

CHAPTER 181

EMPLOYMENT

181.11	Discharged employee must be paid within 24 hours.	181.74	Failure of employer to pay benefits or wage supplements, penalty.
181.30	Duty of Department of Transportation.	181.89	Civil actions.
	MISREPRESENTATION OF EMPLOYMENT RELATIONSHIP	181.951	Authorized drug and alcohol testing.
181.722	Misrepresentation of employment relationship prohibited.	181.970	Employee indemnification.

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 two business days after the termination of such employment for any cause, the employer shall, in addition, pay to the employee two times 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.

History: 2005 c 127 s 1

181.30 DUTY OF DEPARTMENT OF TRANSPORTATION.

Any officer of any railroad company in the state violating any of the provisions of section 181.29 is guilty of a misdemeanor. It shall be the duty of the state Department of Transportation, 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 Transportation 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: 2005 c 10 art 3 s 12

MISREPRESENTATION OF EMPLOYMENT RELATIONSHIP**181.722 MISREPRESENTATION OF EMPLOYMENT RELATIONSHIP PROHIBITED.**

Subdivision 1. **Prohibition.** No employer shall misrepresent the nature of its employment relationship with its employees to any federal, state, or local government unit; to other employers; or to its employees. An employer misrepresents the nature of its employment relationship with its employees if it makes any statement regarding the nature of the relationship that the employer knows or has reason to know is untrue and if it fails to report individuals as employees when legally required to do so.

Subd. 2. **Agreements to misclassify prohibited.** No employer shall require or request any employee to enter into any agreement, or sign any document, that results in misclassification of the employee as an independent contractor or otherwise does not accurately reflect the employment relationship with the employer.

Subd. 3. **Determination of employment relationship.** For purposes of this section, the nature of an employment relationship is determined using the same tests and in the

same manner as employee status is determined under the applicable workers' compensation and unemployment insurance program laws and rules.

Subd. 4. **Civil remedy.** A construction worker, as defined in section 179.254, who is not an independent contractor and has been injured by a violation of this section, may bring a civil action for damages against the violator. If the construction worker injured is an employee of the violator of this section, the employee's representative, as defined in section 179.01, subdivision 5, may bring a civil action for damages against the violator on behalf of the employee. The court may award attorney fees, costs, and disbursements to a construction worker recovering under this section.

Subd. 5. **Reporting of violations.** Any court finding that a violation of this section has occurred shall transmit a copy of its findings of fact and conclusions of law to the commissioner of labor and industry. The commissioner of labor and industry shall report the finding to relevant state and federal agencies, including the commissioner of commerce, the commissioner of employment and economic development, the commissioner of revenue, the federal Internal Revenue Service, and the United States Department of Labor.

History: *1Sp2005 c 1 art 4 s 41*

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

Subdivision 1. **Gross misdemeanor.** 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 30 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.

[For text of subd 2, see M.S.2004]

History: *2005 c 127 s 2*

181.89 CIVIL ACTIONS.

[For text of subd 1, see M.S.2004]

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, \$500;

(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, \$500; 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: 2005 c 127 s 3

181.951 AUTHORIZED DRUG AND ALCOHOL TESTING.

[For text of subs 1 to 3, see M.S.2004]

Subd. 4. **Random testing.** An employer may request or require employees to undergo drug and alcohol testing on a random selection basis only if (1) they are employed in safety-sensitive positions, or (2) they are employed as professional athletes if the professional athlete is subject to a collective bargaining agreement permitting random testing but only to the extent consistent with the collective bargaining agreement.

[For text of subs 5 to 7, see M.S.2004]

History: 2005 c 133 s 1

181.970 EMPLOYEE INDEMNIFICATION.

[For text of subd 1, see M.S.2004]

Subd. 2. **Exception.** Subdivision 1 does not apply to:

- (1) employees of the state or a municipality governed by section 3.736 or 466.07;
- (2) employees who are subject to a contract or other agreement governing indemnification rights;
- (3) employees and employers who are governed by indemnification provisions under section 302A.521, 317A.521, or 322B.699, or similar laws of this state or another state specifically governing indemnification of employees of business or nonprofit corporations, limited liability companies, or other legal entities; or
- (4) indemnification rights for a particular liability specifically governed by other law.

History: 2005 c 69 art 3 s 18

NOTE: The amendment to subdivision 2 by Laws 2005, chapter 69, article 3, section 18, is effective August 1, 2006. Laws 2005, chapter 69, article 4, section 2.