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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 770

02/04/2021 Authored by Garofalo and Theis

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 the minimum wage for certain employees
- 1.3 receiving gratuities; amending Minnesota Statutes 2020, section 177.24, subdivision
- 1.4 1, by adding a subdivision; repealing Minnesota Statutes 2020, section 177.24,
- 1.5 subdivision 2.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. Minnesota Statutes 2020, section 177.24, subdivision 1, is amended to read:
- 1.8 Subdivision 1. **Amount.** (a) For purposes of this subdivision, the terms defined in this
- 1.9 paragraph have the meanings given them.
- 1.10 (1) "Large employer" means an enterprise whose annual gross volume of sales made or
- 1.11 business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are
- 1.12 separately stated) and covered by the Minnesota Fair Labor Standards Act, sections 177.21
- 1.13 to 177.35.
- 1.14 (2) "Small employer" means an enterprise whose annual gross volume of sales made or
- 1.15 business done is less than \$500,000 (exclusive of excise taxes at the retail level that are
- 1.16 separately stated) and covered by the Minnesota Fair Labor Standards Act, sections 177.21
- 1.17 to 177.35.
- 1.18 (b) Except as otherwise provided in sections 177.21 to 177.35:
- 1.19 (1) every large employer must pay each employee wages at a rate of at least:
- 1.20 (i) \$8.00 per hour beginning August 1, 2014;
- 1.21 (ii) \$9.00 per hour beginning August 1, 2015;
- 1.22 (iii) \$9.50 per hour beginning August 1, 2016; and

2.1 (iv) the rate established under paragraph (f) beginning January 1, 2018; and

2.2 (2) every small employer must pay each employee at a rate of at least:

2.3 (i) \$6.50 per hour beginning August 1, 2014;

2.4 (ii) \$7.25 per hour beginning August 1, 2015;

2.5 (iii) \$7.75 per hour beginning August 1, 2016; and

2.6 (iv) the rate established under paragraph (f) beginning January 1, 2018.

2.7 (c) Notwithstanding paragraph (b), during the first 90 consecutive days of employment,
2.8 an employer may pay an employee under the age of 20 years a wage of at least:

2.9 (1) \$6.50 per hour beginning August 1, 2014;

2.10 (2) \$7.25 per hour beginning August 1, 2015;

2.11 (3) \$7.75 per hour beginning August 1, 2016; and

2.12 (4) the rate established under paragraph (f) beginning January 1, 2018.

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

2.16 ~~(d) Notwithstanding paragraph (b), an employer that is a "hotel or motel," "lodging~~
2.17 ~~establishment," or "resort" as defined in Minnesota Statutes 2012, section 157.15,~~
2.18 ~~subdivisions 7, 8, and 11, must pay an employee working under a contract with the employer~~
2.19 ~~that includes the provision by the employer of a food or lodging benefit, if the employee is~~
2.20 ~~working under authority of a summer work travel exchange visitor program (J) nonimmigrant~~
2.21 ~~visa, a wage of at least:~~

2.22 ~~(1) \$7.25 per hour beginning August 1, 2014;~~

2.23 ~~(2) \$7.50 per hour beginning August 1, 2015;~~

2.24 ~~(3) \$7.75 per hour beginning August 1, 2016; and~~

2.25 ~~(4) the rate established under paragraph (f) beginning January 1, 2018.~~

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

2.29 ~~(e)~~ (d) Notwithstanding paragraph (b), a large employer must pay an employee under
2.30 the age of 18 at a rate of at least:

3.1 (1) \$6.50 per hour beginning August 1, 2014;

3.2 (2) \$7.25 per hour beginning August 1, 2015;

3.3 (3) \$7.75 per hour beginning August 1, 2016; and

3.4 (4) the rate established under paragraph (f) beginning January 1, 2018.

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

3.8 (e) Notwithstanding paragraph (b), every employer must pay an employee receiving
3.9 gratuities a wage of at least:

3.10 (1) \$8.00 per hour if the employee earns sufficient gratuities during the workweek so
3.11 that the sum of \$8.00 per hour and gratuities received averages at least \$12.00 per hour for
3.12 the workweek; or

3.13 (2) the greater of the wage rate under this section or United States Code, title 29, section
3.14 206(a)(1), if the employee does not earn sufficient gratuities during the workweek so that
3.15 the sum of \$8.00 per hour and gratuities received averages at least \$12.00 per hour for the
3.16 workweek.

3.17 For the purposes of this section, an "employee receiving gratuities" means an employee
3.18 who customarily and regularly receives more than \$30 per month in gratuities. The employer
3.19 must inform a potential employee who may receive gratuities, during the employment
3.20 interview, of the applicable wage under this paragraph. The employer must provide the
3.21 potential employee with a written copy of the wages required under this paragraph and the
3.22 potential employee shall initial the form indicating he or she has received the notice. A copy
3.23 of the signed notice must be kept on file by the employer. If the Department of Human
3.24 Rights makes three or more probable cause determinations of sexual harassment, as defined
3.25 in section 363A.03, subdivision 43, regarding a single employer, this paragraph no longer
3.26 applies to that employer and the employer must pay all employees the otherwise applicable
3.27 minimum wage under this section.

3.28 (f) No later than August 31 of each year, beginning in 2017, the commissioner shall
3.29 determine the percentage increase in the rate of inflation, as measured by the implicit price
3.30 deflator, national data for personal consumption expenditures as determined by the United
3.31 States Department of Commerce, Bureau of Economic Analysis during the 12-month period
3.32 immediately preceding that August or, if that data is unavailable, during the most recent
3.33 12-month period for which data is available. The minimum wage rates in paragraphs (b),

(c), (d), and (e) are increased by the lesser of: (1) 2.5 percent, rounded to the nearest cent; or (2) the percentage calculated by the commissioner, rounded to the nearest cent. A minimum wage rate shall not be reduced under this paragraph. The new minimum wage rates determined under this paragraph take effect on the next January 1.

(g)(1) No later than September 30 of each year, beginning in 2017, the commissioner may issue an order that an increase calculated under paragraph (f) not take effect. The commissioner may issue the order only if the commissioner, after consultation with the commissioner of management and budget, finds that leading economic indicators, including but not limited to projections of gross domestic product calculated by the United States Department of Commerce, Bureau of Economic Analysis; the Consumer Confidence Index issued by the Conference Board; and seasonally adjusted Minnesota unemployment rates, indicate the potential for a substantial downturn in the state's economy. Prior to issuing an order, the commissioner shall also calculate and consider the ratio of the rate of the calculated change in the minimum wage rate to the rate of change in state median income over the same time period used to calculate the change in wage rate. Prior to issuing the order, the commissioner shall hold a public hearing, notice of which must be published in the State Register, on the department's website, in newspapers of general circulation, and by other means likely to inform interested persons of the hearing, at least ten days prior to the hearing. The commissioner must allow interested persons to submit written comments to the commissioner before the public hearing and for 20 days after the public hearing.

(2) The commissioner may in a year subsequent to issuing an order under clause (1), make a supplemental increase in the minimum wage rate in addition to the increase for a year calculated under paragraph (f). The supplemental increase may be in an amount up to the full amount of the increase not put into effect because of the order. If the supplemental increase is not the full amount, the commissioner may make a supplemental increase of the difference, or any part of a difference, in a subsequent year until the full amount of the increase ordered not to take effect has been included in a supplemental increase. In making a determination to award a supplemental increase under this clause, the commissioner shall use the same considerations and use the same process as for an order under clause (1). A supplemental wage increase is not subject to and shall not be considered in determining whether a wage rate increase exceeds the limits for annual wage rate increases allowed under paragraph (f).

5.1 Sec. 2. Minnesota Statutes 2020, section 177.24, is amended by adding a subdivision to
5.2 read:

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

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

5.8 Sec. 3. **REPEALER.**

5.9 Minnesota Statutes 2020, section 177.24, subdivision 2, is repealed.

APPENDIX
Repealed Minnesota Statutes: 21-01118

177.24 PAYMENT OF MINIMUM WAGES.

Subd. 2. **Gratuities not applied.** No employer may directly or indirectly credit, apply, or utilize gratuities towards payment of the minimum wage set by this section or federal law.