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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4184

03/10/2022 Authored by Long
03/21/2022 The bill was read for the first time and referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy
03/28/2022 Adoption of Report: Re-referred to the Committee on Judiciary Finance and Civil Law
Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to employment; prohibiting restrictive franchise agreements; amending
1.3 Minnesota Statutes 2020, section 177.27, subdivision 4; proposing coding for new
1.4 law in Minnesota Statutes, chapter 181.

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

1.6 Section 1. Minnesota Statutes 2020, section 177.27, subdivision 4, is amended to read:

1.7 Subd. 4. Compliance orders. The commissioner may issue an order requiring an
1.8 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
1.9 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
1.10 subdivision 2a, 181.722, 181.79, and 181.939 to 181.943, ~~or~~ 181.991, and with any rule
1.11 promulgated under section 177.28. The commissioner shall issue an order requiring an
1.12 employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes
1.13 of this subdivision only, a violation is repeated if at any time during the two years that
1.14 preceded the date of violation, the commissioner issued an order to the employer for violation
1.15 of sections 177.41 to 177.435 and the order is final or the commissioner and the employer
1.16 have entered into a settlement agreement that required the employer to pay back wages that
1.17 were required by sections 177.41 to 177.435. The department shall serve the order upon the
1.18 employer or the employer's authorized representative in person or by certified mail at the
1.19 employer's place of business. An employer who wishes to contest the order must file written
1.20 notice of objection to the order with the commissioner within 15 calendar days after being
1.21 served with the order. A contested case proceeding must then be held in accordance with
1.22 sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the
1.23 employer fails to file a written notice of objection with the commissioner, the order becomes
1.24 a final order of the commissioner.

2.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
2.2 applies to franchise agreements entered into or amended on or after that date.

2.3 Sec. 2. **[181.991] RESTRICTIVE FRANCHISE AGREEMENTS PROHIBITED.**

2.4 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
2.5 the meanings given them.

2.6 (b) "Employee" means an individual employed by an employer and includes independent
2.7 contractors.

2.8 (c) "Employer" has the meaning given in section 177.23, subdivision 6.

2.9 (d) "Franchise," "franchisee," and "franchisor" have the meanings given in section
2.10 80C.01, subdivisions 4 to 6.

2.11 Subd. 2. **Prohibition on restrictive franchise agreements.** (a) No franchisor may
2.12 restrict, restrain, or prohibit in any way a franchisee from soliciting or hiring an employee
2.13 of a franchisee of the same franchisor.

2.14 (b) No franchisor may restrict, restrain, or prohibit in any way a franchisee from soliciting
2.15 or hiring an employee of the franchisor.

2.16 Subd. 3. **Franchise agreement amendment.** Notwithstanding any law to the contrary,
2.17 no later than one year from the effective date of this section, franchisors shall amend existing
2.18 franchise agreements to remove any restrictive employment provision that violates
2.19 subdivision 2.

2.20 Subd. 4. **Civil action; penalties.** (a) An employee alleging a violation of this section
2.21 may bring a civil action for damages and injunctive relief against the employer.

2.22 (b) If the court finds that a franchisor has violated this section, the court shall enter
2.23 judgment, grant injunctive relief as deemed appropriate, and award the employee plaintiff
2.24 the greater of:

2.25 (1) the actual damages incurred by the plaintiff, plus any injunctive relief, costs, and
2.26 reasonable attorney fees; or

2.27 (2) a \$5,000 penalty.

2.28 (c) If no civil action is commenced, the commissioner of labor and industry shall assess
2.29 a \$5,000 per employee penalty for violations of this section. This assessment is in addition
2.30 to the commissioner's authority under section 177.27, subdivisions 4 and 7. Any penalty

3.1 assessed under this subdivision shall be awarded to the employee plaintiff and not to the
3.2 commissioner or the department.

3.3 Subd. 5. **Severability.** If any provision of this section is found to be unconstitutional
3.4 and void, the remaining provisions of this section are valid.

3.5 **EFFECTIVE DATE.** This section is effective the day following final enactment and
3.6 applies to franchise agreements entered into or amended on or after that date.