

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 1816

(SENATE AUTHORS: PRATT, Rarick, Goggin, Draheim and Utke)

DATE	D-PG	OFFICIAL STATUS
02/27/2019	557	Introduction and first reading Referred to Jobs and Economic Growth Finance and Policy
03/14/2019	892a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy
03/18/2019	982a	Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act

1.2 relating to employment; requiring written demand for payment to employer;

1.3 prohibiting wage theft; establishing a "wage theft free" workplace recognition

1.4 program; appropriating money; amending Minnesota Statutes 2018, sections

1.5 177.27, subdivision 1; 177.32, subdivision 1; 181.03, subdivision 1, by adding

1.6 subdivisions; proposing coding for new law in Minnesota Statutes, chapter 177.

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

1.8 Section 1. Minnesota Statutes 2018, section 177.27, subdivision 1, is amended to read:

1.9 Subdivision 1. **Examination of records.** The commissioner may enter during reasonable

1.10 office hours or upon request and inspect the place of business or employment of any employer

1.11 of employees working in the state, to examine and inspect books, registers, payrolls, and

1.12 other records of any employer that in any way relate to wages, hours, and other conditions

1.13 of employment of any employees. The commissioner may transcribe any or all of the books,

1.14 registers, payrolls, and other records as the commissioner deems necessary or appropriate

1.15 and may question the employees to ascertain compliance with sections 177.21 to 177.435.

1.16 The commissioner may investigate wage claims or complaints by an employee against an

1.17 employer if: (1) the failure to pay a wage may violate Minnesota law or an order or rule of

1.18 the department; and (2) the employee making the wage claim or complaint has provided a

1.19 written demand for payment to the employer at least ten days prior to the commissioner

1.20 initiating an investigation.

2.1 Sec. 2. [177.271] LABOR TRAFFICKING AND WAGE THEFT FREE
2.2 WORKPLACE RECOGNITION PROGRAM.

2.3 Subdivision 1. Program established. A program recognizing an employer's pledge and
2.4 efforts to maintain a "labor trafficking and wage theft free" workplace is established within
2.5 the Department of Labor and Industry.

2.6 Subd. 2. Definitions. (a) For the purposes of this section, the terms defined have the
2.7 meanings given them.

2.8 (b) "Wage theft" has the meaning given in section 181.03, subdivision 1.

2.9 (c) "Labor trafficking" has the meaning given in section 609.281, subdivision 5.

2.10 Subd. 3. Eligibility. To be eligible for participation in the "labor trafficking and wage
2.11 theft free" recognition program an employer must:

2.12 (1) submit an application to the commissioner on a form prescribed by the commissioner;
2.13 and

2.14 (2) not have been found to be in violation of any of the provisions of sections 177.21 to
2.15 177.35 or sections 181.01 to 181.172 within the preceding three years.

2.16 Subd. 4. Conditions of recognition. (a) An employer requesting to participate in the
2.17 recognition program under this section must agree to:

2.18 (1) provide information to employees regarding wage and hour requirements, including
2.19 but not limited to, information on what is and is not considered work time, the details of
2.20 rest breaks and meal times, and overtime pay rules;

2.21 (2) offer training to employees on how to recognize labor trafficking in the workplace;
2.22 and

2.23 (3) allow reasonable inspection and submission of records as provided under section
2.24 177.27.

2.25 (b) The commissioner must consider favorably an employer's recognition as a "labor
2.26 trafficking and wage theft free" workplace when conducting wage and hour investigations
2.27 and issuing any penalties for violations of sections 177.21 to 177.35 or sections 181.01 to
2.28 181.172.

2.29 Subd. 5. Recognition certificate. (a) The commissioner shall issue a recognition
2.30 certificate or notice of denial within 15 days of the application submission by an employer.
2.31 A recognition certificate shall be valid for a period of five years.

3.1 (b) The commissioner shall maintain a list of employers that have obtained recognition
 3.2 as a "labor trafficking and wage theft free" workplace on the department's website. An
 3.3 employer having obtained a recognition certificate must display the certificate at the
 3.4 employer's principal place of business and may include information indicating recognition
 3.5 on their business website and other promotional materials.

3.6 Subd. 6. **Revocation of certificate.** Recognition certificates may be suspended or revoked
 3.7 by the commissioner if a holder of a certificate has not made a good faith effort to implement
 3.8 the conditions listed under subdivision 4 or if the holder is found to be in violation of sections
 3.9 177.21 to 177.35 or sections 181.01 to 181.172.

3.10 Sec. 3. Minnesota Statutes 2018, section 177.32, subdivision 1, is amended to read:

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

3.13 (1) hinders or delays the commissioner in the performance of duties required under
 3.14 sections 177.21 to 177.435, or sections 181.01 to 181.72;

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

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

3.18 (4) falsifies any record;

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

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

3.23 (7) pays or agrees to pay wages at a rate less than the rate required under sections 177.21
 3.24 to 177.44;

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

3.26 (9) otherwise violates any provision of sections 177.21 to 177.44; or

3.27 (10) commits wage theft as described in section 181.03, subdivision 1.

3.28 (b) An employer who violates paragraph (a), clause (10), after having been previously
 3.29 convicted of violating that clause is guilty of a gross misdemeanor.

4.1 (c) Nothing in paragraph (a), clause (10), or paragraph (b), or section 609.035 or 609.04
 4.2 shall limit the power of the state to prosecute or punish a person for conduct that constitutes
 4.3 any other crime under any other law of this state.

4.4 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 4.5 committed on or after that date.

4.6 Sec. 4. Minnesota Statutes 2018, section 181.03, subdivision 1, is amended to read:

4.7 Subdivision 1. **Prohibited practices.** ~~An employer may not, directly or indirectly and~~
 4.8 ~~with intent to defraud:~~

4.9 (a) No employer shall commit wage theft.

4.10 (b) For purposes of this section, wage theft is committed if an employer, with intent to
 4.11 defraud:

4.12 (1) fails to pay an employee all wages to which that employee is entitled;

4.13 ~~(1) cause~~ (2) directly or indirectly causes any employee to give a receipt for wages for
 4.14 a greater amount than that actually paid to the employee for services rendered;

4.15 ~~(2) (3) directly or indirectly demand~~ demands or ~~receive~~ receives from any employee
 4.16 any rebate or refund from the wages owed the employee under contract of employment with
 4.17 the employer; ~~or~~

4.18 ~~(3) in any manner make~~ (4) makes or ~~attempt~~ attempts to make it appear in any manner
 4.19 that the wages paid to any employee were greater than the amount actually paid to the
 4.20 employee; or

4.21 (5) retaliates against an employee for asserting rights or remedies under this section,
 4.22 including but not limited to filing a complaint with the Department of Labor and Industry,
 4.23 telling the employer of intention to file a complaint, or making a written demand for payment
 4.24 to the employer as provided under section 177.27, subdivision 1.

4.25 Sec. 5. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to
 4.26 read:

4.27 Subd. 4. **Enforcement.** The commissioner may enforce this section. The use of an
 4.28 enforcement provision in this section shall not preclude the use of any other enforcement
 4.29 provision provided by law.

5.1 Sec. 6. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to
5.2 read:

5.3 Subd. 5. **Effect on other laws.** Nothing in this section shall be construed to limit the
5.4 application of other state or federal laws.

5.5 Sec. 7. **APPROPRIATION.**

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

5.11 Sec. 8. **APPROPRIATION; LABOR TRAFFICKING GRANT.**

5.12 (a) \$350,000 in fiscal year 2020 and \$350,000 in fiscal year 2021 are appropriated from
5.13 the general fund to the commissioner of labor and industry to develop an open and
5.14 competitive grant process in consultation with the Office of Justice Programs in the
5.15 Department of Public Safety, law enforcement organizations, and the Minnesota County
5.16 Attorneys Association to award a grant to a nonprofit organization identifying and serving
5.17 victims of labor trafficking to: (1) develop a statewide model protocol for law enforcement,
5.18 prosecutors, and other persons who in their professional capacity encounter labor trafficking
5.19 to identify and intervene with victims of labor trafficking; (2) conduct statewide training
5.20 for law enforcement and prosecutors including, at a minimum, methods under Minnesota
5.21 Statutes, section 299A.79, subdivision 2; and (3) develop and disseminate investigative best
5.22 practices to identify victims of labor trafficking and traffickers to law enforcement,
5.23 prosecutors, and other persons who in their professional capacity encounter labor trafficking.
5.24 The grant recipient may use the money appropriated in this paragraph to partner with other
5.25 entities to implement clauses (1) to (3).

5.26 (b) By January 15, 2021, the grant recipient shall report to the chairs and ranking minority
5.27 members of the senate and house of representatives committees and divisions with jurisdiction
5.28 over criminal justice and labor and industry policy and funding on the grant process and
5.29 how the grant money was spent and details and results of the implementation of paragraph
5.30 (a), clauses (1) to (3). This appropriation is onetime and is available until spent.