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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **2062**

03/09/2021 Authored by McDonald

The bill was read for the first time and referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy

1.1 A bill for an act
1.2 relating to employment; modifying employee notice requirements; requiring a
1.3 written warning; amending Minnesota Statutes 2020, sections 181.032; 181.101.

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

1.5 Section 1. Minnesota Statutes 2020, section 181.032, is amended to read:

1.6 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE**
1.7 **TO EMPLOYEE.**

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

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

1.15 (1) the name of the employee;

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

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

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

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

1.21 (6) a list of deductions made from the employee's pay;

2.1 (7) the net amount of pay after all deductions are made;

2.2 (8) the date on which the pay period ends;

2.3 (9) the legal name of the employer and the operating name of the employer if different
2.4 from the legal name;

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

2.7 (11) the telephone number of the employer.

2.8 (c) An employer must provide earnings statements to an employee in writing, rather
2.9 than by electronic means, if the employer has received at least 24 hours notice from an
2.10 employee that the employee would like to receive earnings statements in written form. Once
2.11 an employer has received notice from an employee that the employee would like to receive
2.12 earnings statements in written form, the employer must comply with that request on an
2.13 ongoing basis.

2.14 (d) ~~At the start of employment~~ On or before the date an employer provides an employee
2.15 with the employee's first earnings statement, an employer shall provide each employee a
2.16 ~~written~~ notice, either in writing or by electronic means, containing the following information:

2.17 (1) the rate or rates of pay and basis thereof, including whether the employee is paid by
2.18 the hour, shift, day, week, salary, piece, commission, or other method, and the specific
2.19 application of any additional rates, as well as any pay schedule or range of pay for an
2.20 employee who is reasonably expected to move between job duties, classifications, and pay
2.21 or benefit structures in their day-to-day duties;

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

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

2.24 (4) the employee's employment status and whether the employee is exempt from minimum
2.25 wage, overtime, and other provisions of chapter 177, and on what basis;

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

2.27 (6) the number of days in the pay period, the regularly scheduled pay day, and the pay
2.28 day on which the employee will receive the first payment of wages earned;

2.29 (7) the legal name of the employer and the operating name of the employer if different
2.30 from the legal name;

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

(9) the telephone number of the employer; and

(10) a checkbox to indicate whether a hiring employer is a staffing agency and space for a staffing agency to indicate the initial entity for which the employee will perform work.

(e) The employer must keep a copy of the notice under paragraph (d) signed by each employee acknowledging receipt of the notice. An employee's signature on the notice constitutes acknowledgment of receipt of the notice and does not create a contract. For the purposes of this paragraph, "signed" means a written signature or an electronic signature as defined in section 325L.02. The notice must be provided to each employee in English. The English version of the notice must include text provided by the commissioner 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 commissioner shall make available to employers the text to be included in the English version of the notice required by this section and assist employers with translation of the notice in the languages requested by their employees.

(f) The notice requirement under paragraph (d) is satisfied for an employee if the employee has received all of the information required in paragraph (d) specific to the employee through a collective bargaining agreement, employee handbook, offer letter, or a combination of those documents. In such an instance, the employer must retain a record or listing of the referenced documents that satisfied the notice requirement in paragraph (d).

(g) An employer must provide the employee any ~~written~~ changes to the information contained in the notice under paragraph (d) ~~prior to the~~, either in writing or by electronic means, by the date of the employee's next earnings statement following the date the changes take effect. The notice of changes to information under this paragraph does not require a signature by the employee acknowledging receipt. The requirements of this paragraph are satisfied if the changes to information are contained on the employee's next earnings statement.

(h) Notice is not required under paragraph (g) to an employee for discretionary pay. For the purposes of this section, "discretionary pay" means compensation paid by the employer for which the amount and timing are not disclosed in advance by the employer and are at the employer's sole discretion.

(i) Notice is not required under paragraph (g) to an employee employed by a staffing agency upon subsequent job placements following the initial placement by the staffing agency.

(j) The commissioner shall issue a written warning to an employer upon the first finding of a violation or violations of the notice requirements found in paragraphs (d) to (g). For purposes of this paragraph, discovery by the commissioner of more than one violation of the notice requirements under paragraphs (d) to (g) at the same employer during the same investigation shall be considered a single violation.

Sec. 2. Minnesota Statutes 2020, section 181.101, is amended to read:

181.101 WAGES; HOW OFTEN PAID.

(a) Except as provided in paragraph (b), every employer must pay all wages, including salary, earnings, and gratuities earned by an employee at least once every 31 days and all commissions earned by an employee at least once every three months, on a regular payday designated in advance by the employer regardless of whether the employee requests payment at longer intervals. Unless paid earlier, the wages earned during the first half of the first 31-day pay period become due on the first regular payday following the first day of work. If wages or commissions earned are not paid, the commissioner of labor and industry or the commissioner's representative may serve a demand for payment on behalf of an employee. In addition to other remedies under section 177.27, if payment of wages is not made within ten days of service of the demand, the commissioner may charge and collect the wages earned at the employee's rate or rates of pay or at the rate or rates required by law, including any applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or other legal authority, whichever rate of pay is greater, and a penalty in the amount of the employee's average daily earnings at the same rate or rates, not exceeding 15 days in all, for each day beyond the ten-day limit following the demand. If payment of commissions is not made within ten days of service of the demand, the commissioner may charge and collect the commissions earned and a penalty equal to 1/15 of the commissions earned but unpaid, not exceeding 15 days in all, for each day beyond the ten-day limit. Money collected by the commissioner must be paid to the employee concerned. This section does not prevent an employee from prosecuting a claim for wages. This section does not prevent a school district, other public school entity, or other school, as defined under section 120A.22, from paying any wages earned by its employees during a school year on regular paydays in the manner provided by an applicable contract or collective bargaining agreement, or a personnel policy adopted by the governing board. For purposes of this section, "employee" includes a person

5.1 who performs agricultural labor as defined in section 181.85, subdivision 2. For purposes
5.2 of this section, wages are earned on the day an employee works. This section provides a
5.3 substantive right for employees to the payment of wages, including salary, earnings, and
5.4 gratuities, as well as commissions, in addition to the right to be paid at certain times.

5.5 (b) An employer of a volunteer firefighter, as defined in section 424A.001, subdivision
5.6 10, a member of an organized first responder squad that is formally recognized by a political
5.7 subdivision in the state, or a volunteer ambulance driver or attendant must pay all wages
5.8 earned by the volunteer firefighter, first responder, or volunteer ambulance driver or attendant
5.9 at least once every 31 days, unless the employer and the employee mutually agree upon
5.10 payment at longer intervals.