

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 641

(SENATE AUTHORS: SPARKS and Bonoff)

DATE	D-PG	OFFICIAL STATUS
02/21/2013	351	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/14/2013		Comm report: To pass as amended Second reading

1.1

A bill for an act

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relating to labor and employment; making federal conformity changes to certain

1.3

employment law provisions; amending Minnesota Statutes 2012, sections

1.4

177.23, subdivision 7; 177.24, subdivision 1; 177.25, subdivisions 1, 5; 181.941,

1.5

subdivision 1; 181.943.

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

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Section 1. Minnesota Statutes 2012, section 177.23, subdivision 7, is amended to read:

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Subd. 7. **Employee.** "Employee" means any individual employed by an employer

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but does not include:

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(1) two or fewer specified individuals employed at any given time in agriculture on a

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farming unit or operation who are paid a salary;

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(2) any individual employed in agriculture on a farming unit or operation who is paid

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a salary greater than the individual would be paid if the individual worked ~~48~~ 40 hours at

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the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;

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(3) an individual under 18 who is employed in agriculture on a farm to perform

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services other than corn detasseling or hand field work when one or both of that minor

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hand field worker's parents or physical custodians are also hand field workers;

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(4) for purposes of section 177.24, an individual under 18 who is employed as a

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corn detasseler;

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(5) any staff member employed on a seasonal basis by an organization for work in an

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organized resident or day camp operating under a permit issued under section 144.72;

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(6) any individual employed in a bona fide executive, administrative, or professional

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capacity, or a salesperson who conducts no more than 20 percent of sales on the premises

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of the employer;

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(7) any individual who renders service gratuitously for a nonprofit organization;

(8) any individual who serves as an elected official for a political subdivision or who serves on any governmental board, commission, committee or other similar body, or who renders service gratuitously for a political subdivision;

(9) any individual employed by a political subdivision to provide police or fire protection services or employed by an entity whose principal purpose is to provide police or fire protection services to a political subdivision;

(10) any individual employed by a political subdivision who is ineligible for membership in the Public Employees Retirement Association under section 353.01, subdivision 2b, clause (1), (2), (4), or (9);

(11) any driver employed by an employer engaged in the business of operating taxicabs;

(12) any individual engaged in babysitting as a sole practitioner;

(13) for the purpose of section 177.25, any individual employed on a seasonal basis in a carnival, circus, fair, or ski facility;

(14) any individual under 18 working less than 20 hours per workweek for a municipality as part of a recreational program;

(15) any individual employed by the state as a natural resource manager 1, 2, or 3 (conservation officer);

(16) any individual in a position for which the United States Department of Transportation has power to establish qualifications and maximum hours of service under United States Code, title 49, section 31502;

(17) any individual employed as a seafarer. The term "seafarer" means a master of a vessel or any person subject to the authority, direction, and control of the master who is exempt from federal overtime standards under United States Code, title 29, section 213(b)(6), including but not limited to pilots, sailors, engineers, radio operators, firefighters, security guards, pursers, surgeons, cooks, and stewards;

(18) any individual employed by a county in a single-family residence owned by a county home school as authorized under section 260B.060 if the residence is an extension facility of that county home school, and if the individual as part of the employment duties resides at the residence for the purpose of supervising children as defined by section 260C.007, subdivision 4; or

(19) nuns, monks, priests, lay brothers, lay sisters, ministers, deacons, and other members of religious orders who serve pursuant to their religious obligations in schools, hospitals, and other nonprofit institutions operated by the church or religious order.

Sec. 2. Minnesota Statutes 2012, section 177.24, subdivision 1, is amended to read:

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

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

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

~~(b) Except as otherwise provided in sections 177.21 to 177.35, every large employer must pay each employee wages at a rate of at least \$5.15 \$7.25 an hour beginning September 1, 1997, and at a rate of at least \$6.15 an hour beginning August 1, 2005. Every small employer must pay each employee at a rate of at least \$4.90 an hour beginning January 1, 1998, and at a rate of at least \$5.25 an hour beginning August 1, 2005 September 1, 2013.~~

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

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

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

4.1 Sec. 4. Minnesota Statutes 2012, section 177.25, subdivision 5, is amended to read:

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

4.6 Sec. 5. Minnesota Statutes 2012, section 181.941, subdivision 1, is amended to read:

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

4.11 Sec. 6. Minnesota Statutes 2012, section 181.943, is amended to read:

4.12 **181.943 RELATIONSHIP TO OTHER LEAVE.**

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

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

4.20 Sec. 7. **EFFECTIVE DATE.**

4.21 Sections 1 to 6 are effective September 1, 2013.