

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 5390

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DATE
04/09/2024

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13580 Introduction and first reading
Referred to Labor

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to labor; clarifying inclusion of any raise in the payment of wages;
1.3 amending Minnesota Statutes 2022, sections 181.101; 609.52, subdivision 1.

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

1.5 Section 1. Minnesota Statutes 2022, section 181.101, is amended to read:

1.6 **181.101 WAGES; HOW OFTEN PAID.**

1.7 (a) Except as provided in paragraph (b), every employer must pay all wages, including
1.8 any raises, either statutory or contractual, effective during the pay period; salary; earnings;
1.9 and gratuities earned by an employee at least once every 31 days and all commissions earned
1.10 by an employee at least once every three months, on a regular payday designated in advance
1.11 by the employer regardless of whether the employee requests payment at longer intervals.
1.12 Unless paid earlier, the wages earned during the first half of the first 31-day pay period
1.13 become due on the first regular payday following the first day of work. If wages or
1.14 commissions earned are not paid, the commissioner of labor and industry or the
1.15 commissioner's representative may serve a demand for payment on behalf of an employee.
1.16 In addition to other remedies under section 177.27, if payment of wages is not made within
1.17 ten days of service of the demand, the commissioner may charge and collect the wages
1.18 earned at the employee's rate or rates of pay or at the rate or rates required by law, including
1.19 any applicable statute, regulation, rule, ordinance, government resolution or policy, contract,
1.20 or other legal authority, whichever rate of pay is greater, and a penalty in the amount of the
1.21 employee's average daily earnings at the same rate or rates for each day beyond the ten-day
1.22 limit following the demand. If payment of commissions is not made within ten days of
1.23 service of the demand, the commissioner may charge and collect the commissions earned

2.1 and a penalty equal to 1/15 of the commissions earned but unpaid for each day beyond the
 2.2 ten-day limit. Money collected by the commissioner must be paid to the employee concerned.
 2.3 This section does not prevent an employee from prosecuting a claim for wages. This section
 2.4 does not prevent a school district, other public school entity, or other school, as defined
 2.5 under section 120A.22, from paying any wages earned by its employees during a school
 2.6 year on regular paydays in the manner provided by an applicable contract or collective
 2.7 bargaining agreement, or a personnel policy adopted by the governing board. For purposes
 2.8 of this section, "employee" includes a person who performs agricultural labor as defined in
 2.9 section 181.85, subdivision 2. For purposes of this section, wages are earned on the day an
 2.10 employee works. This section provides a substantive right for employees to the payment of
 2.11 wages, including any raises, either statutory or contractual, effective during the pay period;
 2.12 salary; earnings; and gratuities, as well as commissions, in addition to the right to be paid
 2.13 at certain times.

2.14 (b) An employer of a volunteer firefighter, as defined in section 424A.001, subdivision
 2.15 10, a member of an organized first responder squad that is formally recognized by a political
 2.16 subdivision in the state, or a volunteer ambulance driver or attendant must pay all wages
 2.17 earned by the volunteer firefighter, first responder, or volunteer ambulance driver or attendant
 2.18 at least once every 31 days, unless the employer and the employee mutually agree upon
 2.19 payment at longer intervals.

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

2.21 Sec. 2. Minnesota Statutes 2022, section 609.52, subdivision 1, is amended to read:

2.22 Subdivision 1. **Definitions.** In this section:

2.23 (1) "Property" means all forms of tangible property, whether real or personal, without
 2.24 limitation including documents of value, electricity, gas, water, corpses, domestic animals,
 2.25 dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility
 2.26 companies and articles, as defined in clause (4), representing trade secrets, which articles
 2.27 shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any
 2.28 trade secret represented by the article.

2.29 (2) "Movable property" is property whose physical location can be changed, including
 2.30 without limitation things growing on, affixed to, or found in land.

2.31 (3) "Value" means the retail market value at the time of the theft, or if the retail market
 2.32 value cannot be ascertained, the cost of replacement of the property within a reasonable
 2.33 time after the theft, or in the case of a theft or the making of a copy of an article representing

3.1 a trade secret, where the retail market value or replacement cost cannot be ascertained, any
3.2 reasonable value representing the damage to the owner which the owner has suffered by
3.3 reason of losing an advantage over those who do not know of or use the trade secret. For a
3.4 check, draft, or other order for the payment of money, "value" means the amount of money
3.5 promised or ordered to be paid under the terms of the check, draft, or other order. For a
3.6 theft committed within the meaning of subdivision 2, paragraph (a), clause (5), items (i)
3.7 and (ii), if the property has been restored to the owner, "value" means the value of the use
3.8 of the property or the damage which it sustained, whichever is greater, while the owner was
3.9 deprived of its possession, but not exceeding the value otherwise provided herein. For a
3.10 theft committed within the meaning of subdivision 2, clause (9), if the property has been
3.11 restored to the owner, "value" means the rental value of the property, determined at the
3.12 rental rate contracted by the defendant or, if no rental rate was contracted, the rental rate
3.13 customarily charged by the owner for use of the property, plus any damage that occurred
3.14 to the property while the owner was deprived of its possession, but not exceeding the total
3.15 retail value of the property at the time of rental. For a theft committed within the meaning
3.16 of subdivision 2, clause (19), "value" means the difference between wages legally required
3.17 to be reported or paid to an employee and the amount actually reported or paid to the
3.18 employee.

3.19 (4) "Article" means any object, material, device or substance, including any writing,
3.20 record, recording, drawing, sample specimen, prototype, model, photograph, microorganism,
3.21 blueprint or map, or any copy of any of the foregoing.

3.22 (5) "Representing" means describing, depicting, containing, constituting, reflecting or
3.23 recording.

3.24 (6) "Trade secret" means information, including a formula, pattern, compilation, program,
3.25 device, method, technique, or process, that:

3.26 (i) derives independent economic value, actual or potential, from not being generally
3.27 known to, and not being readily ascertainable by proper means by, other persons who can
3.28 obtain economic value from its disclosure or use, and

3.29 (ii) is the subject of efforts that are reasonable under the circumstances to maintain its
3.30 secrecy.

3.31 (7) "Copy" means any facsimile, replica, photograph or other reproduction of an article,
3.32 and any note, drawing, or sketch made of or from an article while in the presence of the
3.33 article.

4.1 (8) "Property of another" includes property in which the actor is co-owner or has a lien,
4.2 pledge, bailment, or lease or other subordinate interest, property transferred by the actor in
4.3 circumstances which are known to the actor and which make the transfer fraudulent as
4.4 defined in section 513.44, property possessed pursuant to a short-term rental contract, and
4.5 property of a partnership of which the actor is a member, unless the actor and the victim
4.6 are husband and wife. It does not include property in which the actor asserts in good faith
4.7 a claim as a collection fee or commission out of property or funds recovered, or by virtue
4.8 of a lien, setoff, or counterclaim.

4.9 (9) "Services" include but are not limited to labor, professional services, transportation
4.10 services, electronic computer services, the supplying of hotel accommodations, restaurant
4.11 services, entertainment services, advertising services, telecommunication services, and the
4.12 supplying of equipment for use including rental of personal property or equipment.

4.13 (10) "Motor vehicle" means a self-propelled device for moving persons or property or
4.14 pulling implements from one place to another, whether the device is operated on land, rails,
4.15 water, or in the air.

4.16 (11) "Motor fuel" has the meaning given in section 604.15, subdivision 1.

4.17 (12) "Retailer" has the meaning given in section 604.15, subdivision 1.

4.18 (13) "Wage theft" occurs when an employer with intent to defraud:

4.19 (i) fails to pay an employee all wages; raises, either statutory or contractual, effective
4.20 during the pay period; salary; gratuities; earnings; or commissions at the employee's rate
4.21 or rates of pay or at the rate or rates required by law, including any applicable statute,
4.22 regulation, rule, ordinance, government resolution or policy, contract, or other legal authority,
4.23 whichever rate of pay is greater;

4.24 (ii) directly or indirectly causes any employee to give a receipt for wages for a greater
4.25 amount than that actually paid to the employee for services rendered;

4.26 (iii) directly or indirectly demands or receives from any employee any rebate or refund
4.27 from the wages owed the employee under contract of employment with the employer; or

4.28 (iv) makes or attempts to make it appear in any manner that the wages paid to any
4.29 employee were greater than the amount actually paid to the employee.

4.30 (14) "Employer" means any individual, partnership, association, corporation, business
4.31 trust, or any person or group of persons acting directly or indirectly in the interest of an
4.32 employer in relation to an employee.

5.1 (15) "Employee" means any individual employed by an employer.

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