

CHAPTER 386—H.F.No. 2841

An act relating to employment; modifying provisions regarding minimum wages; increasing penalties; modifying employer liability provisions; imposing a penalty; changing inclusions in earnings statement; amending Minnesota Statutes 1994, sections 177.27, subdivisions 2, 4, and by adding subdivisions; 177.30; 181.02; 181.03; 181.031; and 181.032; proposing coding for new law in Minnesota Statutes, chapter 181; repealing Minnesota Statutes 1994, sections 177.27, subdivision 6; 177.33; and 181.17.

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

Section 1. Minnesota Statutes 1994, section 177.27, subdivision 2, is amended to read:

Subd. 2. **SUBMISSION OF RECORDS; PENALTY.** The commissioner may require the employer of employees working in the state to submit to the commissioner photocopies, certified copies, or, if necessary, the originals of employment records which the commissioner deems necessary or appropriate. The records which may be required include full and correct statements in writing, including sworn statements by the employer, containing information relating to wages, hours, names, addresses, and any other information pertaining to the employer's employees and the conditions of their employment as the commissioner deems necessary or appropriate.

The commissioner may require the records to be submitted by certified mail delivery or, if necessary, by personal delivery by the employer or a representative of the employer, as authorized by the employer in writing.

The commissioner may fine the employer up to \$200 \$1,000 for each failure to submit or deliver records as required by this section. This penalty is in addition to any penalties provided under section 177.32, subdivision 1. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered.

Sec. 2. Minnesota Statutes 1994, section 177.27, subdivision 4, is amended to read:

Subd. 4. **COMPLIANCE ORDERS.** The commissioner may issue an order requiring an employer to comply with sections 177.21 to 177.35, 181.02, 181.03, 181.031, 181.032, 181.101, 181.11, 181.12, 181.13, 181.14, 181.145, 181.15, and 181.79, or with any rule promulgated under section 177.28. The department shall serve the order upon the employer or the employer's authorized representative in person or by certified mail at the employer's place of business. An employer who wishes to contest the order must file written notice of objection to the order with the commissioner within ~~ten~~ 15 calendar days after being served with the order. A public hearing contested case proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the employer fails to file a written notice of objection with the commissioner, the order becomes a final order of the commissioner.

Sec. 3. Minnesota Statutes 1994, section 177.27, is amended by adding a subdivision to read:

Subd. 7. **EMPLOYER LIABILITY.** If an employer is found by the commissioner to have violated a section identified in subdivision 4, or any rule adopted under section

New language is indicated by underline, deletions by ~~strikeout~~.

177.28, and the commissioner issues an order to comply, the commissioner shall order the employer to cease and desist from engaging in the violative practice and to take such affirmative steps that in the judgment of the commissioner will effectuate the purposes of the section or rule violated. The commissioner shall order the employer to pay to the aggrieved parties back pay, gratuities, and compensatory damages, less any amount actually paid to the employee by the employer, and for an additional equal amount as liquidated damages. Any employer who is found by the commissioner to have repeatedly or willfully violated a section or sections identified in subdivision 4 shall be subject to a civil penalty of up to \$1,000 for each violation for each employee. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered. In addition, the commissioner may order the employer to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparation for and in conducting the contested case proceeding, unless payment of costs would impose extreme financial hardship on the employer. If the employer is able to establish extreme financial hardship, then the commissioner may order the employer to pay a percentage of the total costs that will not cause extreme financial hardship. Costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the cost of transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's order from the date the order is signed by the commissioner until it is paid, at an annual rate provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish escrow accounts for purposes of distributing damages.

Sec. 4. Minnesota Statutes 1994, section 177.27, is amended by adding a subdivision to read:

Subd. 8. COURT ACTIONS; SUITS BROUGHT BY PRIVATE PARTIES. An employee may bring a civil action seeking redress for a violation or violations of sections 177.21 to 177.35 directly to district court. An employer who pays an employee less than the wages and overtime compensation to which the employee is entitled under sections 177.21 to 177.35 is liable to the employee for the full amount of the wages, gratuities, and overtime compensation, less any amount the employer is able to establish was actually paid to the employee and for an additional equal amount as liquidated damages. In addition, in an action under this subdivision the employee may seek damages and other appropriate relief provided by subdivision 7 and otherwise provided by law. An agreement between the employee and the employer to work for less than the applicable wage is not a defense to the action.

Sec. 5. Minnesota Statutes 1994, section 177.27, is amended by adding a subdivision to read:

Subd. 9. DISTRICT COURT JURISDICTION. Any action brought under subdivision 8 may be filed in the district court of the county wherein a violation or violations of sections 177.21 to 177.35 are alleged to have been committed, where the respondent resides or has a principal place of business, or any other court of competent jurisdiction. The action may be brought by one or more employees.

Sec. 6. Minnesota Statutes 1994, section 177.27, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 10. ATTORNEY'S FEES AND COSTS. In any action brought pursuant to subdivision 8, the court shall order an employer who is found to have committed a violation or violations of sections 177.21 to 177.35 to pay to the employee or employees reasonable costs, disbursements, witness fees, and attorney fees.

Sec. 7. Minnesota Statutes 1994, section 177.30, is amended to read:

177.30 KEEPING RECORDS; PENALTY.

Every employer subject to sections 177.21 to 177.35 must make and keep a record of:

- (1) the name, address, and occupation of each employee;
- (2) the rate of pay, and the amount paid each pay period to each employee;
- (3) the hours worked each day and each workweek by the employee; and

(4) other information the commissioner finds necessary and appropriate to enforce sections 177.21 to 177.35. The records must be kept for three years in or near the premises where an employee works.

The commissioner may fine an employer up to \$200 ~~\$1,000~~ for each failure to maintain records as required by this section. This penalty is in addition to any penalties provided under section 177.32, subdivision 1. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered.

Sec. 8. Minnesota Statutes 1994, section 181.02, is amended to read:

181.02 SALARY OR WAGES NOT TO BE PAID BY NONNEGOTIABLE INSTRUMENTS.

It shall be unlawful for any person, firm, or corporation, other than public service corporations, to issue to any employee in lieu of or in payment of any salary or wages earned by such employee a nonnegotiable time check or order. ~~Any person, firm, or corporation so issuing a nonnegotiable instrument in lieu of or in payment of such salary or wages earned shall be guilty of a misdemeanor.~~

Sec. 9. Minnesota Statutes 1994, section 181.03, is amended to read:

181.03 CERTAIN ACTS RELATING TO PAYMENT OF WAGES UNLAWFUL.

Any ~~A~~ person, firm, corporation, or association ~~who or which may not~~, directly or indirectly and with intent to defraud, ~~causes~~ cause any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered or directly or indirectly ~~demands or receives demand or receive~~ from any employee any rebate or refund from the wages to which the employee is entitled under contract of employment with such employer, or in any manner ~~makes or attempts make or attempt~~ to make it appear that the wages paid to any employee were greater than the amount actually paid to the employee shall be guilty of a misdemeanor.

Sec. 10. Minnesota Statutes 1994, section 181.031, is amended to read:

181.031 EMPLOYERS NOT TO ACCEPT CONSIDERATION FOR SECURING EMPLOYMENT.

New language is indicated by underline, deletions by ~~strikeout~~.

~~Any~~ An employer, or any manager, superintendent, lead supervisor, or other representative of ~~any~~ an employer, ~~who may not, directly or indirectly, demands or accepts demand or accept~~ from any employee any part of such employee's wages or other consideration, or any gratuity, in consideration of giving to or securing, or assisting in securing, for any employee any employment with such employer ~~shall be guilty of a misdemeanor.~~

Sec. 11. Minnesota Statutes 1994, section 181.032, is amended to read:

181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER.

At the end of each pay period, the employer shall give each employee an earnings statement in writing covering that pay period. The earnings statement may be in any form determined by the employer but must include:

- (a) the name of the employee;
- (b) the hourly rate of pay (if applicable);
- (c) the total number of hours worked by the employee unless exempt from chapter 177;
- (d) the total amount of gross pay earned by the employee during that period;
- (e) a list of deductions made from the employee's pay;
- (f) the net amount of pay after all deductions are made; and
- (g) the date on which the pay period ends; and
- (h) the legal name of the employer and the operating name of the employer if different from the legal name.

~~An employer, who for the purpose of depriving an employee of wages to which the employee is entitled and in order to mislead the employee, furnishes to the employee a statement that the employer knows to be false is guilty of a misdemeanor.~~

Sec. 12. [181.171] COURT ACTIONS; PRIVATE PARTY CIVIL ACTIONS.

Subdivision 1. CIVIL ACTION; DAMAGES. A person may bring a civil action seeking redress for violations of sections 181.02, 181.03, 181.031, 181.032, 181.08, 181.09, 181.10, 181.101, 181.11, 181.12, 181.13, 181.14, 181.145, and 181.15 directly to district court. An employer who is found to have violated the above sections is liable to the aggrieved party for the civil penalties or damages provided for in the section violated. An employer who is found to have violated the above sections shall also be liable for compensatory damages and other appropriate relief including but not limited to injunctive relief.

Subd. 2. DISTRICT COURT JURISDICTION. An action brought under subdivision 1 may be filed in the district court of the county wherein a violation is alleged to have been committed, where the respondent resides or has a principal place of business, or any other court of competent jurisdiction.

Subd. 3. ATTORNEY'S FEES AND COSTS. In an action brought under subdivision 1, the court shall order an employer who is found to have committed a violation to pay to the aggrieved party reasonable costs, disbursements, witness fees, and attorney fees.

New language is indicated by underline, deletions by strikeout.

Sec. 13. **REPEALER.**

Minnesota Statutes 1994, sections 177.27, subdivision 6; 177.33; and 181.17, are repealed.

Presented to the governor March 25, 1996

Signed by the governor March 27, 1996, 11:35 a.m.

CHAPTER 387—H.F.No. 2163

An act relating to motor carriers; prescribing conditions for granting medical waivers to truck drivers; exempting from federal hours of service regulation drivers transporting agricultural items during harvesting season; allowing electronic filing of financial responsibility forms; allowing protective agent to escort overweight vehicles; amending Minnesota Statutes 1994, sections 221.0314, by adding subdivisions; 221.033, subdivision 2a; 221.141, by adding a subdivision; and 326.338, subdivision 4; Minnesota Statutes 1995 Supplement, section 221.0314, subdivision 3.

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

Section 1. Minnesota Statutes 1995 Supplement, section 221.0314, subdivision 3, is amended to read:

Subd. 3. **WAIVER FOR PHYSICAL DEFECTS LIMB IMPAIRMENTS.** ~~(a)~~ A person who is not physically qualified to drive under subdivision 2, but who meets the other qualifications under subdivision 2, may drive a motor vehicle if the commissioner grants a waiver to that person. The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), according to rules adopted under section 221.031.

~~(b) The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(3) to (b)(13) for medical conditions for which waiver programs have been established by the United States Department of Transportation. Except as required in paragraphs (c) to (f), the commissioner shall require the same information and follow the same procedure as the United States Department of Transportation in granting the waivers. The commissioner may continue to grant waivers under this paragraph and paragraphs (c) to (f) after the United States Department of Transportation has discontinued its waiver program for a specific medical condition if the commissioner determines that the waiver program is consistent with the safe operation of motor vehicles.~~

~~(c) Despite federal requirements, the commissioner may grant a waiver to a person who does not have three years' experience in operating a commercial motor vehicle.~~

~~(d) Despite federal requirements, a person who has been initially examined by a licensed physician and who has been granted a waiver for a diabetic condition may be regularly examined by the person's treating physician every six months from the date a waiver is granted.~~

New language is indicated by underline, deletions by ~~strikeout~~.