SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1007

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DATE	D-PG	OFFICIAL STATUS
03/04/2013	478	Introduction and first reading Referred to Jobs, Agriculture and Rural Development

A bill for an act

relating to employment; regulating contracts for labor or services for janitors, security guards, and window cleaners; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Section 1. **[181.724] CONTRACTS FOR LABOR OR SERVICES; JANITORS, SECURITY GUARDS, WINDOW CLEANERS.**

Subdivision 1. **Contract; insufficient funds.** A person or entity shall not enter into a contract or agreement for labor or services with a janitorial, security guard, or window cleaning contractor, where the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided.

Subd. 2. **Rebuttable presumption.** There is a rebuttable presumption affecting the burden of proof that there has been no violation of subdivision 1 where the contract or agreement with a janitorial, security guard, or window cleaning contractor meets all of the requirements in subdivision 4.

Subd. 3. **Exclusions.** Subdivision 1 does not apply to a person or entity who executes a collective bargaining agreement covering the workers employed under the contract or agreement, or to a person who enters into a contract or agreement for labor or services to be performed on the person's home residence, provided that a family member resides in the residence or residences for which the labor or services are to be performed for at least part of the year.

Subd. 4. **Written contract; provisions.** To meet the requirements of subdivision 2, a contract or agreement with a janitorial, security guard, or window cleaning contractor for labor or services shall be in writing, in a single document, and contain all of the following provisions, in addition to any other provisions that may be required by the commissioner:

(1) the name, address, and telephone number of the person or entity and the janitorial, security guard, or window cleaning contractor through whom the labor or services are to be provided;

(2) a description of the labor or services to be provided and a statement of when those services are to be commenced and completed;

(3) the employer identification number for state tax purposes of the janitorial, security guard, or window cleaning contractor;

(4) the workers' compensation insurance policy number and the name, address, and telephone number of the insurance carrier of the janitorial, security guard, or window cleaning contractor;

(5) the vehicle identification number of any vehicle that is owned by the janitorial, security guard, or window cleaning contractor and used for transportation in connection with any service provided pursuant to the contract or agreement, the number of the vehicle liability insurance policy that covers the vehicle, and the name, address, and telephone number of the insurance carrier;

(6) the address of any real property to be used to house workers in connection with the contract or agreement;

(7) the total number of workers to be employed under the contract or agreement, the total amount of all wages to be paid, and the date or dates when those wages are to be paid;

(8) the amount of the commission or other payment made to the janitorial, security guard, or window cleaning contractor for services under the contract or agreement;

(9) the total number of persons who will be utilized under the contract or agreement as independent contractors, along with a list of the current local, state, and federal contractor license identification numbers that the independent contractors are required to have under local, state, or federal laws or regulations; and

(10) the signatures of all parties, and the date the contract or agreement was signed.

Subd. 5. **Material changes.** (a) To qualify for the rebuttable presumption in subdivision 2, a material change to the terms and conditions of a contract or agreement between a person or entity and a janitorial, security guard, or window cleaning contractor must be in writing, in a single document, and contain all of the provisions listed in subdivision 4 that are affected by the change.

(b) If a provision required to be contained in a contract or agreement under subdivision 4, clause (7) or (9), is unknown at the time the contract or agreement is executed, the best estimate available at that time is sufficient to satisfy the requirements of subdivision 4. If an estimate is used in place of actual figures, the parties to the contract or agreement have a continuing duty to ascertain the information required under subdivision 4, clause (7) or (9), and to reduce that information to writing according to the requirements of paragraph (a) once that information becomes known.

Subd. 6. **Written contract; commissioner review.** A person or entity who enters into a contract or agreement referred to in subdivision 4 or 5 shall keep a copy of the written contract or agreement for a period of not less than four years following the termination of the contract or agreement. Upon the request of the commissioner, any person or entity who enters into the contract or agreement shall provide to the commissioner a copy of the provisions of the contract or agreement, and any other documentation, related to subdivision 4, clauses (1) to (10). Documents obtained under this section are exempt from disclosure under the Minnesota Government Data Practices Act, chapter 13.

Subd. 7. **Penalties.** (a) An employee aggrieved by a violation of subdivision 1 may file an action for damages to recover the greater of all actual damages or $250 per employee per violation for an initial violation and $1,000 per employee for each subsequent violation, and, upon prevailing in an action brought under this section, may recover costs and reasonable attorney fees. An action under this section shall not be maintained unless it is pleaded and proved that an employee was injured as a result of a violation of a labor law or regulation in connection with the performance of the contract or agreement.

(b) An employee aggrieved by a violation of subdivision 1 may also bring an action for injunctive relief and, upon prevailing, may recover costs and reasonable attorney fees.

Subd. 8. **Applicability.** The phrase "janitorial, security guard, or window cleaning contractor" includes any person, whether or not licensed, who is acting in the capacity of a janitorial, security guard, or window cleaning contractor.

Subd. 9. **Knowledge; definition.** (a) The term "knows" includes the knowledge, arising from familiarity with the normal facts and circumstances of the business activity engaged in, that the contract or agreement does not include funds sufficient to allow the contractor to comply with applicable laws.

(b) The phrase "should know" includes the knowledge of any additional facts or information that would make a reasonably prudent person undertake to inquire whether, taken together, the contract or agreement contains sufficient funds to allow the contractor to comply with applicable laws.

(c) A failure by a person or entity to request or obtain any information from the contractor that is required by any applicable statute or by the contract or agreement between them, constitutes knowledge of that information for purposes of this section.