

**HOUSE OF REPRESENTATIVES**

**EIGHTY-EIGHTH SESSION**

**H. F. No. 92**

- 01/17/2013 Authored by Winkler, Nelson, Metsa, Radinovich, Mahoney and others  
The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries
- 03/04/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Jobs and Economic Development Finance and Policy
- 03/11/2013 Adoption of Report: Pass and re-referred to the Committee on Commerce and Consumer Protection Finance and Policy
- 03/13/2013 Adoption of Report: Pass as Amended and Read Second Time
- 04/04/2013 By motion, re-referred to the Committee on Ways and Means
- 05/01/2013 Adoption of Report: Pass as Amended and Read Second Time
- 05/03/2013 Calendar for the Day, Amended  
Read Third Time as Amended  
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act  
 1.2 relating to employment; regulating the minimum wage; modifying overtime and  
 1.3 parental leave provisions; amending Minnesota Statutes 2012, sections 177.24,  
 1.4 subdivision 1, by adding a subdivision; 177.25, subdivisions 1, 3, 5, by adding a  
 1.5 subdivision; 181.941, subdivision 1; 181.943; repealing Minnesota Rules, part  
 1.6 5200.0080, subpart 7.

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

1.8 Section 1. Minnesota Statutes 2012, section 177.24, subdivision 1, is amended to read:

1.9 Subdivision 1. **Amount.** (a) For purposes of this subdivision, the terms defined in  
 1.10 this paragraph have the meanings given them.

1.11 (1) "Large employer" means an enterprise whose annual gross volume of sales made  
 1.12 or business done is not less than ~~\$625,000~~ \$500,000 (exclusive of excise taxes at the  
 1.13 retail level that are separately stated) and covered by the Minnesota Fair Labor Standards  
 1.14 Act, sections 177.21 to 177.35.

1.15 (2) "Small employer" means an enterprise whose annual gross volume of sales  
 1.16 made or business done is less than ~~\$625,000~~ \$500,000 (exclusive of excise taxes at the  
 1.17 retail level that are separately stated) and covered by the Minnesota Fair Labor Standards  
 1.18 Act, sections 177.21 to 177.35.

1.19 (b) Except as otherwise provided in sections 177.21 to 177.35, ~~every large employer~~  
 1.20 ~~must pay each employee wages at a rate of at least \$5.15 an hour beginning September~~  
 1.21 ~~1, 1997, and at a rate of at least \$6.15 an hour beginning August 1, 2005. Every small~~  
 1.22 ~~employer must pay each employee at a rate of at least \$4.90 an hour beginning January 1,~~  
 1.23 ~~1998, and at a rate of at least \$5.25 an hour beginning August 1, 2005;~~

1.24 (1) every large employer must pay each employee wages at a rate of at least:

1.25 (i) \$8.00 per hour beginning August 1, 2013;

- 2.1 (ii) \$9.00 per hour beginning August 1, 2014;  
 2.2 (iii) \$9.50 per hour beginning August 1, 2015; and  
 2.3 (iv) the rate established under paragraph (d) beginning January 1, 2016; and  
 2.4 (2) every small employer must pay each employee at a rate of at least:  
 2.5 (i) \$7.00 per hour beginning August 1, 2013;  
 2.6 (ii) \$8.00 per hour beginning August 1, 2014;  
 2.7 (iii) \$8.50 per hour beginning August 1, 2015; and  
 2.8 (iv) the rate established under paragraph (d) beginning January 1, 2016.

2.9 (c) Notwithstanding paragraph (b), during the first 90 consecutive days of  
 2.10 employment, an employer may pay an employee under the age of 20 years a wage of \$4.90  
 2.11 an hour. ~~No employer may take any action to displace any employee, including a partial~~  
 2.12 ~~displacement through a reduction in hours, wages, or employment benefits, in order to hire~~  
 2.13 ~~an employee at the wage authorized in this paragraph~~ at least:

- 2.14 (1) \$6.50 per hour beginning August 1, 2013;  
 2.15 (2) \$7.50 per hour beginning August 1, 2014;  
 2.16 (3) \$8.00 per hour beginning August 1, 2015; and  
 2.17 (4) the rate established under paragraph (d) beginning January 1, 2016.

2.18 No employer may take any action to displace an employee, including a partial  
 2.19 displacement through a reduction in hours, wages, or employment benefits, in order to  
 2.20 hire an employee at the wage authorized in this paragraph.

2.21 (d) No later than November 1 of each year, beginning in 2015, the commissioner  
 2.22 shall determine the percentage increase in the rate of inflation, as measured by the  
 2.23 Consumer Price Index for all urban consumers, United States city average, as determined  
 2.24 by the United States Department of Labor, during the most recent 12-month period for  
 2.25 which data is available. The minimum wage rates in paragraphs (b) and (c) are increased  
 2.26 by the lesser of: (1) 2.5 percent, rounded to the nearest cent; or (2) the percentage  
 2.27 calculated by the commissioner, rounded to the nearest cent. The new minimum wage  
 2.28 rates determined under this paragraph take effect on the next January 1.

2.29 (e) Minimum wage standards and inflation must be reflected in statewide  
 2.30 reimbursement rates and county and state purchase of service contracts for social services  
 2.31 including those provided by direct service staff through home and community-based  
 2.32 services waivers for seniors and persons with disabilities.

2.33 **EFFECTIVE DATE.** This section is effective August 1, 2013.

3.1 Sec. 2. Minnesota Statutes 2012, section 177.24, is amended by adding a subdivision  
3.2 to read:

3.3 Subd. 3a. **Gratuities; credit cards or charges.** (a) Gratuities presented to an  
3.4 employee via inclusion on a debit, charge, or credit card shall be credited to that pay  
3.5 period in which they are received by the employee and for which they appear on the  
3.6 employee's tip statement.

3.7 (b) Where a tip is given by a customer through a debit, charge, or credit card, the full  
3.8 amount of tip must be allowed the employee.

3.9 **EFFECTIVE DATE.** This section is effective August 1, 2013.

3.10 Sec. 3. Minnesota Statutes 2012, section 177.25, subdivision 1, is amended to read:

3.11 Subdivision 1. **Compensation required.** No employer may employ an employee  
3.12 for a workweek longer than ~~48~~ 40 hours, unless the employee receives compensation for  
3.13 employment in excess of ~~48~~ 40 hours in a workweek at a rate of at least 1-1/2 times the  
3.14 regular rate at which the employee is employed. The state of Minnesota or a political  
3.15 subdivision may grant time off at the rate of 1-1/2 hours for each hour worked in excess of  
3.16 ~~48~~ 40 hours in a week in lieu of monetary compensation. An employer does not violate  
3.17 the overtime pay provisions of this section by employing any employees for a workweek  
3.18 in excess of ~~48~~ 40 hours without paying the compensation for overtime employment  
3.19 prescribed (1) if the employee is employed under an agreement meeting the requirement  
3.20 of section 7(b)(2) of the Fair Labor Standards Act of 1938, as amended, or (2) if the  
3.21 employee is employed as a sugar beet hand laborer on a piece rate basis, provided that the  
3.22 regular rate of pay received per hour of work exceeds the applicable wage provided in  
3.23 section 177.24, subdivision 1, by at least 40 cents.

3.24 **EFFECTIVE DATE.** This section is effective August 1, 2013.

3.25 Sec. 4. Minnesota Statutes 2012, section 177.25, subdivision 3, is amended to read:

3.26 Subd. 3. **Motor vehicle salespeople; mechanics.** Subdivision 1 does not apply to  
3.27 any salesperson, parts person, or mechanic primarily engaged in selling or servicing  
3.28 automobiles, trailers, trucks, or farm implements ~~and paid on a commission or incentive~~  
3.29 ~~basis~~, if employed by a nonmanufacturing establishment primarily engaged in selling the  
3.30 vehicles to ultimate purchasers.

3.31 **EFFECTIVE DATE.** This section is effective August 1, 2013.

3.32 Sec. 5. Minnesota Statutes 2012, section 177.25, subdivision 5, is amended to read:

4.1 Subd. 5. **Air carrier employees.** Subdivision 1 does not apply to employees of air  
4.2 carriers subject to the provisions of title II of the Railway Labor Act, when the hours worked  
4.3 by an employee in excess of ~~48~~ 40 in a workweek are not required by the carrier, but are  
4.4 arranged through a voluntary agreement among employees to trade scheduled work hours.

4.5 **EFFECTIVE DATE.** This section is effective August 1, 2013.

4.6 Sec. 6. Minnesota Statutes 2012, section 177.25, is amended by adding a subdivision  
4.7 to read:

4.8 **Subd. 6. Agricultural employment.** (a) Notwithstanding subdivision 1, hourly  
4.9 individuals employed in agriculture are required to be compensated for employment in  
4.10 excess of 48 hours per week at the same rate as provided in subdivision 1.

4.11 (b) For the purposes of this section, "agriculture" has the meaning given in  
4.12 Minnesota Rules, part 5200.0260.

4.13 (c) The commissioner of labor and industry shall report to the legislature by January  
4.14 1, 2014, on the number of agricultural employees who are using a 48 hour work week and  
4.15 the number of employees affected. The commissioner shall include recommendations for  
4.16 appropriate compensation for such agricultural employees.

4.17 (d) This subdivision expires February 1, 2014.

4.18 Sec. 7. Minnesota Statutes 2012, section 181.941, subdivision 1, is amended to read:

4.19 Subdivision 1. ~~Six~~ **Twelve-week leave; birth or adoption.** An employer must  
4.20 grant an unpaid leave of absence to an employee who is a natural or adoptive parent in  
4.21 conjunction with the birth or adoption of a child. The length of the leave shall be determined  
4.22 by the employee, but may not exceed ~~six~~ 12 weeks, unless agreed to by the employer.

4.23 **EFFECTIVE DATE.** This section is effective August 1, 2013.

4.24 Sec. 8. Minnesota Statutes 2012, section 181.943, is amended to read:

4.25 **181.943 RELATIONSHIP TO OTHER LEAVE.**

4.26 (a) The length of parental leave provided under section 181.941 may be reduced  
4.27 by any period of paid parental or disability leave, but not accrued sick leave, provided  
4.28 by the employer, so that the total leave does not exceed ~~six~~ 12 weeks, unless agreed  
4.29 to by the employer.

4.30 (b) Nothing in sections 181.940 to 181.943 prevents any employer from providing  
4.31 leave benefits in addition to those provided in sections 181.940 to 181.944 or otherwise  
4.32 affects an employee's rights with respect to any other employment benefit.

5.1 **EFFECTIVE DATE.** This section is effective August 1, 2013.

5.2 Sec. 9. **REPEALER.**

5.3 Minnesota Rules, part 5200.0080, subpart 7, is repealed.

5.4 **EFFECTIVE DATE.** This section is effective August 1, 2013.

**5200.0080 GRATUITIES/TIPS CREDITS.**

Subp. 7. **Credit cards or charges.** Gratuities presented to a direct service employee via inclusion on a charge or credit card shall be credited to that pay period in which they are received by the direct service employee and for which they appear on the direct service employee's tip statement.

Where a tip is given by a customer through a credit or charge card, the full amount of tip must be allowed the direct service employee minus only the percentage deducted from the tip in the same ratio as the percentage deducted from the total bill by the service company.