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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **1032**

02/09/2017 Authored by McDonald and Anderson, P.,
The bill was read for the first time and referred to the Committee on Agriculture Policy
03/02/2017 Adoption of Report: Re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to employment; exempting temporary or seasonal agricultural workers
1.3 from overtime requirements; amending Minnesota Statutes 2016, section 177.23,
1.4 subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2016, section 177.23, subdivision 7, is amended to read:

1.7 Subd. 7. **Employee.** "Employee" means any individual employed by an employer but
1.8 does not include:

1.9 (1) two or fewer specified individuals employed at any given time in agriculture on a
1.10 farming unit or operation who are paid a salary;

1.11 (2) any individual employed in agriculture on a farming unit or operation who is paid a
1.12 salary greater than the individual would be paid if the individual worked 48 hours at the
1.13 state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;

1.14 (3) an individual under 18 who is employed in agriculture on a farm to perform services
1.15 other than corn detasseling or hand field work when one or both of that minor hand field
1.16 worker's parents or physical custodians are also hand field workers;

1.17 (4) for purposes of section 177.24, an individual under 18 who is employed as a corn
1.18 detasseler;

1.19 (5) any staff member employed on a seasonal basis by an organization for work in an
1.20 organized resident or day camp operating under a permit issued under section 144.72;

2.1 (6) any individual employed in a bona fide executive, administrative, or professional
2.2 capacity, or a salesperson who conducts no more than 20 percent of sales on the premises
2.3 of the employer;

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

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

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

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

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

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

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

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

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

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

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

2.30 (18) any individual employed by a county in a single-family residence owned by a county
2.31 home school as authorized under section 260B.060 if the residence is an extension facility
2.32 of that county home school, and if the individual as part of the employment duties resides

3.1 at the residence for the purpose of supervising children as defined by section 260C.007,
3.2 subdivision 4; ~~or~~

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

3.6 (20) for the purposes of section 177.25, any individual employed as a seasonal or
3.7 temporary agricultural worker in the production of perishable fruits, vegetables, and other
3.8 horticultural and nursery stock who receives, as part of their employment contract:

3.9 (i) inspected housing that meets or exceeds the Department of Labor Occupational Safety
3.10 and Health Administration standards as set forth in Code of Federal Regulations, title 29,
3.11 section 1910.142;

3.12 (ii) workers' compensation insurance coverage;

3.13 (iii) tools, supplies, and equipment needed to complete the duties assigned;

3.14 (iv) meals or cooking facilities for term of employment;

3.15 (v) transportation and subsistence benefits including to place of employment, from place
3.16 of employment, and between living quarters and job site for duration of employment;

3.17 (vi) guaranteed compensation equal to three-fourths of the total work days for the
3.18 contracted period;

3.19 (vii) hours and earnings statements;

3.20 (viii) hourly wage rate equal to the Adverse Effect Wage Rate;

3.21 (ix) guarantees as to frequency of pay to workers;

3.22 (x) guarantees in the event of contract impossibility; and

3.23 (xi) disclosure of all deductions from the workers' pay.

3.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.