

CHAPTER 181

EMPLOYMENT; WAGES, CONDITIONS, HOURS, RESTRICTIONS

181.01	Wages of minors; to whom paid.	181.57	Application of sections 181.55 and 181.56.
181.02	Salary or wages not to be paid by nonnegotiable instruments.	181.58	Surviving spouse paid wages due.
181.03	Certain acts relating to payment of wages unlawful.	181.59	Discrimination on account of race, creed, or color prohibited in contract.
181.031	Employers not to accept consideration for securing employment.	181.60	Definitions.
181.032	Required statement of earnings by employer.	181.61	Medical examination; records, costs.
181.04	Assignment, sale, or transfer of wages; when not effective.	181.62	Violations.
181.041	Garnishment; assignment, sale or transfer of wages; when not effective.	181.63	Sale or use of silicate, silica dust, or silicon flour for certain purposes.
181.05	Consent of employer to assignment required.	181.64	False statements as inducement to entering employment.
181.06	Assignment of wages; payroll deductions.	181.65	Penalties.
181.063	Assignment of wages, public employees.	181.66	Equal pay for equal work law; definitions.
181.07	Assignment of unearned wages as security.	181.67	Wage discrimination based on sex; protection of employees involved in proceeding.
181.08	Public service corporations; payment of wages, requirements.	181.68	Actions; limitations, damages, attorney fees, parties, compromises.
181.09	Recovery of wages, costs.	181.70	Violations.
181.10	Wages paid every 15 days.	181.71	Citation.
181.101	Wages; how often paid.	181.73	Migrant labor; health insurance.
181.11	Discharged employee must be paid within 24 hours.	181.74	Failure of employer to pay benefits or wage supplements, penalty.
181.12	Railroad pay checks to show amount of deduction.	181.75	Polygraph tests of employees or prospective employees prohibited.
181.13	Penalty for failure to pay wages promptly.	181.76	Disclosure of lie detector tests prohibited.
181.14	Notice to be given; settlement of disputes.	181.78	Agreements; terms relating to inventions.
181.145	Prompt payment of commissions to commission salespeople.	181.79	Wages deductions for faulty workmanship, loss, theft or damage.
181.15	When employee not entitled to benefits.	181.80	Union notice of injury or death.
181.16	Construction of sections 181.13 to 181.17.	181.81	Dismissal for age; prohibition; exceptions; remedies.
181.17	Costs, paid by defendant.	181.811	Mandatory retirement age.
181.28	Locomotive engineers, hours.	181.812	Rules.
181.29	Certain railroad employees, hours.	181.82	Benefits based on job performance prohibited.
181.30	Duty of department of public service.	181.83	Corn detasslers; termination of employment.
181.52	Interference with employment.	181.84	Corn detasslers; work conditions.
181.53	Conditions precedent to employment not required.	181.85	Migrant labor; definitions.
181.54	Commissioner of human services, safety inspection work.	181.86	Employment statement.
181.55	Written statement to employees by employers.	181.87	Payment terms.
181.56	No statement given; burden of proof.	181.88	Record keeping.
		181.89	Civil actions.
		181.90	Use Wagner-Peyser system.
		181.91	Preservation of existing remedies.
		181.92	Leaves for adoptive parents.

181.01 WAGES OF MINORS; TO WHOM PAID.

Any parent or guardian claiming the wages of a minor in service shall so notify the employer and, if failing to do so, payment to the minor of wages so earned shall be valid.

History: (4133) *RL s 1812; 1986 c 444*

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.

History: (4134) *1917 c 348 s 1*

181.03 CERTAIN ACTS RELATING TO PAYMENT OF WAGES UNLAWFUL.

Any person, firm, corporation, or association who or which, directly or indirectly and with intent to defraud, causes 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 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 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.

History: (4134-1) 1933 c 249; 1986 c 444

181.031 EMPLOYERS NOT TO ACCEPT CONSIDERATION FOR SECURING EMPLOYMENT.

Any employer, or any manager, superintendent, lead supervisor, or other representative of any employer, who, directly or indirectly, demands or accepts 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.

History: (10536-1) 1933 c 47; 1986 c 444

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.

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.

History: 1Sp1985 c 13 s 291

181.04 ASSIGNMENT, SALE, OR TRANSFER OF WAGES; WHEN NOT EFFECTIVE.

No assignment, sale, or transfer, however made or attempted to be made, of any wages or salary to be earned shall give any right of action either at law or in equity to the assignee or transferee of such wages or salary, nor shall any action lie for the recovery of such wages or salary, or any part thereof, by any other person than the person to whom such wages or salary are to become due unless a written notice, together with a true and complete copy of the instrument assigning or transferring such wages or salary, shall have been given within three days after the making of such instrument to the person, firm, or corporation from whom such wages or salary are accruing or may accrue.

History: (4135) 1905 c 309 s 1; 1917 c 321 s 1

181.041 GARNISHMENT; ASSIGNMENT, SALE OR TRANSFER OF WAGES; WHEN NOT EFFECTIVE.

No assignment, sale or transfer, however made or attempted, of any earned or

unearned wages or salary is in any manner valid or effectual for the transfer of any salary or wages and should be disregarded if made following service of a garnishment exemption notice and within ten days prior to the receipt of the first garnishment or execution on a debt.

History: 1976 c 335 s 2

181.05 CONSENT OF EMPLOYER TO ASSIGNMENT REQUIRED.

No assignment, sale, or transfer, however made or attempted, of any unearned wages or salary shall be in any manner valid or effectual for the transfer of any salary or wages to be earned or accruing after the making of such assignment, sale, or transfer unless the person, firm, or corporation from whom such wages or salary are to accrue shall consent thereto in writing. Any employer or agent of such employer accepting or charging any fee or commission for collecting the amount due on any such assignment, sale, or transfer shall be deemed guilty of a misdemeanor.

History: (4136) 1905 c 309 s 2

181.06 ASSIGNMENT OF WAGES; PAYROLL DEDUCTIONS.

Subdivision 1. **Assignment of wages.** Every assignment, sale, or transfer, however made or attempted, of wages or salary to be earned or to become due, in whole or in part, more than 60 days from and after the date of making such transfer, sale or assignment shall be absolutely void; provided however, that the foregoing restriction against transfer, sale or assignment shall not apply to any assignment, sale or transfer of that portion of wages or salary to be earned or to become due in excess of the first \$1,500 per month where such assignment is for less than five years.

Subd. 2. **Payroll deductions.** A written contract may be entered into between an employer and an employee wherein the employee authorizes the employer to make payroll deductions for the purpose of paying union dues, premiums of any life insurance, hospitalization and surgical insurance, group accident and health insurance, group term life insurance, group annuities or contributions to credit unions or a community chest fund, a local arts council, a local science council or a local arts and science council, or Minnesota benefit association, a federally or state registered political action committee, or participation in any employee stock purchase plan or savings plan for periods longer than 60 days.

History: (4137) 1905 c 309 s 3; 1937 c 95 s 1; 1951 c 213 s 1; 1965 c 778 s 1; 1967 c 517 s 1; 1977 c 231 s 1; 1984 c 508 s 1

181.063 ASSIGNMENT OF WAGES, PUBLIC EMPLOYEES.

Any officer or employee of a county, town, city, or school district, or any department thereof, has the same right to sell, assign, or transfer salary or wages as is now possessed by any officer of or person employed by any corporation, firm, or person.

History: 1945 c 424 s 26; 1973 c 123 art 5 s 7; 1986 c 444

181.07 ASSIGNMENT OF UNEARNED WAGES AS SECURITY.

No assignment of or order for wages to be earned in the future to secure a loan of less than \$200 shall be valid against an employer of the person making the assignment or order until the assignment or order is accepted in writing by the employer and the assignment or order and the acceptance of the same have been filed and recorded with the clerk of the city or town where the party making the assignment or order resides, if a resident of this state, or in which the person is employed if the person is a nonresident. No assignment of or order for wages to be earned in the future shall be valid when made by a married person unless the written consent of the person's spouse to the making of the assignment or order is attached thereto.

History: (4138) 1911 c 308 s 1; 1981 c 31 s 3

181.08 PUBLIC SERVICE CORPORATIONS; PAYMENT OF WAGES, REQUIREMENTS.

All public service corporations doing business within this state are required to pay their employees at least semimonthly the wages earned by them to within 15 days of the date of such payment, unless prevented by inevitable casualty. Such wages less any voluntarily authorized payroll deduction set out in section 181.06 shall be paid in cash, or by checks convertible into cash at full face value thereof, without any service, exchange, discount, float or other charges, at a bank designated by such public service corporation located in any city in which the employee to whom the check is issued is employed or into which such employee is required to go in the performance of work for the company issuing the same. It shall be the duty of the corporation to make necessary arrangements with a bank for the cashing of these checks without such charges, or to reimburse any employee who has paid such charges upon request. When an employee shall be discharged wages shall be paid at the time of discharge or whenever the employee shall demand the same thereafter; allowing a reasonable time within which to compute wages due and to make authorized and other deductions required by law.

History: (4139) 1915 c 29 s 1; 1915 c 37 s 1; 1945 c 478 s 1; 1951 c 213 s 2; 1953 c 393 s 1; 1973 c 123 art 5 s 7; 1986 c 444

181.09 RECOVERY OF WAGES, COSTS.

When any public service corporation neglects or refuses to pay its employees, as prescribed by section 181.08, the wages may be recovered by action without further demand. Costs of \$10 shall be allowed to the plaintiff and included in the judgment, in addition to disbursements allowed by law.

History: (4140) 1915 c 29 s 2; 1915 c 37 s 2; 1953 c 359 s 1; 1983 c 359 s 19; 1986 c 444

181.10 WAGES PAID EVERY 15 DAYS.

Every person, firm, corporation, or association employing any person to labor or perform service on any project of a transitory nature, such as the construction, paving, repair, or maintenance of roads or highways, sewers or ditches, clearing land, or the production of forest products or any other work which requires the employee to change the employee's place of abode, shall pay the wages or earnings of such person at intervals of not more than 15 days, and payments thereof shall be made at the place of employment or in close proximity thereto.

History: (4140-1) 1933 c 223 s 1; 1986 c 444

181.101 WAGES; HOW OFTEN PAID.

Every employer shall pay all wages due an employee at least once every 30 days on a regular pay day designated in advance by the employer, except that an employer may withhold an employee's check until the signed statement for that pay period stating the amount of gratuities is received, as provided in section 177.28, subdivision 4. If wages due are not paid, the commissioner of labor and industry or the commissioner's representative may demand payment on behalf of an employee. If payment is not made within ten days of demand, the commissioner may charge and collect the wages due and a penalty in the amount of the employee's average daily earnings at the rate agreed upon in the contract of employment, not exceeding 15 days in all, for each day beyond the ten-day limit following the demand. Money collected by the commissioner must be paid to the employee concerned. This subdivision does not prevent an employee from prosecuting a claim for wages.

History: 1Sp1985 c 13 s 292

181.11 DISCHARGED EMPLOYEE MUST BE PAID WITHIN 24 HOURS.

When any such transitory employment as is described in section 181.10 which

requires an employee to change the employee's place of abode while performing the service required by the employment is terminated, either by the completion of the work or by the discharge or quitting of the employee, the wages or earnings of such employee in such employment shall be paid within 24 hours and, if not then paid, the employer shall pay the employee's reasonable expenses of remaining in the camp or elsewhere away from home while awaiting the arrival of payment of wages or earnings and, if such wages or earnings are not paid within three days after the termination of such employment for any cause, the employer shall, in addition, pay to the employee the average amount of the employee's daily earnings in such employment from the time of the termination of the employment until payment has been made in full, but not for a longer period of time than 15 days.

History: (4140-2) 1933 c 223 s 2; 1986 c 444

181.12 RAILROAD PAY CHECKS TO SHOW AMOUNT OF DEDUCTION.

Every railroad corporation doing business within this state shall state clearly on a statement accompanying each check, issued to an employee for services rendered to such corporation in this state, the amount of any deduction made from the regular wage of such employee, the reason therefor, and the date or period covered by such deduction. Deductions authorized by the employee may be designated as miscellaneous on the statement accompanying such check.

History: (4140-3) 1935 c 141 s 1; 1939 c 169; 1945 c 123 s 1; 1980 c 509 s 82

181.13 PENALTY FOR FAILURE TO PAY WAGES PROMPTLY.

When any person, firm, company, association, or corporation employing labor within this state discharges a servant or employee, the wages or commissions actually earned and unpaid at the time of the discharge shall become immediately due and payable upon demand of the employee. If the employee's earned wages and commissions are not paid within 24 hours after such demand, whether the employment was by the day, hour, week, month, or piece or by commissions, the discharged employee may charge and collect the amount of the employee's average daily earnings at the rate agreed upon in the contract of employment, for such period, not exceeding 15 days, after the expiration of the 24 hours, as the employer is in default, until full payment or other settlement, satisfactory to the discharged employee, is made. In the case of a public employer where approval of expenditures by a governing board is required, the 24-hour period for payment shall not commence until the date of the first regular or special meeting of the governing board following discharge of the employee. The wages and commissions must be paid at the usual place of payment unless the employee requests that the wages and commissions be sent through the mails. If, in accordance with a request by the employee, the employee's wages and commissions are sent to the employee through the mail, the wages and commissions shall be deemed to have been paid as of the date of their postmark for the purposes of this section.

History: (4127) 1919 c 175 s 1; 1933 c 173 s 1; 1984 c 446 s 1; 1Sp1985 c 16 art 1 s 2; 1986 c 444

181.14 NOTICE TO BE GIVEN; SETTLEMENT OF DISPUTES.

When any such employee, not having a contract for a definite period of service, quits or resigns employment, the wages or commissions earned and unpaid at the time the employee quits or resigns shall become due and payable within five days thereafter. Any employer failing or refusing to pay such wages or commissions, after they become due, upon the demand of the employee, shall be liable to the employee from the date of the demand for an additional sum equal to the amount of the employee's average daily earnings provided in the contract of employment, for every day, not exceeding 15 days in all, until such payment or other settlement satisfactory to the employee is made. If any employee having such a contract gives not less than five days' written notice to the employer of intention to quit, the wages or commissions of the employee giving notice may be demanded and shall become due 24 hours after the employee quits

or resigns, and the penalty herein provided shall apply from the date of demand. If the employer disputes the amount of wages or commissions claimed by the employee under the provisions of this section or section 181.13, and the employer makes a legal tender of the amount which the employer in good faith claims to be due, the employer shall not be liable for any sum greater than the amount so tendered and interest thereon at the legal rate, unless, in an action brought in a court having jurisdiction, the employee recovers a greater sum than the amount so tendered with interest thereon; and if, in the suit, the employee fails to recover a greater sum than that so tendered, with interest, the employee shall pay the cost of the suit, otherwise the cost shall be paid by the employer. In cases where the discharged or quitting employee was, during employment, entrusted with the collection, disbursement, or handling of money or property, the employer shall have ten secular days after the termination of the employment to audit and adjust the accounts of the employee before the employee's wages or commissions shall become due and payable, and the penalty herein provided shall apply in such case only from the date of demand made after the expiration of the period allowed for audit and adjustment. If, upon such audit and adjustment of the accounts of the employee, it is found that any money or property entrusted to the employee by the employer has not been properly accounted for or paid over to the employer, as provided by the terms of the contract of employment, the employee shall not be entitled to the benefit of sections 181.13 to 181.17, but the claim for unpaid wages or commissions of such employee, if any, shall be disposed of as provided by existing law. Wages and commissions paid under this section shall be paid at the usual place of payment unless the employee requests that the wages and commissions be sent to the employee through the mails. If, in accordance with a request by the employee, the employee's wages and commissions are sent to the employee through the mail, the wages and commissions shall be deemed to have been paid as of the date of their postmark for the purposes of this section.

History: (4128) 1919 c 175 s 2; 1933 c 173 s 2; 1984 c 446 s 2; 1986 c 444

181.145 PROMPT PAYMENT OF COMMISSIONS TO COMMISSION SALESPERSONS.

Subdivision 1. Definitions. For the purposes of this section, "commission salesperson" means a person who is paid on the basis of commissions for sales and who is not covered by sections 181.13 and 181.14 because the person is an independent contractor. For the purposes of this section, the phrase "commissions earned through the last day of employment" means commissions due for services or merchandise which have actually been delivered to and accepted by the customer by the final day of the salesperson's employment.

Subd. 2. Prompt payment required. (a) When any person, firm, company, association, or corporation employing a commission salesperson in this state terminates the salesperson, or when the salesperson resigns that position, the employer shall promptly pay the salesperson, at the usual place of payment, commissions earned through the last day of employment or be liable to the salesperson for the penalty provided under subdivision 3 in addition to any earned commissions unless the employee requests that the commissions be sent to the employee through the mails. If, in accordance with a request by the employee, the employee's commissions are sent to the employee through the mail, the commissions shall be deemed to have been paid as of the date of their postmark for the purposes of this section.

(b) If the employer terminates the salesperson or if the salesperson resigns giving at least five days written notice, the employer shall pay the salesperson's commissions earned through the last day of employment on demand no later than three working days after the salesperson's last day of work.

(c) If the salesperson resigns without giving at least five days written notice, the employer shall pay the salesperson's commissions earned through the last day of employment on demand no later than six working days after the salesperson's last day of work.

(d) Notwithstanding the provisions of paragraphs (b) and (c), if the terminated or resigning salesperson was, during employment, entrusted with the collection, disbursement, or handling of money or property, the employer has ten working days after the termination of employment to audit and adjust the accounts of the salesperson before the salesperson can demand commissions earned through the last day of employment. In such cases, the penalty provided in subdivision 3 shall apply only from the date of demand made after the expiration of the ten working day audit period.

Subd. 3. Penalty for nonprompt payment. If the employer fails to pay the salesperson commissions earned through the last day of employment on demand within the applicable period as provided under subdivision 2, the employer shall be liable to the salesperson, in addition to earned commissions, for a penalty for each day, not exceeding 15 days, which the employer is late in making full payment or satisfactory settlement to the salesperson for the commissions earned through the last day of employment. The daily penalty shall be in an amount equal to 1/15 of the salesperson's commissions earned through the last day of employment which are still unpaid at the time that the penalty will be assessed.

Subd. 4. Amount of commission disputed. (a) When there is a dispute concerning the amount of the salesperson's commissions earned through the last day of employment or whether the employer has properly audited and adjusted the salesperson's account, the penalty provided in subdivision 3 shall not apply if the employer pays the amount it in good faith believes is owed the salesperson for commissions earned through the last day of employment within the applicable period as provided under subdivision 2; except that, if the dispute is later adjudicated and it is determined that the salesperson's commissions earned through the last day of employment were greater than the amount paid by the employer, the penalty provided in subdivision 3 shall apply.

(b) If a dispute under this subdivision is later adjudicated and it is determined that the salesperson was not promptly paid commissions earned through the last day of employment as provided under subdivision 2, the employer shall pay reasonable attorney's fees incurred by the salesperson.

Subd. 5. Commissions earned after last day of employment. Nothing in this section shall be construed to impair a commission salesperson from collecting commissions on merchandise ordered prior to the last day of employment but delivered and accepted after termination of employment. However, the penalties prescribed in subdivision 3 apply only with respect to the payment of commissions earned through the last day of employment.

History: 1984 c 446 s 3; 1986 c 444

181.15 WHEN EMPLOYEE NOT ENTITLED TO BENEFITS.

No such servant or employee who hides or stays away to avoid receiving payment, or refuses to receive the same when fully tendered, shall be entitled to any benefit under sections 181.13 to 181.17 for such time as so avoiding payment; provided, when any number of employees enter upon a strike the wages due such striking employees at the time of entering upon such strike shall not become due until the next regular pay day after the commencement of such strike.

History: (4129) 1919 c 175 s 3; 1986 c 444

181.16 CONSTRUCTION OF SECTIONS 181.13 TO 181.17.

Sections 181.13 to 181.17 shall not be construed to apply to any employer or an individual, copartnership, or corporation that is bankrupt, or where a receiver or trustee is acting under the direction of the court. Payment or tender by check drawn on a bank situated in the county where a laborer is employed shall be a sufficient payment or tender to comply with the provisions of sections 181.13 to 181.17.

History: (4130) 1919 c 175 s 4; 1983 c 41 s 1

MINNESOTA STATUTES 1986

4177

EMPLOYMENT; WAGES, CONDITIONS, HOURS, RESTRICTIONS 181.30

181.17 COSTS, PAID BY DEFENDANT.

In any action by an employee pursuant to sections 181.13 to 181.17 for the recovery of unpaid wages after the time when the wages become due, the plaintiff shall be allowed double statutory costs in addition to disbursements allowed by law.

History: (4131) 1919 c 175 s 5; 1983 c 359 s 20

181.18 [Repealed, 1974 c 432 s 13]

181.19 [Repealed, 1974 c 432 s 13]

181.20 [Repealed, 1974 c 432 s 13]

181.21 [Repealed, 1974 c 432 s 13]

181.22 [Repealed, 1974 c 432 s 13]

181.23 [Repealed, 1974 c 432 s 13]

181.24 [Repealed, 1974 c 432 s 13]

181.25 [Repealed, 1974 c 432 s 13]

181.26 [Repealed, 1974 c 432 s 13]

181.27 [Repealed, 1974 c 432 s 13]

181.28 LOCOMOTIVE ENGINEERS, HOURS.

Locomotive engineers and fire tenders shall not be required to serve as such for more than 14 consecutive hours. At least nine hours, or as many hours less as are asked for by these engineers or fire tenders, shall be allowed for rest before being again required to go on duty. Nothing herein shall permit any such engineer or fire tender to desert a locomotive when, by reason of accident or of delay caused by the elements, another cannot immediately be procured as a replacement, nor prohibit them, in any case, from serving longer than 14 hours if they so desire. Every superintendent or other officer or employer of a railway company who shall order or require any service in violation of this section shall be guilty of a misdemeanor, and such company shall be liable to any engineer or fire tender for injuries sustained in consequence of such violation.

History: (4091) RL s 1801; 1986 c 444

181.29 CERTAIN RAILROAD EMPLOYEES, HOURS.

It shall be unlawful for any railroad company within the state, or any of its officers or agents, to require or permit any employee engaged in or connected with the movement of any rolling stock, engine, or train, to remain on duty more than 16 consecutive hours, or to require or permit any such employee who has been on duty 16 consecutive hours to perform any further service without having had at least eight hours' rest, or to require or permit any such employee to be on duty at any time to exceed 16 hours in any consecutive 24 hours. This section shall not apply to work performed in the protection of life or property in cases of accident, wreck, or other unavoidable casualty, and it shall not apply to the time necessary for train workers to reach a resting place when an accident, wreck, washout, snow blockade, or other unavoidable cause has delayed their train.

History: (4092) 1907 c 253 s 1; 1986 c 444

181.30 DUTY OF DEPARTMENT OF PUBLIC SERVICE.

Any officer of any railroad company in the state violating any of the provisions of section 181.29 shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$100, and not more than \$700, for each offense, or by imprisonment in the county jail not more than 60 days, or both fine and imprisonment, at the discretion of the court. It shall be the duty of the state department of public service, upon complaint properly filed with it alleging a violation of section 181.29, to make a full investigation in relation thereto, and for such purpose it shall have the power to administer oaths, interrogate witnesses, take testimony and require the production of

books and papers, and if such report shall show a violation of the provisions of section 181.29, the department of public service shall, through the attorney general, begin the prosecution of all parties against whom evidence of such violation is found; but section 181.29 shall not be construed to prevent any other person from beginning prosecution for the violation of the provisions thereof.

History: (4093) 1907 c 253 s 2; 1971 c 25 s 67; 1984 c 628 art 3 s 11

- 181.31 [Repealed, 1974 c 432 s 13]
- 181.32 [Repealed, 1974 c 432 s 13]
- 181.33 [Repealed, 1974 c 432 s 13]
- 181.34 [Repealed, 1974 c 432 s 13]
- 181.35 [Repealed, 1974 c 432 s 13]
- 181.36 [Repealed, 1974 c 432 s 13]
- 181.37 [Repealed, 1974 c 432 s 13]
- 181.38 [Repealed, 1974 c 432 s 13]
- 181.39 [Repealed, 1974 c 432 s 13]
- 181.40 [Repealed, 1974 c 432 s 13]
- 181.41 [Repealed, 1974 c 432 s 13]
- 181.42 [Repealed, 1974 c 432 s 13]
- 181.43 [Repealed, 1974 c 432 s 13]
- 181.44 [Repealed, 1974 c 432 s 13]
- 181.45 [Repealed, 1974 c 432 s 13]
- 181.46 [Repealed, 1974 c 432 s 13]
- 181.47 [Repealed, 1974 c 432 s 13]
- 181.48 [Repealed, 1974 c 432 s 13]
- 181.49 [Repealed, 1974 c 432 s 13]
- 181.50 [Repealed, 1974 c 432 s 13]
- 181.51 [Repealed, 1974 c 432 s 13]

181.52 INTERFERENCE WITH EMPLOYMENT.

No individual, corporation, member of any firm, or any agent, officer, or employee of any of them, shall contrive or conspire to prevent any person from obtaining or holding any employment, or discharge, or procure or attempt to procure the discharge of, any person from employment, by reason of the person having engaged in a strike.

History: (4201) RL s 1822; 1986 c 444

181.53 CONDITIONS PRECEDENT TO EMPLOYMENT NOT REQUIRED.

No person, whether acting directly or through an agent, or as the agent or employee of another, shall require as a condition precedent to employment any written statement as to the participation of the applicant in a strike, or as to a personal record, save as to conviction of a public offense, for more than one year immediately preceding the date of application therefor; nor shall any person, acting in any of the aforesaid capacities, use or require blanks or forms of application for employment in contravention of this section.

History: (4202) RL s 1823; 1986 c 444

181.54 COMMISSIONER OF HUMAN SERVICES, SAFETY INSPECTION WORK.

The commissioner of human services is hereby authorized and empowered to expend out of any relief funds available therefor such sums of money which in the commissioner's judgment may be necessary for safety inspection work required by law for the protection of employees engaged upon such state and federal projects as may be designated by the commissioner.

History: (4202-1) 1935 c 233 s 1; 1939 c 431 art 7 s 2; 1953 c 593 s 2; 1984 c 654 art 5 s 58; 1986 c 444

MINNESOTA STATUTES 1986

4179

EMPLOYMENT; WAGES, CONDITIONS, HOURS, RESTRICTIONS 181.59

181.55 WRITTEN STATEMENT TO EMPLOYEES BY EMPLOYERS.

When a contract of employment is consummated between an employer and an employee for work to be performed in this state, or for work to be performed in another state for an employer localized in this state, the employer shall give to the employee a written and signed agreement of hire, which shall clearly and plainly state:

- (1) The date on which the agreement was entered into;
- (2) The date on which the services of the employee are to begin;
- (3) The rate of pay per unit of time, or of commission, or by the piece, so that wages due may be readily computed;
- (4) The number of hours a day which shall constitute a regular day's work, and whether or not additional hours the employee is required to work shall constitute overtime and be paid for, and, if so, the rate of pay for overtime work; and
- (5) A statement of any special responsibility undertaken by the employee, not forbidden by law, which, if not properly performed by the employee, will entitle the employer to make deductions from the wages of the employee, and the terms upon which such deductions may be made.

History: (4126-11) 1933 c 250 s 1

181.56 NO STATEMENT GIVEN; BURDEN OF PROOF.

Where no such written agreement is entered into the burden of proof shall be upon the employer to establish the terms of the verbal agreement in case of a dispute with the employee as to its terms.

History: (4126-12) 1933 c 250 s 2

181.57 APPLICATION OF SECTIONS 181.55 AND 181.56.

Sections 181.55 and 181.56 shall not apply to farm labor, nor to casual employees temporarily employed, nor employers employing less than ten employees.

History: (4126-13) 1933 c 250 s 3

181.58 SURVIVING SPOUSE PAID WAGES DUE.

For the purposes of this section the word "employer" includes every person, firm, partnership, corporation, the state of Minnesota, all political subdivisions, and all municipal corporations.

If, at the time of the death of any person, an employer is indebted to the person for work, labor, or services performed, and no executor or administrator of the person's estate has been appointed, such employer shall, upon the request of the surviving spouse, forthwith pay this indebtedness, in such an amount as may be due, not exceeding the sum of \$3,000, to the surviving spouse. The employer may in the same manner provide for payment to the surviving spouse of accumulated credits under the vacation or overtime plan or system maintained by the employer. The employer shall require proof of claimant's relationship to decedent by affidavit, and require claimant to acknowledge receipt of such payment in writing. Any payments made by the employer pursuant to the provisions of this section shall operate as a full and complete discharge of the employer's indebtedness to the extent of the payment, and no employer shall thereafter be liable therefor to the decedent's estate or the decedent's executor or administrator thereafter appointed. Any amounts so received by a spouse shall be considered in diminution of the allowance to the spouse under section 525.15.

History: 1941 c 408 s 1; 1951 c 531 s 1; 1957 c 126 s 1; 1969 c 954 s 1; 1986 c 444

181.59 DISCRIMINATION ON ACCOUNT OF RACE, CREED, OR COLOR PROHIBITED IN CONTRACT.

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:

(1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;

(2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;

(3) That a violation of this section is a misdemeanor; and

(4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

History: 1941 c 238; 1973 c 123 art 5 s 7; 1984 c 609 s 11

181.60 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 181.60 to 181.62, unless a different meaning is indicated by the context, the terms defined in this section shall have the meanings given them.

Subd. 2. **Employer.** "Employer" means any individual, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within the state.

Subd. 3. **Employee.** "Employee" means any person who may be permitted, required, or directed by any employer, as defined in subdivision 2, in consideration of direct or indirect gain or profit, to engage in any employment.

History: 1951 c 201 s 1

181.61 MEDICAL EXAMINATION; RECORDS, COSTS.

It is unlawful for any employer to require any employee or applicant for employment to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of employment, except certificates of attending physicians in connection with the administration of an employee's pension and disability benefit plan or citizenship papers or birth certificates.

History: 1951 c 201 s 2

181.62 VIOLATIONS.

Any employer who violates any of the provisions of sections 181.60 to 181.62 is guilty of a misdemeanor.

History: 1951 c 201 s 3

181.63 SALE OR USE OF SILICATE, SILICA DUST, OR SILICON FLOUR FOR CERTAIN PURPOSES.

It shall be unlawful and a misdemeanor in the state of Minnesota to sell or use any materials used in a dry state for dusting the surface of molds to form a separation of the component parts of the mold which contain silicate, silica dust, or silica flour. It shall be the duty of the department of labor and industry to see that the provisions of this section are enforced and to institute proceedings against any employer or other person who shall violate its provisions.

History: 1953 c 484 s 1; Ex1967 c 1 s 6

181.64 FALSE STATEMENTS AS INDUCEMENT TO ENTERING EMPLOYMENT.

It shall be unlawful for any person, partnership, company, corporation, association, or organization of any kind, doing business in this state, directly or through any agent or attorney, to induce, influence, persuade, or engage any person to change from one place to another in this state, or to change from any place in any state, territory, or country to any place in this state, to work in any branch of labor through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning the kind or character of such work, the compensation therefor, the sanitary conditions relating to or surrounding it, or failure to state in any advertisement, proposal, or contract for the employment that there is a strike or lockout at the place of the proposed employment, when in fact such strike or lockout then actually exists in such employment at such place. Any such unlawful acts shall be deemed a false advertisement or misrepresentation for the purposes of this section and section 181.65.

History: (10392) 1913 c 544 s 1; 1923 c 272 s 1

181.65 PENALTIES.

Any person, firm, association, or corporation violating any provision of section 181.64 and this section shall be guilty of a misdemeanor. Any person who shall be influenced, induced, or persuaded to enter or change employment or change a place of employment through or by means of any of the things prohibited in section 181.64, shall have a right of action for the recovery of all damages sustained in consequence of the false or deceptive representations, false advertising, or false pretenses used to induce the person to enter into or change a place of employment, against any person, firm, association, or corporation directly or indirectly causing such damage; and, in addition to all such actual damages such person may have sustained, shall have the right to recover such reasonable attorneys' fees as the court shall fix, to be taxed as costs in any judgment recovered.

History: (10393) 1913 c 544 s 2; 1923 c 272 s 2; 1986 c 444

181.66 EQUAL PAY FOR EQUAL WORK LAW; DEFINITIONS.

Subdivision 1. For the purpose of sections 181.66 to 181.71 the terms defined in this section have the meanings given them.

Subd. 2. "Employer" means any person employing one or more employees, but does not include the state or any municipal corporation or political subdivision of the state having in force a civil service system based on merit, or the federal government.

Subd. 3. "Employee" means an individual who, otherwise than as copartner of the employer or as an independent contractor, renders personal service wholly or partly in this state to an employer who pays or agrees to pay such individual at a fixed rate. However, where services are rendered only partly in this state, an individual is not an employee unless a contract of employment has been entered into, or payments thereunder are ordinarily made or to be made within this state.

Subd. 4. "Wages" means all compensation for performance of services by an employee for an employer whether paid by the employer or another person including cash value of all compensation paid in any medium other than cash.

Subd. 5. "Rate" with reference to wages means the basis of compensation for services by an employee for an employer and includes compensation based on the time spent in the performance of such services, or on the number of operations accomplished, or on the quantity produced or handled.

Subd. 6. "Unpaid wages" means the difference between the wages actually paid to an employee and the wages required under section 181.67 to be paid to such employee.

History: 1969 c 143 s 1; 1986 c 444

181.67 WAGE DISCRIMINATION BASED ON SEX; PROTECTION OF EMPLOYEES INVOLVED IN PROCEEDING.

Subdivision 1. No employer shall discriminate between employees on the basis of sex by paying wages to employees at a rate less than the rate the employer pays to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. Provided, that an employer who is paying a wage rate differential in violation of sections 181.66 to 181.71 shall not, in order to comply with the provisions of sections 181.66 to 181.71, reduce the wage rate of any employee.

Subd. 2. No employer shall discriminate against any employee in regard to hire or tenure of employment or any term or condition of employment because the employee has filed a complaint in a proceeding under sections 181.66 to 181.71, or has testified, or is about to testify, in any investigation or proceedings pursuant to sections 181.66 to 181.71 or in a criminal action pursuant to sections 181.66 to 181.71.

History: 1969 c 143 s 2; 1986 c 444

181.68 ACTIONS; LIMITATIONS, DAMAGES, ATTORNEY FEES, PARTIES, COMPROMISES.

Subdivision 1. Any employee whose compensation is at a rate that is in violation of section 181.67 has a right of action against an employer for the recovery of the amount of the unpaid wages to which the employee is entitled for the one year period preceding the commencement of the action, and an amount up to the amount of these unpaid wages may be levied at the discretion of the court as exemplary damages.

Subd. 2. In addition to any judgment awarded to the plaintiff, the court shall allow reasonable attorney fees to be taxed as costs.

Subd. 3. The action for the unpaid wages and liquidated damages may be maintained by one or more employees on behalf of themselves or other employees similarly situated.

Subd. 4. An agreement for compensation at a rate less than the rate to which an employee is entitled under sections 181.66 to 181.71 is not a defense to any such action.

History: 1969 c 143 s 3; 1986 c 444

181.69 [Repealed, 1974 c 432 s 13]

181.70 VIOLATIONS.

A violation of sections 181.66 to 181.71 is a misdemeanor.

History: 1969 c 143 s 5

181.71 CITATION.

Sections 181.66 to 181.71 may be cited as the equal pay for equal work law.

History: 1969 c 143 s 6

181.72 [Repealed, 1974 c 432 s 13]

181.73 MIGRANT LABOR; HEALTH INSURANCE.

Subdivision 1. Any person, association, organization, or other group employing five or more persons, full time, part time or otherwise, who come within the definition of recruited migrant laborers as hereafter defined and who are employed or are recruited to be employed in the processing of agricultural produce other than as field labor, shall provide at its expense health care insurance during the period of employment or for illness or injury incurred while employed. Such health care insurance shall

be in accordance with such rules as the commissioner of jobs and training may prescribe by rule for each such recruited migrant laborer who is not a resident of Minnesota and who does not have health care insurance meeting the requirements of the rules promulgated by the commissioner of jobs and training.

Subd. 2. No such insurance need be purchased for any employee performing exclusively agricultural labor as defined by section 3121(g) of the Internal Revenue Code of 1954.

Subd. 3. For the purposes of this section, a recruited migrant laborer is a migrant laborer who is offered some type of housing or transportation expense by an employer as an inducement to employment or anticipated employment.

History: 1971 c 752 s 1; 1973 c 254 s 3; 1977 c 430 s 25 subd 1; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1986 c 444

181.74 FAILURE OF EMPLOYER TO PAY BENEFITS OR WAGE SUPPLEMENTS, PENALTY.

Subdivision 1. Any employer required under the provisions of an agreement to which the employer is a party to pay or provide benefits or wage supplements to employees or to a third party or fund for the benefit of employees, and who refuses to pay the amount or amounts necessary to provide such benefits or furnish such supplements within 60 days after such payments are required to be made under law or under agreement, is guilty of a gross misdemeanor. If such employer is a corporation, any officer who intentionally violates the provisions of this section shall be guilty of a gross misdemeanor. The institution of bankruptcy proceedings according to law shall be a defense to any criminal action under this section.

Subd. 2. As used in this section, the term "benefits or wage supplements" includes, but is not limited to, reimbursement for expenses; health, welfare, and retirement benefits; and vacation, separation or holiday pay.

History: 1973 c 602 s 1; 1986 c 444

181.75 POLYGRAPH TESTS OF EMPLOYEES OR PROSPECTIVE EMPLOYEES PROHIBITED.

Subdivision 1. **Prohibition, penalty.** No employer or agent thereof shall directly or indirectly solicit or require a polygraph, voice stress analysis, or any test purporting to test the honesty of any employee or prospective employee. No person shall sell to or interpret for an employer or the employer's agent a test that the person knows has been solicited or required by an employer or agent to test the honesty of an employee or prospective employee. An employer or agent or any person knowingly selling, administering, or interpreting tests in violation of this section is guilty of a misdemeanor. If an employee requests a polygraph test any employer or agent administering the test shall inform the employee that taking the test is voluntary.

Subd. 2. **Investigations.** The department of labor and industry shall investigate suspected violations of this section. The department may refer any evidence available concerning violations of this section to the county attorney of the appropriate county, who may with or without such reference, institute the appropriate criminal proceedings under this section.

Subd. 3. **Injunctive relief.** In addition to the penalties provided by law for violation of this section, specifically and generally, whether or not injunctive relief is otherwise provided by law, the courts of this state are vested with jurisdiction to prevent and restrain violations of this section and to require the payment of civil penalties. Whenever it shall appear to the satisfaction of the attorney general that this section has been or is being violated, the attorney general shall be entitled, on behalf of the state, to sue for and have injunctive relief in any court of competent jurisdiction against any such violation or threatened violation without abridging other penalties provided by law.

Subd. 4. **Individual remedies.** In addition to the remedies otherwise provided

by law, any person injured by a violation of this section may bring a civil action to recover any and all damages recoverable at law, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court. The court may, as appropriate, enter a consent judgment or decree without a finding of illegality.

History: 1973 c 667 s 1; 1976 c 256 s 1; 1986 c 444

181.76 DISCLOSURE OF LIE DETECTOR TESTS PROHIBITED.

No person shall disclose that another person has taken a polygraph or any test purporting to test honesty or the results of that test except to the individual tested. If such a test is given after August 1, 1973 and at the employee's request, the results may be given only to persons authorized by the employee to receive the results. A person who violates this section is guilty of a misdemeanor.

History: 1973 c 667 s 2

181.77 [Repealed, 1976 c 256 s 2]

181.78 AGREEMENTS; TERMS RELATING TO INVENTIONS.

Subdivision 1. Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of the employee's rights in an invention to the employer shall not apply to an invention for which no equipment, supplies, facility or trade secret information of the employer was used and which was developed entirely on the employee's own time, and (1) which does not relate (a) directly to the business of the employer or (b) to the employer's actual or demonstrably anticipated research or development, or (2) which does not result from any work performed by the employee for the employer. Any provision which purports to apply to such an invention is to that extent against the public policy of this state and is to that extent void and unenforceable.

Subd. 2. No employer shall require a provision made void and unenforceable by subdivision 1 as a condition of employment or continuing employment.

Subd. 3. If an employment agreement entered into after August 1, 1977 contains a provision requiring the employee to assign or offer to assign any of the employee's rights in any invention to an employer, the employer must also, at the time the agreement is made, provide a written notification to the employee that the agreement does not apply to an invention for which no equipment, supplies, facility or trade secret information of the employer was used and which was developed entirely on the employee's own time, and (1) which does not relate (a) directly to the business of the employer or (b) to the employer's actual or demonstrably anticipated research or development, or (2) which does not result from any work performed by the employee for the employer.

History: 1977 c 47 s 1; 1986 c 444

181.79 WAGES DEDUCTIONS FOR FAULTY WORKMANSHIP, LOSS, THEFT OR DAMAGE.

Subdivision 1. No employer shall make any deduction, directly or indirectly, from the wages due or earned by any employee, who is not an independent contractor, for lost or stolen property, damage to property, or to recover any other claimed indebtedness running from employee to employer, unless the employee, after the loss has occurred or the claimed indebtedness has arisen, voluntarily authorizes the employer in writing to make the deduction or unless the employee is held liable in a court of competent jurisdiction for the loss or indebtedness. Such authorization shall not be admissible as evidence in any civil or criminal proceeding. Any authorization for a deduction shall set forth the amount to be deducted from the employee's wages during each pay period.

A deduction may not be in excess of the amount established by law as subject to garnishment or execution on wages.

Any agreement entered into between an employer and an employee contrary to this section shall be void. This section shall not apply to the following:

- (a) in cases where a contrary provision in a collective bargaining agreement exists;
- (b) any rules established by an employer for employees who are commissioned salespeople, where the rules are used for purposes of discipline, by fine or otherwise, in cases where errors or omissions in performing their duties exist; or
- (c) in cases where an employee, prior to making a purchase or loan from the employer, voluntarily authorizes in writing that the cost of the purchase or loan shall be deducted from the employee's wages, at regular intervals or upon termination of employment.

Subd. 2. An employer who violates the provisions of this section shall be liable in a civil action brought by the employee for twice the amount of the deduction or credit taken.

History: 1977 c 227 s 1; 1978 c 588 s 1; 1Sp1985 c 13 s 293; 1986 c 444

181.80 UNION NOTICE OF INJURY OR DEATH.

If a work related death or work related injury which requires a report to the commissioner of labor and industry in accordance with section 176.231, subdivision 1, occurs, a copy of the report shall be mailed by the employer to the employee's local union at the local union office within 48 hours after the employer receives notice of the occurrence.

History: 1977 c 230 s 1

181.81 DISMISSAL FOR AGE; PROHIBITION; EXCEPTIONS; REMEDIES.

Subdivision 1. (a) It is unlawful for any employer, public or private, excluding the United States government and any of its instrumentalities, to refuse to hire or employ, or to discharge, dismiss, reduce in grade or position, or demote any individual on the grounds that the individual has reached an age of less than 70, except in cases where federal statutes or rules or other state statutes, not including special laws compel or specifically authorize such action. Nothing in this section shall prohibit compulsory retirement of employees who have attained 70 years of age or more; provided further that nothing in this section shall prohibit compulsory retirement of an employee who has attained at least 65 years of age and who for the two year period immediately before retirement is employed in an executive or a high policy making position if that employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan of an employer, or any combination of these benefits which totals in the aggregate at least \$27,000. If the retirement benefit is in a form other than a straight life annuity, the equivalent annualized payment value of the benefit shall be actuarially determined according to rules promulgated by the commissioner of labor and industry. Pilots and flight crew members shall not be subject to the provisions of this section or section 363.02, subdivision 6, but shall be retired from this employment pursuant to standards contained in regulations promulgated by the federal aviation administration for airline pilots and flight officers and are subject to the bona fide occupational requirements for these employees as promulgated by the federal aviation administration.

(b) Prior to June 1, 1982 every employer shall notify an employee in writing at least 90 days but no more than 120 days prior to the employee's 65th birthday of the option to continue employment beyond that date. The notice shall state in a conspicuous manner that the employee shall respond to the notice within 30 days of the employee's desire to continue employment beyond the employee's 65th birthday. Every employer shall post in a conspicuous place a notice written or approved by the commissioner of labor and industry stating that the mandatory retirement age is age 70. Employment shall continue for as long as the employee desires or until the employer demonstrates that the employee no longer can meet the bona fide requirements, consistently applied, for the job or position or until the employee reaches the

compulsory retirement age established by the employer. When an employer intends to terminate an employee who is 65 years of age or older earlier than age 70 on the ground that the employee no longer can meet the bona fide requirements for the job or position the employer shall give the employee 30 days notice of that intention.

(c) If there exists a date on which the accrual of pension benefits or credits, or the contributions therefor by the employee or the employer, or the employee's employment related health and welfare benefits or insurance coverages are diminished or eliminated by virtue of the employee attaining a certain age, the employer shall notify the employee of the changes at least 90 but not more than 120 days prior to the effective date of the change. This section, in and of itself, shall not be construed to require any change in the employer contribution levels of any pension or retirement plan, or to require any employer to increase an employer's or employee's payments for the provision of insurance benefits contained in any employee benefit or insurance plan.

Subd. 2. (a) The commissioner of labor and industry shall advise any inquiring parties, employee or employer, of their rights and duties under this section and to the extent practicable their rights and duties under any applicable provisions of law governing retirement or other benefits. Further, the commissioner may attempt to conciliate any disputes between employees and employers over the application of or alleged violations of this section.

(b) Any party aggrieved by a violation of this section may bring suit for redress in the district court wherein the violation occurred or in the district court wherein the employer is located. If a violation is found the court in granting relief may enjoin further violations and may include in its award reinstatement or compensation for any period of unemployment resulting from the violation together with actual and reasonable attorneys fees, and other costs incurred by the plaintiff.

(c) When an action is commenced alleging a violation of this section the plaintiff may in the same action allege a violation of chapter 363, and seek relief under that chapter if all the procedural requirements of chapter 363 have been met. Alternatively, when a charge is filed or an action commenced alleging a violation of chapter 363, the plaintiff may in the same action allege a violation of this section and seek relief under this section. In either case, when determining whether or not a violation of chapter 363, has occurred the court shall incorporate the substantive requirements of this section into any duties and rights specified by chapter 363.

History: 1978 c 649 s 2; 1979 c 40 s 3; 1986 c 444

181.811 MANDATORY RETIREMENT AGE.

Laws 1978, chapter 649 is effective April 24, 1979, subject to the following exceptions:

(1) In the case of employees covered by a collective bargaining agreement which was entered into between a labor organization and an employer and which was in effect on September 1, 1977, it shall take effect upon the termination of the agreement or on January 1, 1980, whichever comes first.

(2) Nothing contained in Laws 1978, chapter 649 or Laws 1979, chapter 40 shall be construed as requiring the rehiring, reinstatement or payment of additional benefits to an employee who terminates service prior to April 24, 1979, with an employer who employs 20 or more employees, or the rehiring, reinstatement or payment of additional benefits to an employee who terminates service prior to June 1, 1980, with an employer who employs less than 20 employees, pursuant to a mandatory retirement law or policy which mandates retirement prior to attaining 70 years of age, or any other employee who terminates service prior to the termination of a collectively bargained contract containing a mandatory retirement provision.

(3) Laws 1978, chapter 649, section 3, is effective January 1, 1979. Any person who was previously a member of and has received a refund of accumulated employee or member contributions from one or more of the covered retirement funds enumerated in section 356.32, subdivision 2 and who terminated service at age 65 or older for

MINNESOTA STATUTES 1986

4187

EMPLOYMENT; WAGES, CONDITIONS, HOURS, RESTRICTIONS 181.85

any reason whether or not the person was required to terminate service pursuant to a mandatory retirement statute or a uniformly applied mandatory retirement policy established by the employer between January 1, 1979 and April 24, 1979 shall be entitled to repay the refund of accumulated employee or member contributions to the respective retirement fund with compound interest at the rate of six percent from the date the refund was received to the date the refund is repaid. Upon repayment of a refund, the person shall be entitled if otherwise qualified to a proportionate annuity, with accrual to commence upon the first day of the month following the filing of a valid application for the annuity.

(4) Employers who employ fewer than 20 employees shall not be subject to the provisions of Laws 1978, chapter 649, until June 1, 1980.

History: 1978 c 649 s 8; 1979 c 40 s 4; 1981 c 50 s 1

181.812 RULES.

The commissioner may promulgate rules which are deemed necessary to carry out the provisions of section 181.81.

History: 1979 c 40 s 5

181.82 BENEFITS BASED ON JOB PERFORMANCE PROHIBITED.

No employer may terminate or threaten to terminate:

- (a) group accident and health insurance coverage;
- (b) group life insurance coverage; or
- (c) pension benefits

for an employee, including a commissioned agent, based on the employee's job performance unless the employer has first given the employee the opportunity to continue coverage by making the same contribution the employer would have to make to continue coverage for the employee.

History: 1978 c 697 s 1

181.83 CORN DETASSELERS; TERMINATION OF EMPLOYMENT.

Upon termination by the employer of employment to perform corn detasseling, or injury to, or illness of the employee, the employer shall provide transportation to the terminated, injured or ill individual from the place of work to the location at which the employee was picked up on the day of termination, injury or illness. The employer shall pay a terminated, injured or ill individual at the individual's usual rate of pay during the time period between when the individual was terminated, injured or became ill, and when the employer returned the individual to the location at which the employee was picked up.

History: 1978 c 731 s 2; 1986 c 444

181.84 CORN DETASSELERS; WORK CONDITIONS.

Notwithstanding any state or federal statute or regulation authorizing sanitary conditions less favorable to the employee than the following requirement, every employer of corn detassellers shall provide a potable water supply in the field and which is easily accessible to all employees with materials or equipment so that the water may be easily drunk in a sanitary manner.

History: 1978 c 731 s 3

181.85 MIGRANT LABOR; DEFINITIONS.

Subdivision 1. **Generally.** For the purposes of sections 181.85 to 181.90, the terms defined in this section have the meanings given them.

Subd. 2. **Agricultural labor.** "Agricultural labor" means field labor associated with the cultivation and harvest of fruits and vegetables and work performed in processing fruits and vegetables for market.

Subd. 3. **Migrant worker.** "Migrant worker" means an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

Subd. 4. **Employer.** "Employer" means a processor of fruits or vegetables that employs, either directly or indirectly through a recruiter, more than 30 migrant workers per day for more than seven days in any calendar year.

Subd. 5. **Recruit.** "Recruit" means to induce an individual, directly or indirectly through an agent or recruiter, to travel to Minnesota to perform agricultural labor by an offer of employment or of the possibility of employment.

Subd. 6. **Recruiter.** "Recruiter" means an individual or person other than an employer that for a fee, either for itself or for another individual or person, solicits, hires, or furnishes migrant workers, excluding members of an individual recruiter's immediate family, for agricultural labor to be performed for an employer in this state. "Recruiter" does not include a public agency providing employment services.

History: 1981 c 212 s 1

181.86 EMPLOYMENT STATEMENT.

Subdivision 1. **Terms.** An employer that recruits a migrant worker shall provide the migrant worker, at the time the worker is recruited, with a written employment statement which shall state clearly and plainly, in English and Spanish:

(1) The date on which and the place at which the statement was completed and provided to the migrant worker;

(2) The name and permanent address of the migrant worker, of the employer, and of the recruiter who recruited the migrant worker;

(3) The date on which the migrant worker is to arrive at the place of employment, the date on which employment is to begin, the approximate hours of employment, and the minimum period of employment;

(4) The crops and the operations on which the migrant worker will be employed;

(5) The wage rates to be paid;

(6) The payment terms, as provided in section 181.87;

(7) Any deduction to be made from wages; and

(8) Whether housing will be provided.

Subd. 2. **Contract.** The employment statement is an enforceable contract between the migrant worker and the employer.

History: 1981 c 212 s 2

181.87 PAYMENT TERMS.

Subdivision 1. **Entitled to payment.** Each migrant worker who is recruited by an employer is entitled to payment in accordance with this section.

Subd. 2. **Biweekly pay.** The employer shall pay wages due to the migrant worker at least every two weeks, except on termination, when the employer shall pay within three days.

Subd. 3. **Guaranteed hours.** The employer shall guarantee to each recruited migrant worker a minimum of 70 hours pay for work in any two successive weeks and, should the pay for hours actually offered by the employer and worked by the migrant worker provide a sum of pay less than the minimum guarantee, the employer shall pay the migrant worker the difference within three days after the scheduled payday for the pay period involved. Payment for the guaranteed hours shall be at the hourly wage rate, if any, specified in the employment statement, or the federal minimum wage, whichever is higher. Any pay in addition to the hourly wage rate specified in the employment statement shall be applied against the guarantee. This guarantee applies for the minimum period of employment specified in the employment statement beginning with the date on which employment is to begin as specified in the employment

statement. The date on which employment is to begin may be changed by the employer by written, telephonic, or telegraphic notice to the migrant worker, at the worker's last known address, no later than ten days prior to the previously stated beginning date. The migrant worker shall contact the recruiter to obtain the latest information regarding the date upon which employment is to begin no later than five days prior to the previously stated beginning date. This guarantee shall be reduced, when there is no work available for a period of seven or more consecutive days during any two week period subsequent to the commencement of work, by five hours pay for each such day, when the unavailability of work is caused by climatic conditions or an act of God, provided that the employer pays the migrant worker, on the normal payday, the sum of \$5 for each such day.

Subd. 4. Worker fired or quits. If the migrant worker quits or is fired for cause prior to the completion of the operation for which hired, the migrant worker is entitled to no further guarantee under subdivision 3 from that employer. If the migrant worker quits or is fired for cause before the completion of a two-week pay period, the worker is entitled to no guarantee for that period.

Subd. 5. Housing vacated. The employer may require the migrant worker to vacate the provided housing on final payment of all wages.

Subd. 6. Refusal to work; illness. If on any day for which work is offered the migrant worker refuses or because of illness or disability is unable to perform work which is offered, the employer may reduce the guarantee available in the pay period by the number of hours of work actually offered by the employer that day.

Subd. 7. Statement itemizing deductions from wages. The employer shall provide a written statement at the time wages are paid clearly itemizing each deduction from wages.

History: 1981 c 212 s 3; 1986 c 444

181.83 RECORD KEEPING.

Every employer subject to the provisions of sections 181.85 to 181.90 shall maintain complete and accurate records of the names of, the daily hours worked by, the rate of pay for and the wages paid each pay period to every individual migrant worker recruited by that employer, and shall preserve the records for a period of at least three years.

History: 1981 c 212 s 4

181.89 CIVIL ACTIONS.

Subdivision 1. May bring action. Any migrant worker claiming to be aggrieved by a violation of sections 181.86 to 181.88 may bring a civil action for damages and injunctive relief against the worker's employer.

Subd. 2. Judgment; damages. If the court finds that any defendant has violated the provisions of sections 181.86 to 181.88, the court shall enter judgment for the actual damages incurred by the plaintiff or the appropriate penalty as provided by this subdivision, whichever is greater. The court may also award court costs and a reasonable attorney's fee. The penalties shall be as follows:

(1) Whenever the court finds that an employer has violated the record keeping requirements of section 181.88, \$50;

(2) Whenever the court finds that an employer has recruited a migrant worker without providing a written employment statement as provided in section 181.86, subdivision 1, \$250;

(3) Whenever the court finds that an employer has recruited a migrant worker after having provided a written employment statement, but finds that the employment statement fails to comply with the requirement of section 181.86, subdivision 1 or section 181.87, \$250;

(4) Whenever the court finds that an employer has failed to comply with the terms of an employment statement which the employer has provided to a migrant worker or has failed to comply with any payment term required by section 181.87, \$250;

(5) Whenever the court finds that an employer has failed to pay wages to a migrant worker within a time period set forth in section 181.87, subdivision 2 or 3, \$250; and

(6) Whenever penalties are awarded, they shall be awarded severally in favor of each migrant worker plaintiff and against each defendant found liable.

History: 1981 c 212 s 5; 1986 c 444

181.90 USE WAGNER-PEYSER SYSTEM.

An employer who uses the federal work clearance order system under the Wagner-Peyser Act of 1933, Statutes at Large, volume 48, page 113, as amended, is deemed to recruit the migrant workers who are thereby induced to travel to Minnesota to perform agricultural labor. The provisions of sections 181.85 to 181.89 shall not be construed to prohibit the use of the work clearance order system by an employer who recruits migrant workers, but use of the federal work clearance order system by an employer shall not excuse the employer from compliance with sections 181.85 to 181.89.

History: 1981 c 212 s 6

181.91 PRESERVATION OF EXISTING REMEDIES.

The remedies provided in sections 181.85 to 181.90 are not exclusive, but are in addition to remedies provided in other law.

History: 1981 c 212 s 7

181.92 LEAVES FOR ADOPTIVE PARENTS.

An employer who permits paternity or maternity time off to a biological father or mother shall, upon request, grant time off, with or without pay, to an adoptive father or mother. The minimum period of this time off shall be four weeks, or, if the employer has an established policy of time off for a biological parent which sets a period of time off of less than four weeks, that period of time shall be the minimum period for an adoptive parent. The period of time off shall, at the direction of the adoptive parent, begin before, or at the time of, the child's placement in the adoptive parent's home, and shall be for the purpose of arranging the child's placement or caring for the child after placement. An employer shall not penalize an employee for requesting or obtaining time off according to this section.

History: 1983 c 266 s 1