 4.6 authorized by section 181.79.

4.7 Subd. 5. **Place of payment.** Wages and commissions paid under this section shall
 4.8 be paid at in the usual ~~place~~ manner of payment unless the employee requests that the
 4.9 wages and commissions be sent to the employee through the mails. If, in accordance
 4.10 with a request by the employee, the employee's wages and commissions are sent to the
 4.11 employee through the mail, the wages and commissions shall be deemed to have been
 4.12 paid as of the date of their postmark for the purposes of this section.

4.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.