

CHAPTER 5210

DEPARTMENT OF LABOR AND INDUSTRY SAFETY AND HEALTH ADMINISTRATION

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5210.0200 AUTHORITY AND BACKGROUND.

Minnesota Statutes, sections 182.654, subdivisions 9 and 11, and 182.669 prohibit discrimination against an employee because the employee exercised any rights granted under the act on the employee's behalf or on behalf of others. Any employee who believes that he or she has been discharged or discriminated against by any person because the employee exercised any right authorized by the act as described in parts 5210.0230 to 5210.0280, may file a discrimination complaint with the commissioner of the Department of Labor and Industry.

Statutory Authority: *MS s 182.657*

History: *9 SR 56*

5210.0210 PURPOSE AND SCOPE.

Parts 5210.0200 to 5210.0340 implement Minnesota Statutes, sections 182.654, subdivisions 9 and 11, and 182.669 and set forth general policies for enforcement of the discrimination provisions of the act.

Statutory Authority: *MS s 182.657*

History: *9 SR 56*

5210.0240 REFUSAL TO WORK UNDER UNSAFE CONDITIONS.

[For text of subpart 1, see M R. 1983]

Subp. 2. **Hazardous condition.** If an employee has a choice between not performing assigned tasks or subjecting himself to serious injury or death arising from a hazardous condition in the workplace, an employee acting in good faith may refuse to work if there is no reasonable alternative. The condition must be so hazardous that a reasonable person would conclude that there is a real danger of death or serious injury and that there is insufficient time to eliminate the danger through enforcement procedures. The employee must, where possible, request the employer to correct the hazardous condition. An employer may not discharge or discipline an employee who refuses to perform assigned tasks under these conditions. An employee who has refused in good faith to perform assigned tasks and who has not been reassigned to other tasks by the employer must, in addition to retaining a right to continued employment, be paid for the tasks which would have been performed if:

A the employee requests, within 24 hours of the refusal, excluding weekends and state holidays, the commissioner to inspect and determine the nature of the hazardous condition; and

B the commissioner determines that the employee, by performing the assigned tasks, would have been placed in imminent danger of death or serious physical harm.

Subp. 3. **Hazardous substance.** An employee who has been assigned to work with a hazardous substance, harmful physical agent, or infectious agent, under conditions which are inconsistent with the training or information provided by the employer under parts 5206.0700 and 5206.0800, and who, after notifying the employer of the hazardous condition, has refused in good faith to perform assigned tasks and who has not been reassigned to other tasks, been provided the required training, or had the hazardous condition promptly abated, by the employer shall, in addition to retaining a right to continued employment, receive pay for the tasks which would have been performed if:

A. the employee requests, within 24 hours of the refusal, excluding weekends and state holidays, the commissioner to inspect and determine if a hazardous condition exists; and

B. the commissioner determines that the employer has failed to provide the training required under part 5206.0700 prior to the employee's initial assignment to a workplace if the employee may be routinely exposed to a hazardous substance, harmful physical agent, or infectious agent and the employer has failed to provide the information required under parts 5206.0700 and 5206.0800 after a request within a reasonable period of time, but not to exceed 24 hours, of the request.

Statutory Authority: *MS s 182.657*

History: *9 SR 56*

5210.0310 CLAIM PROCEDURES.

Subpart 1. **Who may file.** A complaint alleging discrimination under Minnesota Statutes, sections 182.654, subdivisions 9 and 11, and 182.669 may be filed by an employee or an authorized employee representative.

[For text of subps 2 to 4, see M.R. 1983]

Statutory Authority: *MS s 182.657*

History: *9 SR 56*

TRADE SECRET REGISTRATION

5210.0900 REGISTRATION.

A manufacturer or employer who believes that all or part of the information required under the Employee Right to Know Act, Laws of Minnesota 1983, chapter 316, is a trade secret as defined in Minnesota Statutes, section 325C.01, subdivision 5, may register the information with the commissioner as trade secret information. Information which has been classified for national security purposes by appropriate officials of the United States may also be registered with the commissioner provided the commissioner has been granted necessary security clearance and duly authorized to receive such classified information.

Statutory Authority: *MS s 182.657*

History: *9 SR 56*

5210.0910 FORMULATIONS AND PROCEDURES.

Formulations or procedures are trade secrets and need not be registered to be considered trade secrets.

Statutory Authority: *MS s 182.657*

History: *9 SR 56*

5210.0920 REQUIRED INFORMATION.

Trade secret registration of the name of a hazardous substance must include the following information:

A. the name or names of the substance including any generic or chemical name, trade name, commonly used name, and the American Chemical Society's Chemical Abstract Service (CAS) number for that substance;

B. a brief description of why it is a trade secret; and

C. the name of a person who can be contacted for additional information relevant to the trade secret.

Statutory Authority: *MS s 182.657*

History: 9 SR 56

5210.0930 EXPIRATION OF REGISTRATION.

A registration expires two years after its filing date unless the registration is renewed. The commissioner shall notify registrants of an impending expiration date.

Statutory Authority: *MS s 182.657*

History: 9 SR 56

5210.0940 CLASSIFICATION OF DATA.

Trade secret information that is registered with the commissioner or other information reported to or otherwise obtained by the commissioner or a representative of the commissioner in connection with any inspection or proceeding under Minnesota Statutes, chapter 182 which contains or might reveal a trade secret is nonpublic or private data as defined in Minnesota Statutes, section 13.02, subdivisions 9 and 12. Information that is classified as nonpublic or private, except that which is secret for national security purposes, may be disclosed to other officers or employees carrying out Minnesota Statutes, chapter 182, when relevant in any proceeding under parts 5210.0900 to 5210.0960, or when otherwise required in order to comply with federal law or regulation but only to the extent required by the federal law or regulation. The commissioner must protect nonpublic or private information by establishing security procedures to prevent its unauthorized use or disclosure.

Nothing in parts 5210.0900 to 5210.0960 may be construed as limiting rights, objectives, or remedies regarding trade secrets covered under Minnesota Statutes, chapter 325C, or the obligations applicable to classified information under rules and regulations of the United States for protecting classified information.

Statutory Authority: *MS s 182.657*

History: 9 SR 56

5210.0950 DISCLOSURE.

If the commissioner determines that disclosure of nonpublic or private information is essential to protect employees from imminent danger or when necessary to expedite provision of medical services to an employee, he must notify the appropriate manufacturer or employer of his decision by telephone or certified mail and timely disclose the information only to the extent necessary and only to the people necessary to aid in efforts to alleviate the danger.

Statutory Authority: *MS s 182.657*

History: 9 SR 56

5210.0960 DETERMINATION PROCEDURE.

Subpart 1. **Commissioner determination.** On the request of a manufacturer, employer, employee, or employee representative, deemed by the commissioner to have a legitimate health or safety interest in the information, the commissioner must determine whether information registered pursuant to the requirements of this chapter or otherwise reported to or obtained by the commissioner is a trade secret as defined in Minnesota Statutes, section 325C.01, subdivision 5.

Subp. 2. **Notice.** If the commissioner determines that information is not a trade secret, the commissioner must notify the registering manufacturer or employer of the decision by certified mail.

Subp. 3. **Justification response.** The registering manufacturer or employer has 15 days after receipt of notification to provide the commissioner by certified mail with a complete justification and statement of the grounds on which the information is a trade secret.

Subp. 4. **Commissioner review.** The commissioner must review his determination of whether information should be protected as a trade secret within 15 days after receipt of the justification and statement, or if no justification and statement is filed, within 30 days of the original notice, and must notify the appropriate manufacturer or employer and any party who has requested the information of that determination by certified mail.

Subp. 5. **Final notice.** If the commissioner determines that the information is not a trade secret, the final notice must also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the information shall be disclosed to the requesting party.

Subp. 6. **Action for declaratory judgment.** Prior to the date specified in the final notice, the registering manufacturer or employer may institute an action for a declaratory judgment as to whether the information is subject to protection as a trade secret.

Statutory Authority: *MS s 182.657*

History: *9 SR 56*