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Archives; Wage & Hour

Minnesota's New Wage Theft Law: Are You Prepared?

Governor Tim Walz recently signed into law expansive new wage theft protections for employees that will go into effect on July 1. The new law significantly changes a number of employer wage-related requirements. It also includes increased civil enforcement penalties, as well as new criminal penalties for intentional wage theft. The major requirements of the law are summarized below:

Earning Statements

The law requires that employers include additional information in the earning statements provided to employees at the end of each pay period. Employers must now include 1) the rate or rates of pay, including the basis of that rate (hourly, salary, etc.) 2) allowances claimed for permitted meals and lodging; 3) the physical address of the employers main office and any different mailing address; and 4) the employers telephone number.

Employee Wage Notice Upon Hire

The law requires a written notice be provided to each employee at the start of employment, which must include the following:

1. The rate or rates of pay and basis thereof (e.g. whether the employee is paid by the hour, shift, day, week, salary, piece, commission, or other method) and the specific application of any additional rates;
2. Allowances, if any, claimed pursuant to permitted meals and lodging;
3. A description of paid vacation, sick time, or other paid time-off accruals and terms of use;
4. The employee's employment status and whether the employee is exempt from minimum wage, overtime, and on what basis;
5. A list of deductions that may be made from the employees pay;
6. The number of days in the pay period, the regularly scheduled pay day, and the pay day on which the employee will receive the first payment of wages earned;
7. The legal name of the employer and the operating name of the employer if different from the legal name;
8. The physical address of the employers main office or principal place of business, and a mailing address if different; and



9. The employers telephone number.

Employers must keep an employee-signed copy of the notice given to each employee.

Timing of Wage Payments

The law amends Minnesota Statute 181.101 regarding the timing of wage payments. The new statute will explicitly include salary, earnings, and gratuities within the types of wages that must be paid at least once every 31 days. The new law also provides that all commission earned by an employee must be paid at least once every three months. The new law also removes the 15-day cap on penalties for late payment of wages, providing instead that an employer may be liable for a penalty for each day of late payment for noncommission wages. If an earned commission is not paid within 10 days of a demand for payment, the MN Department of Labor and Industry (MN DOL) may charge and collect the commission, along with a penalty equal to 1/15 of the commissions earned but unpaid for each day beyond the 10-day limit.

Recordkeeping Requirements

In addition to existing recordkeeping requirements (e.g. the name, address, occupation, rate of pay, amount paid to each employee during each pay period, and the hours worked each day and workweek by the employee), the new law requires the following records to be maintained: 1) for an employee paid at piece rate, the number of pieces completed at each piece rate; 2) a list of the personnel policies provided to the employee, including the date the policies were given to the employee and a brief description of the policies; and 3) a copy of the required notice provided to the employee at the beginning of employment including any written changes to the notice.

All of these records must be made readily available for the MN DOL upon demand. The records must be kept where the employees are working or in a manner that allows the employer to comply with the requirement within 72 hours. The law also allows for a \$5,000 fine for each repeated failure to maintain the required records.

Enforcement

The new law gives the Commissioner of the MN DOL the right to interview nonmanagement employees in private regarding matters under investigation. It also increases the penalty for repeat failures to provide the records required by the MN DOL to \$5,000 per repeated failure. The law includes a retaliation prohibition, which includes a private right to bring a lawsuit, as well as a civil penalty in an amount between \$700 and \$3,000 per violation. The law also includes criminal penalties of imprisonment of up to 20 years and up to a \$100,000 fine for any intentional wage theft in excess of \$35,000. While the rest of the law is effective July 1, the criminal penalty provisions are effective August 1.

Given that July 1 is quickly approaching, employers should prepare to comply with the new law as soon as possible. Employers will need to review their payroll documents to ensure the statements given to employees comply with the new requirements. Employers will also need to ensure they are creating and providing new employees with the required notice. Please contact Gray Plant Mooty if you require assistance with complying with the new notice and other requirements.