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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 239

01/12/2017 Authored by Thissen
The bill was read for the first time and 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; establishing a Working Parents Act; providing wage theft
1.3 protection; providing paid family leave; providing earned sick and safe time;
1.4 requiring fair scheduling; imposing penalties; requiring reports; authorizing
1.5 rulemaking; appropriating money; amending Minnesota Statutes 2016, sections
1.6 13.7905, by adding a subdivision; 177.24, by adding a subdivision; 177.253,
1.7 subdivision 1; 177.254, subdivision 1; 177.27, subdivisions 2, 4, 7, 8, 9, by adding
1.8 subdivisions; 177.28, subdivision 1; 177.32; 181.032; 181.940; 181.941; 181.942;
1.9 181.943; 181.9436; 181.944; 290.0132, by adding a subdivision; 541.05,
1.10 subdivision 1; 541.07; proposing coding for new law in Minnesota Statutes, chapters
1.11 177; 181; repealing Minnesota Statutes 2016, section 181.9413; Minnesota Rules,
1.12 part 5200.0080, subpart 7.

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

1.14 **ARTICLE 1**

1.15 **WORKING PARENTS ACT**

1.16 Section 1. **CITATION; WORKING PARENTS ACT.**

1.17 This act shall be known as the "Working Parents Act."

1.18 **ARTICLE 2**

1.19 **WAGE THEFT PROTECTION**

1.20 Section 1. Minnesota Statutes 2016, section 13.7905, is amended by adding a subdivision
1.21 to read:

1.22 Subd. 7. Complaints to the Department of Labor and Industry. Certain data regarding
1.23 employee complaints to the commissioner of labor and industry are classified under section
1.24 177.27, subdivision 11.

2.1 Sec. 2. Minnesota Statutes 2016, section 177.24, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 3a. **Gratuities; credit cards or charges.** (a) Gratuities presented to an employee
2.4 via inclusion on a debit, charge, or credit card shall be credited to that pay period in which
2.5 they are received by the employee and for which they appear on the employee's tip statement.

2.6 (b) Where a gratuity is given by a customer through a debit, charge, or credit card, the
2.7 full amount of gratuity must be allowed the employee.

2.8 **EFFECTIVE DATE.** This section is effective August 1, 2017.

2.9 Sec. 3. Minnesota Statutes 2016, section 177.253, subdivision 1, is amended to read:

2.10 Subdivision 1. **Rest breaks.** An employer must allow each employee adequate time
2.11 from work within each four consecutive hours of work to utilize the nearest convenient
2.12 restroom a rest break of at least ten minutes per four consecutive hours of work. Time spent
2.13 by employees on rest breaks must be counted as hours worked.

2.14 Sec. 4. Minnesota Statutes 2016, section 177.254, subdivision 1, is amended to read:

2.15 Subdivision 1. **Meal break.** An employer must permit each employee who is working
2.16 for eight or more consecutive hours sufficient time to eat a meal. An employer must permit
2.17 each employee who works for five or more consecutive hours a meal break of at least 30
2.18 minutes, except that if the work period for the day is six consecutive hours or less, the
2.19 employee and employer may waive the meal break by mutual consent.

2.20 Sec. 5. Minnesota Statutes 2016, section 177.27, subdivision 7, is amended to read:

2.21 Subd. 7. **Employer liability.** (a) If an employer is found by the commissioner to have
2.22 violated a section identified in subdivision 4, or any rule adopted under section 177.28, and
2.23 the commissioner issues an order to comply, the commissioner shall order the employer to
2.24 cease and desist from engaging in the violative practice and to take such affirmative steps
2.25 that in the judgment of the commissioner will effectuate the purposes of the section or rule
2.26 violated. The commissioner shall order the employer to pay to the aggrieved parties back
2.27 pay, gratuities, and compensatory damages, and predictability pay under section 181.99,
2.28 less any amount actually paid to the employee by the employer, and for an additional equal
2.29 amount as liquidated damages. equal to twice the unpaid wages, overtime pay, gratuities,
2.30 and predictability pay under section 181.99. In addition, the commissioner may order the
2.31 employer to pay civil penalties of up to \$1,000 per violation. The commissioner must

3.1 consider the factors described in section 14.045, subdivision 3, paragraph (a), when assessing
3.2 these civil penalties.

3.3 (b) Any employer who is found by the commissioner to have repeatedly or willfully
3.4 violated a section or sections identified in subdivision 4 shall be subject to a civil penalty
3.5 of up to \$1,000 at least \$5,000, but no more than \$10,000 for each violation for each
3.6 employee. The commissioner must consider the factors described in section 14.045, including
3.7 those contained in section 14.045, subdivision 3, paragraph (b), when assessing these civil
3.8 penalties.

3.9 (c) In determining the amount of a civil penalty under this subdivision, the appropriateness
3.10 of such penalty to the size of the employer's business and the gravity of the violation shall
3.11 be considered. In addition, the commissioner may order the employer to reimburse the
3.12 department and the attorney general for all appropriate litigation and hearing costs expended
3.13 in preparation for and in conducting the contested case proceeding, unless payment of costs
3.14 would impose extreme financial hardship on the employer. If the employer is able to establish
3.15 extreme financial hardship, then the commissioner may order the employer to pay a
3.16 percentage of the total costs that will not cause extreme financial hardship. Costs include
3.17 but are not limited to the costs of services rendered by the attorney general, private attorneys
3.18 if engaged by the department, administrative law judges, court reporters, and expert witnesses
3.19 as well as the cost of transcripts. Interest shall accrue on, and be added to, the unpaid balance
3.20 of a commissioner's order from the date the order is signed by the commissioner until it is
3.21 paid, at an annual rate provided in section 549.09, subdivision 1, paragraph (c). The
3.22 commissioner may establish escrow accounts for purposes of distributing damages.

3.23 (d) In addition to paragraph (c), when the commissioner finds that an employer has
3.24 repeatedly or willfully violated a section or sections identified in subdivision 4, the
3.25 commissioner shall take the following actions:

3.26 (1) the commissioner shall identify any state, county, or municipal agency, or municipality
3.27 as defined in section 466.01, subdivision 1, that has issued licenses or permits necessary
3.28 for the employer to conduct its business;

3.29 (2) the commissioner shall order any identified state, county, or municipal agency, or
3.30 municipality as defined in section 466.01, subdivision 1, to immediately revoke or suspend
3.31 any such licenses or permits until the commissioner determines that the employer has
3.32 remedied all violations.

3.33 (e) The commissioner has the power to take the actions described in paragraph (d),
3.34 notwithstanding any conflicting statute, rule, ordinance, or other regulation. A state, county,

4.1 or municipal agency, or municipality as defined in section 466.01, subdivision 1, has the
4.2 power to comply with an order of the commissioner under paragraph (d), notwithstanding
4.3 any conflicting statute, rule, ordinance, or other regulation.

4.4 Sec. 6. Minnesota Statutes 2016, section 177.27, subdivision 8, is amended to read:

4.5 Subd. 8. **Court actions; suits brought by private parties.** An employee may bring a
4.6 civil action seeking redress for a violation or violations of sections 177.21 to 177.44 directly
4.7 to district court. An employer who pays an employee less than the wages and overtime
4.8 compensation to which the employee is entitled under sections 177.21 to 177.44 is liable
4.9 to the employee for the full amount of the wages, gratuities, and overtime compensation,
4.10 less any amount the employer is able to establish was actually paid to the employee and for
4.11 an additional equal amount as liquidated damages equal to twice the unpaid wages, overtime
4.12 pay, and gratuities. In addition, in an action under this subdivision the employee may seek
4.13 damages and other appropriate relief provided by subdivision 7 and otherwise provided by
4.14 law. An agreement between the employee and the employer to work for less than the
4.15 applicable wage is not a defense to the action.

4.16 Sec. 7. Minnesota Statutes 2016, section 177.27, subdivision 9, is amended to read:

4.17 Subd. 9. **District court jurisdiction.** Any action brought under subdivision 8 may be
4.18 filed in the district court of the county wherein a violation or violations ~~of sections 177.21~~
4.19 ~~to 177.44~~ are alleged to have been committed, where the respondent resides or has a principal
4.20 place of business, or any other court of competent jurisdiction. The action may be brought
4.21 by one or more employees. An employee may choose to have a person or organization bring
4.22 an action on the employee's behalf. In such a case, the person or organization has the power
4.23 to settle or adjust the claim.

4.24 Sec. 8. Minnesota Statutes 2016, section 177.27, is amended by adding a subdivision to
4.25 read:

4.26 Subd. 11. **Employee complaints.** (a) Any person or organization may file an
4.27 administrative complaint or an informal complaint with the department claiming an employer
4.28 has violated sections 177.21 to 177.44 as to any employee or person.

4.29 (b) The commissioner shall allow for anonymous informal and administrative complaints.
4.30 The commissioner shall take steps to keep the identity of a complaining employee or other
4.31 individual confidential if that employee or individual so chooses.

5.1 (c) If the commissioner investigates a complaint against an employer and the
5.2 commissioner chooses to review employer records related to the complaint, the commissioner
5.3 shall review the relevant records of all employees at that work site in order to:

5.4 (1) maintain the employee's anonymity; and

5.5 (2) determine whether a pattern of violations has occurred.

5.6 (d) Any information regarding a complaint under this subdivision is excluded from any
5.7 requirements for disclosure under the Minnesota Government Data Practices Act.

5.8 Sec. 9. Minnesota Statutes 2016, section 177.27, is amended by adding a subdivision to
5.9 read:

5.10 Subd. 12. Wage bonds. (a) If, upon investigation by the commissioner of any complaint
5.11 under sections 177.21 to 177.44, the commissioner finds that an employer is not paying
5.12 wages due its employees, the commissioner may require the employer to give the department
5.13 a bond, with sufficient surety, in an amount that the commissioner deems reasonable and
5.14 adequate under the circumstances. Forfeiture of the bond may be conditioned on the employer
5.15 continuing to conduct its business and paying its employees in accordance with all laws for
5.16 a definite period not to exceed six months.

5.17 (b) If, within ten days after the commissioner demands such a bond, the employer fails
5.18 to provide it, the commissioner may bring an action against the employer, in any court of
5.19 competent jurisdiction, to compel the employer to provide the bond or to cease conducting
5.20 business until the employer has done so. The employer shall have the burden of proving
5.21 the amount of the bond to be excessive.

5.22 **Sec. 10. [177.311] GRANTS TO COMMUNITY ORGANIZATIONS.**

5.23 The commissioner must make grants to community organizations for the purpose of
5.24 outreach to and education for employees affected by sections 177.21 to 177.44 regarding
5.25 employee rights under those sections. The community-based organizations must be selected
5.26 based on their experience, capacity, and relationships in high-violation industries. The work
5.27 under any such grant may include the creation and administration of a statewide worker
5.28 hotline.

5.29 **Sec. 11. [177.315] EMPLOYER RETALIATION.**

5.30 No employer shall discharge or take any other adverse action against any person in
5.31 retaliation for asserting any claim or right under sections 177.21 to 177.44, for assisting any

6.1 other person in doing so, or for informing any person about the person's rights under sections
6.2 177.21 to 177.44. An employer taking any adverse action against a person within one year
6.3 of a person's engaging in the foregoing activities shall raise a presumption that such action
6.4 was retaliation, which may be rebutted by clear and convincing evidence that the action
6.5 was taken for other permissible reasons.

6.6 Sec. 12. Minnesota Statutes 2016, section 177.32, is amended to read:

6.7 **177.32 PENALTIES.**

6.8 Subdivision 1. **Misdemeanors Crimes.** (a) An employer who does any of the following
6.9 is guilty of a misdemeanor:

6.10 (1) hinders or delays the commissioner in the performance of duties required under
6.11 sections 177.21 to 177.435;

6.12 (2) refuses to admit the commissioner to the place of business or employment of the
6.13 employer, as required by section 177.27, subdivision 1;

6.14 (3) repeatedly fails to make, keep, and preserve records as required by section 177.30;

6.15 (4) falsifies any record;

6.16 (5) refuses to make any record available, or to furnish a sworn statement of the record
6.17 or any other information as required by section 177.27;

6.18 (6) repeatedly fails to post a summary of sections 177.21 to 177.44 or a copy or summary
6.19 of the applicable rules as required by section 177.31;

6.20 (7) pays or agrees to pay wages at a rate less than the rate required under sections 177.21
6.21 to 177.44, and the total of any such wages in relation to all affected employees is less than
6.22 \$5,000;

6.23 (8) refuses to allow adequate time from work as required by section 177.253; or

6.24 (9) otherwise violates any provision of sections 177.21 to 177.44.

6.25 (b) An employer is guilty of a gross misdemeanor if the employer fails to pay any wages
6.26 due to an employee or employees under sections 177.21 to 177.44, and the total of any such
6.27 wages in relation to all affected employees is \$5,000 or more.

6.28 (c) An employer who is convicted of a crime under paragraph (a) or (b) and is
6.29 subsequently convicted of a second crime under paragraph (a) or (b) within two years of
6.30 the first conviction is guilty of a felony.

7.1 Subd. 2. **Fine Fines**. An employer shall be fined not less than ~~\$700~~ \$5,000 nor more
7.2 than ~~\$3,000~~ \$10,000 if convicted of discharging or otherwise discriminating against any
7.3 employee because:

7.4 (1) the employee has complained to the employer or to the department that wages have
7.5 not been paid in accordance with sections 177.21 to 177.435;

7.6 (2) the employee has instituted or will institute a proceeding under or related to sections
7.7 177.21 to 177.435; or

7.8 (3) the employee has testified or will testify in any proceeding.

7.9 **Sec. 13. [177.321] PENALTIES; SPECIAL ACCOUNT.**

7.10 All civil penalties collected under sections 177.21 to 177.44, must be deposited in the
7.11 state treasury and credited to a special account. Money in the account is annually appropriated
7.12 to the commissioner of labor and industry to administer sections 177.311 and 181.9436.

7.13 **Sec. 14. [181.724] CONTRACTS FOR LABOR OR SERVICES.**

7.14 Subdivision 1. **Contract; insufficient funds.** A person or entity shall not enter into a
7.15 contract or agreement for labor or services where the person or entity knows or should know
7.16 that the contract or agreement does not include funds sufficient to allow the contractor to
7.17 comply with all applicable local, state, and federal laws or regulations governing the labor
7.18 or services to be provided.

7.19 Subd. 2. **Rebuttable presumption.** There is a rebuttable presumption affecting the
7.20 burden of proof that there has been no violation of subdivision 1 where the contract or
7.21 agreement with a contractor meets all of the requirements in subdivision 4.

7.22 Subd. 3. **Exclusions.** Subdivision 1 does not apply to a person or entity who executes a
7.23 collective bargaining agreement covering the workers employed under the contract or
7.24 agreement, or to a person who enters into a contract or agreement for labor or services to
7.25 be performed on the person's home residence, provided that a family member resides in the
7.26 residence or residences for which the labor or services are to be performed for at least part
7.27 of the year.

7.28 Subd. 4. **Written contract; provisions.** To meet the requirements of subdivision 2, a
7.29 contract or agreement with a contractor for labor or services shall be in writing, in a single
7.30 document, and contain all of the following provisions, in addition to any other provisions
7.31 that may be required by the commissioner:

8.1 (1) the name, address, and telephone number of the person or entity and the contractor
8.2 through whom the labor or services are to be provided;

8.3 (2) a description of the labor or services to be provided and a statement of when those
8.4 services are to be commenced and completed;

8.5 (3) the employer identification number for state tax purposes of the contractor;

8.6 (4) the workers' compensation insurance policy number and the name, address, and
8.7 telephone number of the contractor;

8.8 (5) the vehicle identification number of any vehicle that is owned by the contractor and
8.9 used for transportation in connection with any service provided pursuant to the contract or
8.10 agreement, the number of the vehicle liability insurance policy that covers the vehicle, and
8.11 the name, address, and telephone number of the insurance carrier;

8.12 (6) the address of any real property to be used to house workers in connection with the
8.13 contract or agreement;

8.14 (7) the total number of workers to be employed under the contract or agreement, the
8.15 total amount of all wages to be paid, and the date or dates when those wages are to be paid;

8.16 (8) the amount of the commission or other payment made to the contractor for services
8.17 under the contract or agreement;

8.18 (9) the total number of persons who will be utilized under the contract or agreement as
8.19 independent contractors, along with a list of the current local, state, and federal contractor
8.20 license identification numbers that the independent contractors are required to have under
8.21 local, state, or federal laws or regulations; and

8.22 (10) the signatures of all parties, and the date the contract or agreement was signed.

8.23 Subd. 5. **Material changes.** (a) To qualify for the rebuttable presumption in subdivision
8.24 2, a material change to the terms and conditions of a contract or agreement between a person
8.25 or entity and a contractor must be in writing, in a single document, and contain all of the
8.26 provisions listed in subdivision 4 that are affected by the change.

8.27 (b) If a provision required to be contained in a contract or agreement under subdivision
8.28 4, clause (7) or (9), is unknown at the time the contract or agreement is executed, the best
8.29 estimate available at that time is sufficient to satisfy the requirements of subdivision 4. If
8.30 an estimate is used in place of actual figures, the parties to the contract or agreement have
8.31 a continuing duty to ascertain the information required under subdivision 4, clause (7) or

9.1 (9), and to reduce that information to writing according to the requirements of paragraph
9.2 (a) once that information becomes known.

9.3 Subd. 6. Written contract; commissioner review. A person or entity who enters into
9.4 a contract or agreement referred to in subdivision 4 or 5 shall keep a copy of the written
9.5 contract or agreement for a period of not less than four years following the termination of
9.6 the contract or agreement. Upon the request of the commissioner of labor and industry, any
9.7 person or entity who enters into the contract or agreement shall provide to the commissioner
9.8 a copy of the provisions of the contract or agreement, and any other documentation, related
9.9 to subdivision 4, clauses (1) to (10). Documents obtained under this section are exempt
9.10 from disclosure under the Minnesota Government Data Practices Act, chapter 13.

9.11 Subd. 7. Penalties. (a) An employee aggrieved by a violation of subdivision 1 may file
9.12 an action for damages to recover the greater of all actual damages or \$250 per employee
9.13 per violation for an initial violation and \$1,000 per employee for each subsequent violation,
9.14 and, upon prevailing in an action brought under this section, may recover costs and reasonable
9.15 attorney fees. An action under this section shall not be maintained unless it is pleaded and
9.16 proved that an employee was injured as a result of a violation of a labor law or regulation
9.17 in connection with the performance of the contract or agreement.

9.18 (b) An employee aggrieved by a violation of subdivision 1 may also bring an action for
9.19 injunctive relief and, upon prevailing, may recover costs and reasonable attorney fees.

9.20 Subd. 8. Know or should know; definition. (a) The term "know" as used in this section
9.21 includes the knowledge, arising from familiarity with the normal facts and circumstances
9.22 of the business activity engaged in, that the contract or agreement does not include funds
9.23 sufficient to allow the contractor to comply with applicable laws.

9.24 (b) The phrase "should know" as used in this section includes the knowledge of any
9.25 additional facts or information that would make a reasonably prudent person undertake to
9.26 inquire whether, taken together, the contract or agreement contains sufficient funds to allow
9.27 the contractor to comply with applicable laws.

9.28 (c) A failure by a person or entity to request or obtain any information from the contractor
9.29 that is required by any applicable statute, or by the contract or agreement between them,
9.30 constitutes knowledge of that information for purposes of this section.

9.31 **Sec. 15. [181.915] EMPLOYER STATEMENT TO EMPLOYEES.**

9.32 An employer must provide each newly hired employee, before the employee begins the
9.33 employee's duties, and each current employee annually, a written statement, in English and

10.1 in the principal language of the employee, describing the terms and conditions of the
10.2 employee's employment. The statement must include, but is not limited to, the following:

10.3 (1) the full name, mailing address, and phone number of the employer;
10.4 (2) the federal and state tax identification numbers of each employer, but not including
10.5 Social Security numbers of employers who are individuals;
10.6 (3) the place or places of employment;
10.7 (4) the hours of work per day and number of days per week that the employee will be
10.8 required to work;
10.9 (5) the wages the employer will pay the employee per hour, day, week, or other measure
10.10 and the frequency and nature of payment of those wages;
10.11 (6) the anticipated period of employment;
10.12 (7) the circumstances and rate for which an employee will be paid a premium for working
10.13 in excess of a set number of hours per day, week, or month; or for working on designated
10.14 nights, weekends, or holidays;
10.15 (8) a description of any provision to the employee by the employer, how long such
10.16 provision will be provided by the employer, and any costs for such provision the employer
10.17 will require the employee to pay, including, but not limited to:

10.18 (i) transportation to and from work;
10.19 (ii) housing;
10.20 (iii) health insurance or health care;
10.21 (iv) any paid or unpaid leave or holidays;
10.22 (v) pension or retirement benefits;
10.23 (vi) personal protective equipment required for the work;
10.24 (vii) workers' compensation policies, including information about the employer insurance
10.25 policy or policies, and rules regarding the reporting of accidents or injuries; and
10.26 (viii) unemployment compensation;
10.27 (9) the nature of the work to be performed by the employee;
10.28 (10) information regarding any existing strike, lockout, or concerted work stoppage,
10.29 slowdown, or interruption of operations at the place of employment; and

11.1 (11) information regarding any known local, state, or federal investigations into the
11.2 employer's health or safety practices over the prior five years, and the outcome of such
11.3 investigations, if known.

11.4 Sec. 16. Minnesota Statutes 2016, section 541.05, subdivision 1, is amended to read:

11.5 **Subdivision 1. Six-year limitation.** Except where the Uniform Commercial Code
11.6 otherwise prescribes, the following actions shall be commenced within six years:

11.7 (1) upon a contract or other obligation, express or implied, as to which no other limitation
11.8 is expressly prescribed;

11.9 (2) upon a liability created by statute, other than those arising upon a penalty or forfeiture
11.10 or where a shorter period is provided by section 541.07;

11.11 (3) for a trespass upon real estate;

11.12 (4) for taking, detaining, or injuring personal property, including actions for the specific
11.13 recovery thereof;

11.14 (5) for criminal conversation, or for any other injury to the person or rights of another,
11.15 not arising on contract, and not hereinafter enumerated;

11.16 (6) for relief on the ground of fraud, in which case the cause of action shall not be deemed
11.17 to have accrued until the discovery by the aggrieved party of the facts constituting the fraud;

11.18 (7) against sureties upon the official bond of any public officer, whether of the state or
11.19 of any county, town, school district, or a municipality therein; in which case the limitation
11.20 shall not begin to run until the term of such officer for which the bond was given shall have
11.21 expired;

11.22 (8) for damages caused by a dam, used for commercial purposes; ~~or~~

11.23 (9) for assault, battery, false imprisonment, or other tort resulting in personal injury, if
11.24 the conduct that gives rise to the cause of action also constitutes domestic abuse as defined
11.25 in section 518B.01-; or

11.26 (10) for the recovery of wages, overtime or damages, fees, or penalties accruing under
11.27 any federal or state law respecting the payment of wages, overtime or damages, fees, or
11.28 penalties. The term "wages" means all remuneration for services or employment, including
11.29 commissions, gratuities, and bonuses and the cash value of all remuneration in any medium
11.30 other than cash, where the relationship of master and servant exists and the term "damages"
11.31 means single, double, or treble damages, accorded by any statutory cause of action
11.32 whatsoever and whether or not the relationship of master and servant exists.

12.1 Sec. 17. Minnesota Statutes 2016, section 541.07, is amended to read:

12.2 **541.07 TWO- OR THREE-YEAR LIMITATIONS.**

12.3 Except where the Uniform Commercial Code, this section, section 541.05, 541.073,
12.4 541.076, or 604.205 otherwise prescribes, the following actions shall be commenced within
12.5 two years:

12.6 (1) for libel, slander, assault, battery, false imprisonment, or other tort resulting in
12.7 personal injury, and all actions against veterinarians as defined in chapter 156, for
12.8 malpractice, error, mistake, or failure to cure, whether based on contract or tort; provided
12.9 a counterclaim may be pleaded as a defense to any action for services brought by a
12.10 veterinarian after the limitations period if it was the property of the party pleading it at the
12.11 time it became barred and was not barred at the time the claim sued on originated, but no
12.12 judgment thereof except for costs can be rendered in favor of the party so pleading it;

12.13 (2) upon a statute for a penalty or forfeiture, except as provided in sections 541.074 and
12.14 541.075;

12.15 (3) for damages caused by a dam, other than a dam used for commercial purposes; but
12.16 as against one holding under the preemption or homestead laws, the limitations shall not
12.17 begin to run until a patent has been issued for the land so damaged;

12.18 (4) against a master for breach of an indenture of apprenticeship; the limitation runs
12.19 from the expiration of the term of service;

12.20 ~~(5) for the recovery of wages or overtime or damages, fees, or penalties accruing under
12.21 any federal or state law respecting the payment of wages or overtime or damages, fees, or
12.22 penalties except, that if the employer fails to submit payroll records by a specified date upon
12.23 request of the Department of Labor and Industry or if the nonpayment is willful and not the
12.24 result of mistake or inadvertence, the limitation is three years. (The term "wages" means
12.25 all remuneration for services or employment, including commissions and bonuses and the
12.26 cash value of all remuneration in any medium other than cash, where the relationship of
12.27 master and servant exists and the term "damages" means single, double, or treble damages,
12.28 accorded by any statutory cause of action whatsoever and whether or not the relationship
12.29 of master and servant exists);~~

12.30 ~~(6)~~ (5) for damages caused by the establishment of a street or highway grade or a change
12.31 in the originally established grade; and

12.32 ~~(7)~~ (6) against the person who applies the pesticide for injury or damage to property
12.33 resulting from the application, but not the manufacture or sale, of a pesticide.

13.1 Sec. 18. **REVISOR'S INSTRUCTION.**

13.2 The revisor of statutes shall make any necessary cross-reference changes arising from
13.3 renumbering in this act, including any grammatical changes to preserve sentence structure.

13.4 Sec. 19. **REPEALER.**

13.5 Minnesota Rules, part 5200.0080, subpart 7, is repealed.

13.6 **ARTICLE 3**13.7 **PAID FAMILY LEAVE**

13.8 Section 1. Minnesota Statutes 2016, section 181.941, is amended to read:

13.9 **181.941 PREGNANCY AND, PARENTING, AND CAREGIVER LEAVE.**

13.10 Subdivision 1. **Twelve-week leave; pregnancy, birth, or adoption parenting, and**
13.11 **caregiver leave.** (a) An employer must grant an unpaid leave of absence to an employee
13.12 who is:

13.13 (1) a biological or adoptive, or foster parent in conjunction with the birth or adoption,
13.14 or placement through foster care of a child; or

13.15 (2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or
13.16 related health conditions; or

13.17 (3) caring for a family member who has a serious health condition.

13.18 (b) The length of the leave shall be determined by the employee, but must not exceed
13.19 12 weeks, unless agreed to by the employer.

13.20 Subd. 2. **Start of leave.** The leave shall begin at a time requested by the employee. The
13.21 employer may adopt reasonable policies governing the timing of requests for unpaid leave
13.22 and may require an employee who plans to take a leave under this section to give the
13.23 employer reasonable notice of the date the leave shall commence and the estimated duration
13.24 of the leave. For leave taken under subdivision 1, paragraph (a), clause (1), the leave must
13.25 begin within 12 months of the birth or adoption; except that, in the case where the child
13.26 must remain in the hospital longer than the mother, the leave must begin within 12 months
13.27 after the child leaves the hospital.

13.28 Subd. 3. **No employer retribution.** An employer shall not retaliate against an employee
13.29 for requesting or obtaining a leave of absence as provided by this section.

14.1 **Subd. 4. Continued insurance.** The employer must continue to make coverage available
14.2 to the employee while on leave of absence under any group insurance policy, group subscriber
14.3 contract, or health care plan for the employee and any dependents. Nothing in this section
14.4 requires the employer to pay the costs of the insurance or health care while the employee
14.5 is on leave of absence.

14.6 **Subd. 5. Confidentiality and nondisclosure.** If, in conjunction with a leave under this
14.7 section, an employer possesses health or medical information regarding an employee or an
14.8 employee's family member, the employer must treat such information as confidential and
14.9 not disclose the information except with the permission of the employee.

14.10 **Sec. 2. [181.9411] PREGNANCY, PARENTING, AND CAREGIVER LEAVE
14.11 INSURANCE.**

14.12 **Subdivision 1. Definitions.** (a) For the purposes of this section, the terms defined in this
14.13 subdivision have the meanings given them.

14.14 (b) "Health care provider" has the same meaning as set forth in the FMLA.

14.15 (c) "Serious health condition" has the same meaning as set forth in the FMLA.

14.16 (d) "Median county family income" means the median family income under the American
14.17 Community Survey 5-Year Estimates for the most recent year available in the county where
14.18 the employee resides.

14.19 **Subd. 2. Benefits; application and eligibility.** (a) Beginning one year after the date on
14.20 which the commissioner starts collecting premiums pursuant to subdivision 6, benefits under
14.21 this section must be paid to an employee who:

14.22 (1) is eligible for leave under section 181.941; and

14.23 (2) files an application for benefits in the manner required by the commissioner.

14.24 (b) In addition to the requirements of paragraph (a), the commissioner may require:

14.25 (1) an employee who files a claim for benefits to attest that the employee has requested
14.26 leave from his or her employer under section 181.941; or

14.27 (2) submit a certification from the health care provider providing care to the employee's
14.28 family member supporting the claim that the employee's family member has a serious health
14.29 condition, provided the employee is filing an application for benefits related to leave under
14.30 section 181.941, subdivision 1, paragraph (a), clause (3), or the FMLA.

15.1 **Subd. 3. Duration of benefits; payment intervals.** (a) The maximum amount of time
15.2 an employee may receive benefits under this section is six weeks.

15.3 (b) Failure to submit an application for benefits in the manner and form required by the
15.4 commissioner does not automatically invalidate an employee's eligibility for benefits, but
15.5 the commissioner is not required to pay benefits for a period of more than two weeks before
15.6 the date on which an employee files an application for benefits conforming with the
15.7 commissioner's requirements.

15.8 (c) The commissioner must make the first payment of benefits to an eligible employee
15.9 within two weeks after the employee files an application of benefits conforming to the
15.10 commissioner's requirements. The commissioner must make later payments biweekly.

15.11 **Subd. 4. Amount of benefits; maximum weekly benefit.** (a) The commissioner must
15.12 calculate an employee's weekly benefit amount as follows:

15.13 (1) for an employee whose yearly earnings are not more than 27 percent of the median
15.14 county family income, the commissioner must pay weekly benefits in an amount equal to
15.15 95 percent of the employee's weekly wage;

15.16 (2) for an employee whose yearly earnings are more than 27 percent, but not more than
15.17 45 percent, of the median county family income, the commissioner must pay weekly benefits
15.18 in an amount equal to 90 percent of the employee's weekly wage;

15.19 (3) for an employee whose yearly earnings are more than 45 percent, but not more than
15.20 65 percent, of the median county family income, the commissioner must pay weekly benefits
15.21 in an amount equal to 85 percent of the employee's weekly wage;

15.22 (4) for an employee whose yearly earnings are equal to or more than 65 percent of the
15.23 median county family income, the commissioner must pay weekly benefits in an amount
15.24 equal to 66 percent of the eligible individual's weekly wage.

15.25 (b) Notwithstanding paragraph (a), an employee's weekly benefit must not exceed \$1,000
15.26 per week.

15.27 (c) Beginning two years after the date on which the commissioner starts collecting
15.28 premiums pursuant to subdivision 6, the commissioner must annually adjust the maximum
15.29 weekly benefit amount to reflect changes in the United States Bureau of Labor Statistics
15.30 consumer price index for the Minneapolis-St. Paul consolidated metropolitan statistical area
15.31 for all urban consumers, all goods, or its successor index.

15.32 (d) Benefits are not payable for less than one day of leave taken in one work week.

16.1 **Subd. 5. Pregnancy, parenting, and caregiver leave insurance account.** A pregnancy,
16.2 parenting, and caregiver leave insurance account is created in the special revenue fund.
16.3 Money in the account is annually appropriated to the Department of Labor and Industry
16.4 and does not lapse. The commissioner shall manage and administer the account in accordance
16.5 with this section.

16.6 **Subd. 6. Employee and employer premiums.** (a) Starting on a date determined by the
16.7 commissioner but no later than one year after the effective date of this section, every
16.8 employee employed by an employer must pay a premium equal to 0.1 percent of the
16.9 employee's yearly wages to fund the program, but the maximum annual premium charged
16.10 to an employee must not exceed \$78 per year. The premium is assessed on the first \$78,000
16.11 of wages earned in a calendar year.

16.12 (b) Starting on a date determined by the commissioner but no later than one year after
16.13 the effective date of this section, every employer must pay a premium equal to the total of
16.14 premiums paid by the employer's employees.

16.15 (c) Each employer must collect the premium amount from each employee as a payroll
16.16 deduction from the employee's wages each payroll period and shall remit the premium
16.17 amount, along with the matching employer premium, to the commissioner, who must send
16.18 the premiums to the Department of Management and Budget for deposit in the pregnancy,
16.19 parenting, and caregiver leave insurance account in the special revenue fund.

16.20 (d) Starting two years after the date on which the commissioner begins collecting
16.21 premiums pursuant to this subdivision, the commissioner must annually adjust the maximum
16.22 annual premium amount and the amount of annual income on which the premium is assessed
16.23 to reflect changes in the United States Bureau of Labor Statistics consumer price index for
16.24 the Minneapolis-St. Paul consolidated metropolitan statistical area for all urban consumers,
16.25 all goods, or its successor index.

16.26 **Subd. 7. Disqualification from benefits; erroneous payments.** (a) An employee must
16.27 not receive benefits under this section for one year if the individual willfully makes a false
16.28 statement or misrepresentation regarding a material fact, or willfully fails to report a material
16.29 fact, to obtain benefits under this section.

16.30 (b) If benefits under this section are paid erroneously or as a result of a willful
16.31 misrepresentation or omission, or if a claim for benefits under this section is rejected after
16.32 benefits are paid, the commissioner may seek repayment of benefits from the recipient.

17.1 Subd. 8. **Federal taxation of benefits.** (a) If the Internal Revenue Service determines
17.2 that benefits under this section are subject to federal income tax, the commissioner must
17.3 advise an individual filing a claim for benefits, at the time of filing, that:

17.4 (1) the Internal Revenue Service has determined that benefits are subject to federal
17.5 income tax;

17.6 (2) requirements exist pertaining to estimated tax payments;
17.7 (3) the employee may elect to have federal income tax deducted and withheld from the
17.8 individual's payment of benefits in the amount specified in the federal Internal Revenue
17.9 Code; and

17.10 (4) the employee may change a previously elected withholding status.

17.11 (b) Amounts deducted and withheld from benefits under this subdivision must remain
17.12 in the pregnancy, parenting, and caregiver leave insurance account in the special revenue
17.13 fund until transferred to the federal taxing authority as payment of income tax.

17.14 The commissioner must follow all procedures specified by the Internal Revenue Service
17.15 relating to deducting and withholding income tax.

17.16 Subd. 9. **Confidentiality and nondisclosure.** If, in conjunction with a leave under this
17.17 section, an employer possesses health or medical information regarding an employee or an
17.18 employee's family member, the employer must treat such information as confidential and
17.19 not disclose the information except with the permission of the employee.

17.20 Sec. 3. Minnesota Statutes 2016, section 181.943, is amended to read:

17.21 **181.943 RELATIONSHIP TO OTHER LEAVE.**

17.22 (a) The length of leave provided under section 181.941 may be reduced by any period
17.23 of:

17.24 (1) paid parental, disability, personal, medical, or sick leave, or accrued vacation provided
17.25 by the employer so that the total leave does not exceed 12 weeks, unless agreed to by the
17.26 employer; or

17.27 (2) leave taken for the same purpose by the employee under ~~United States Code~~, title
17.28 ~~29, chapter 28~~ the FMLA.

17.29 (b) Nothing in sections 181.940 to 181.943 prevents any employer from providing leave
17.30 benefits in addition to those provided in sections 181.940 to 181.944 or otherwise affects
17.31 an employee's rights with respect to any other employment benefit.

18.1 (c) Nothing in this section shall be construed to diminish an employee's entitlement to
18.2 benefits under section 181.9411.

18.3 (d) Nothing in sections 181.940 to 181.944 shall be construed to limit the right of parties
18.4 to a collective bargaining agreement to bargain and agree with respect to leave policies or
18.5 to diminish the obligation of an employer to comply with any contract, collective bargaining
18.6 agreement, or any employment benefit program or plan that meets or exceeds, and does not
18.7 otherwise conflict with, the minimum standards and requirements provided in sections
18.8 181.940 to 181.944.

18.9 Sec. 4. Minnesota Statutes 2016, section 181.9436, is amended to read:

18.10 **181.9436 POSTING OF LAW NOTICE TO AFFECTED EMPLOYEES.**

18.11 Subdivision 1. Poster. The Division of Labor Standards and Apprenticeship shall develop,
18.12 with the assistance of interested business and community organizations, an educational
18.13 poster stating employees' rights under sections 181.940 to ~~181.9436~~ 181.9441. The
18.14 department shall make the poster available, upon request, to employers for posting on the
18.15 employer's premises.

18.16 Subd. 2. Grants to community organizations. The commissioner may make grants to
18.17 community organizations for the purpose of outreach to and education for employees affected
18.18 by sections 181.939 and 181.9441 regarding those employees' rights under those sections.
18.19 The community-based organizations must be selected based on their experience, capacity,
18.20 and relationships in high-violation industries. The work under such a grant may include the
18.21 creation and administration of a statewide worker hotline.

18.22 Sec. 5. Minnesota Statutes 2016, section 290.0132, is amended by adding a subdivision
18.23 to read:

18.24 Subd. 23. Pregnancy, parenting, and caregiver leave. The amount received in benefits
18.25 under section 181.9411 is a subtraction.

18.26 **ARTICLE 4**

18.27 **EARNED SICK AND SAFE TIME**

18.28 Section 1. Minnesota Statutes 2016, section 177.27, subdivision 2, is amended to read:

18.29 Subd. 2. Submission of records; penalty. The commissioner may require the employer
18.30 of employees working in the state to submit to the commissioner photocopies, certified
18.31 copies, or, if necessary, the originals of employment records which the commissioner deems

19.1 necessary or appropriate. The records which may be required include full and correct
19.2 statements in writing, including sworn statements by the employer, containing information
19.3 relating to wages, hours, names, addresses, and any other information pertaining to the
19.4 employer's employees and the conditions of their employment as the commissioner deems
19.5 necessary or appropriate.

19.6 The commissioner may require the records to be submitted by certified mail delivery
19.7 or, if necessary, by personal delivery by the employer or a representative of the employer,
19.8 as authorized by the employer in writing.

19.9 The commissioner may ~~fine~~ order the employer to pay a civil penalty of up to \$1,000
19.10 \$2,000 for each failure to submit or deliver records as required by this section. This penalty
19.11 is in addition to any penalties provided under section 177.32, subdivision 1. In determining
19.12 the amount of a civil penalty under this subdivision, the appropriateness of such penalty to
19.13 the size of the employer's business and the gravity of the violation shall be considered.

19.14 Sec. 2. Minnesota Statutes 2016, section 177.27, subdivision 4, is amended to read:

19.15 **Subd. 4. Compliance orders.** The commissioner may issue an order requiring an
19.16 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
19.17 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
19.18 subdivision 2a, 181.722, 181.79, and 181.939 to ~~181.943~~ 181.9441, or with any rule
19.19 promulgated under section 177.28. The commissioner shall issue an order requiring an
19.20 employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes
19.21 of this subdivision only, a violation is repeated if at any time during the two years that
19.22 preceded the date of violation, the commissioner issued an order to the employer for violation
19.23 of sections 177.41 to 177.435 and the order is final or the commissioner and the employer
19.24 have entered into a settlement agreement that required the employer to pay back wages that
19.25 were required by sections 177.41 to 177.435. The department shall serve the order upon the
19.26 employer or the employer's authorized representative in person or by certified mail at the
19.27 employer's place of business. An employer who wishes to contest the order must file written
19.28 notice of objection to the order with the commissioner within 15 calendar days after being
19.29 served with the order. A contested case proceeding must then be held in accordance with
19.30 sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the
19.31 employer fails to file a written notice of objection with the commissioner, the order becomes
19.32 a final order of the commissioner.

20.1 Sec. 3. Minnesota Statutes 2016, section 177.28, subdivision 1, is amended to read:

20.2 Subdivision 1. **General authority.** (a) The commissioner may adopt rules, including
20.3 definitions of terms, to carry out the purposes of sections 177.21 to 177.44, to prevent the
20.4 circumvention or evasion of those sections, and to safeguard the minimum wage and overtime
20.5 rates established by sections 177.24 and 177.25.

20.6 (b) The commissioner may adopt rules to carry out the purposes of sections 181.939 to
20.7 181.9441.

20.8 Sec. 4. **[177.36] REPORT TO LEGISLATURE.**

20.9 (a) The commissioner must submit an annual report to the legislature, including to the
20.10 chair and ranking minority member of any relevant legislative committee. The report must
20.11 include, but is not limited to:

20.12 (1) a list of all violations of statutory sections listed in section 177.27, subdivision 4,
20.13 including the employer involved, and the nature of any violations; and

20.14 (2) an analysis of noncompliance with the statutory sections listed in section 177.27,
20.15 subdivision 4, including any patterns by employer, industry, or county.

20.16 (b) A report under this section must not include an employee's name or other identifying
20.17 information, any health or medical information regarding an employee or an employee's
20.18 family member, or any information pertaining to domestic abuse, sexual assault, or stalking
20.19 of an employee or an employee's family member.

20.20 Sec. 5. Minnesota Statutes 2016, section 181.032, is amended to read:

20.21 **181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER.**

20.22 (a) At the end of each pay period, the employer shall provide each employee an earnings
20.23 statement, either in writing or by electronic means, covering that pay period. An employer
20.24 who chooses to provide an earnings statement by electronic means must provide employee
20.25 access to an employer-owned computer during an employee's regular working hours to
20.26 review and print earnings statements.

20.27 (b) The earnings statement may be in any form determined by the employer but must
20.28 include:

20.29 (1) the name of the employee;

20.30 (2) the hourly rate of pay (if applicable);

21.1 (3) the total number of hours worked by the employee unless exempt from chapter 177;

21.2 (4) the total amount of gross pay earned by the employee during that period;

21.3 (5) the total amount of overtime pay earned by the employee during that period;

21.4 (6) the total amount of gratuities earned by the employee during that period;

21.5 (7) the total amount of any additional compensation paid to the employee during that

21.6 period, including any predictability pay under section 181.99;

21.7 (8) the total amount of expense reimbursements paid to the employee during that period;

21.8 ~~(5)~~ (9) a list of deductions made from the employee's pay;

21.9 ~~(6)~~ (10) the net amount of pay after all deductions are made;

21.10 ~~(7)~~ (11) the date on which the pay period ends; and

21.11 ~~(8)~~ (12) the legal name of the employer and the operating name of the employer if

21.12 different from the legal name;

21.13 (13) the total amount of employer-provided leave used by the employee during that pay

21.14 period; and

21.15 (14) the total amount of employer-provided leave available for the employee to use.

21.16 (c) An employer must provide earnings statements to an employee in writing, rather

21.17 than by electronic means, if the employer has received at least 24 hours notice from an

21.18 employee that the employee would like to receive earnings statements in written form. Once

21.19 an employer has received notice from an employee that the employee would like to receive

21.20 earnings statements in written form, the employer must comply with that request on an

21.21 ongoing basis.

21.22 Sec. 6. Minnesota Statutes 2016, section 181.940, is amended to read:

21.23 **181.940 DEFINITIONS.**

21.24 Subdivision 1. **Scope.** For the purposes of sections 181.940 to ~~181.944~~ 181.9441, the

21.25 terms defined in this section have the meanings given them.

21.26 Subd. 2. **Employee.** "Employee" means a person who performs services for hire for an

21.27 ~~an individual employed by an employer from whom a leave is requested under sections~~

21.28 ~~181.940 to 181.944 for~~ who has performed at least 680 hours of work for that employer or

21.29 who has worked for that employer for at least 17 weeks. Employee does not mean an

21.30 independent contractor.

22.1 (1) at least 12 months preceding the request; and

22.2 (2) for an average number of hours per week equal to one-half the full-time equivalent
22.3 position in the employee's job classification as defined by the employer's personnel policies
22.4 or practices or pursuant to the provisions of a collective bargaining agreement, during the
22.5 12-month period immediately preceding the leave.

22.6 Employee includes all individuals employed at any site owned or operated by the
22.7 employer but does not include an independent contractor.

22.8 Subd. 3. **Employer.** "Employer" means a person or entity that employs 21 one or more
22.9 employees at at least one site, except that, for purposes of the school leave allowed under
22.10 section 181.9412, employer means a person or entity that employs one or more employees
22.11 in Minnesota. The term includes an individual, corporation, partnership, association, nonprofit
22.12 organization, group of persons, state, county, town, city, school district, or other governmental
22.13 subdivision.

22.14 Subd. 4. **Child.** "Child" means an individual under 18 years of age or an individual under
22.15 age 20 who is still attending secondary school.

22.16 Subd. 5. **Family member.** "Family member" means an employee's spouse, child, adult
22.17 child, stepchild, foster child, ward, child for whom the employee is legal guardian, regular
22.18 member of the employee's household, parent, stepparent, sibling, grandchild, stepgrandchild,
22.19 adopted grandchild, foster grandchild, mother-in-law, father-in-law, or grandparent.

22.20 Subd. 6. **FMLA.** "FMLA" means the Family and Medical Leave Act of 1993, United
22.21 States Code, title 29, section 2601, et seq., as amended through the effective date of this
22.22 section.

22.23 Subd. 7. **Commissioner.** "Commissioner" means the commissioner of labor and industry
22.24 or authorized designee or representative.

22.25 Sec. 7. Minnesota Statutes 2016, section 181.942, is amended to read:

22.26 **181.942 REINSTATEMENT AFTER LEAVE.**

22.27 Subdivision 1. **Comparable position.** (a) An employee returning from a leave of absence
22.28 under section 181.941 is entitled to return to employment in the employee's former position
22.29 or in a position of comparable duties, number of hours, and pay. An employee returning
22.30 from a leave of absence longer than one month must notify a supervisor at least two weeks
22.31 prior to return from leave. An employee returning from a leave under section 181.9412 or
22.32 ~~181.9413~~ 181.9441 is entitled to return to employment in the employee's former position.

23.1 (b) If, during a leave under sections 181.940 to ~~181.944~~ 181.9441, the employer
23.2 experiences a layoff and the employee would have lost a position had the employee not
23.3 been on leave, pursuant to the good faith operation of a bona fide layoff and recall system,
23.4 including a system under a collective bargaining agreement, the employee is not entitled to
23.5 reinstatement in the former or comparable position. In such circumstances, the employee
23.6 retains all rights under the layoff and recall system, including a system under a collective
23.7 bargaining agreement, as if the employee had not taken the leave.

23.8 Subd. 2. **Pay; benefits; on return.** An employee returning from a leave of absence
23.9 under sections 181.940 to ~~181.944~~ 181.9441 is entitled to return to employment at the same
23.10 rate of pay the employee had been receiving when the leave commenced, plus any automatic
23.11 adjustments in the employee's pay scale that occurred during leave period. The employee
23.12 returning from a leave is entitled to retain all accrued preleave benefits of employment and
23.13 seniority, as if there had been no interruption in service; provided that nothing in sections
23.14 181.940 to ~~181.944~~ 181.9441 prevents the accrual of benefits or seniority during the leave
23.15 pursuant to a collective bargaining or other agreement between the employer and employees.

23.16 Subd. 3. **Part-time return.** An employee, by agreement with the employer, may return
23.17 to work part time during the leave period without forfeiting the right to return to employment
23.18 at the end of the leave period, as provided in sections 181.940 to ~~181.944~~ 181.9441.

23.19 Sec. 8. Minnesota Statutes 2016, section 181.944, is amended to read:

23.20 **181.944 INDIVIDUAL REMEDIES.**

23.21 In addition to any other remedies provided by law, a person injured by a violation of
23.22 sections 181.172, paragraph (a) or (d), and 181.939 to ~~181.943~~ 181.9441 may bring a civil
23.23 action to recover any and all damages recoverable at law, together with costs and
23.24 disbursements, including reasonable attorney's fees, and may receive injunctive and other
23.25 equitable relief as determined by a court.

23.26 Sec. 9. **[181.9441] EARNED SICK AND SAFE TIME.**

23.27 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this
23.28 subdivision have the meanings given them.

23.29 (b) "Domestic abuse" has the same meaning as given in section 518B.01.

23.30 (c) "Earned sick and safe time" means leave, including paid time off and other paid leave
23.31 systems, that are paid at the same hourly rate as an employee earns from employment.

24.1 (d) "Sexual assault" means an act that constitutes a violation under sections 609.342 to
24.2 609.3453, or 609.352.

24.3 (e) "Stalking" has the same meaning as given in section 609.749.

24.4 Subd. 2. **Accrual of earned sick and safe time.** (a) An employee accrues a minimum
24.5 of one hour of earned sick and safe time for every 30 hours worked. Except as provided in
24.6 paragraph (b), an employee may not accrue more than 72 hours of earned sick and safe time
24.7 in a calendar year unless the employer agrees to a higher amount.

24.8 (b) Employees of an employer that employs fewer than 21 employees may not accrue
24.9 more than 40 hours of earned sick and safe time in a calendar year unless the employer
24.10 agrees to a higher amount.

24.11 (c) Employees who are exempt from overtime requirements under United States Code,
24.12 title 29, section 213(a)(1), as amended through the effective date of this section, are deemed
24.13 to work 40 hours in each work week for purposes of accruing earned sick and safe time,
24.14 except that an employee whose normal work week is less than 40 hours will accrue earned
24.15 sick and safe time based upon the normal work week.

24.16 (d) Earned sick and safe time under this section begins to accrue at the commencement
24.17 of employment of the employee.

24.18 (e) Employees shall be entitled to use accrued earned sick and safe time beginning 90
24.19 calendar days following commencement of their employment. After 90 calendar days of
24.20 employment, employees may use earned sick and safe time as it is accrued.

24.21 Subd. 3. **Use of earned sick and safe time.** (a) An employee may use accrued earned
24.22 sick and safe time for:

24.23 (1) an employee's:

24.24 (i) mental or physical illness, injury, or health condition;

24.25 (ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury,
24.26 or health condition; or

24.27 (iii) need for preventive medical or health care;

24.28 (2) care of a family member:

24.29 (i) with a mental or physical illness, injury, or health condition;

24.30 (ii) who needs medical diagnosis, care, or treatment of a mental or physical illness,
24.31 injury, or health condition; or

25.1 (iii) who needs preventive medical or health care;

25.2 (3) absence due to domestic abuse, sexual assault, or stalking of the employee or

25.3 employee's family member, provided the absence is to:

25.4 (i) seek medical attention related to physical or psychological injury or disability caused

25.5 by domestic abuse, sexual assault, or stalking;

25.6 (ii) obtain services from a victim services organization;

25.7 (iii) obtain psychological or other counseling;

25.8 (iv) seek relocation due to domestic abuse, sexual assault, or stalking; or

25.9 (v) take legal action, including preparing for or participating in any civil or criminal

25.10 legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking;

25.11 and

25.12 (4) closure of the employee's place of business due to weather or other emergency, or

25.13 an employee's need to care for a child whose school or place of care has been closed due

25.14 to weather or other public emergency.

25.15 (b) An employer may require notice of the need for use of earned sick and safe time as

25.16 follows. If the need for use is foreseeable, an employer may require advance notice of the

25.17 intention to use earned sick and safe time, but in no case shall require more than seven days'

25.18 advance notice. If the need is not foreseeable, an employer may require an employee to give

25.19 notice of the need for earned sick and safe time as soon as practicable.

25.20 (c) When an employee uses earned sick and safe time for more than three consecutive

25.21 days, an employer may require reasonable documentation that the earned sick and safe time

25.22 is covered by paragraph (a). For earned sick and safe time under paragraph (a), clauses (1)

25.23 and (2), reasonable documentation may include a signed statement by a health care

25.24 professional indicating the need for use of earned sick and safe time. For earned sick and

25.25 safe time under paragraph (a), clause (3), an employer must accept a court record or

25.26 documentation signed by a volunteer for or employee of a victims services organization,

25.27 an attorney, a police officer, or antiviolence counselor as reasonable documentation.

25.28 (d) An employer may not require, as a condition of an employee's using earned sick and

25.29 safe time, that the employee seek or find a replacement worker to cover the hours during

25.30 which the employee uses earned sick and safe time.

25.31 (e) Earned sick and safe time may be used in hourly increments or, at the discretion of

25.32 the employer, increments of less than one hour.

26.1 **Subd. 4. Retaliation prohibited.** An employer shall not retaliate against an employee
26.2 because the employee has requested earned sick and safe time, used earned sick and safe
26.3 time, or made a complaint or filed an action to enforce a right to earned sick and safe time
26.4 under this section.

26.5 **Subd. 5. Notice and posting.** (a) Employers shall give notice that employees are entitled
26.6 to earned sick and safe time, the amount of earned sick and safe time, and the terms of its
26.7 use under this section; that retaliation against employees who request or use earned sick
26.8 and safe time is prohibited; and that each employee has the right to file a complaint or bring
26.9 a civil action if earned sick and safe time is denied by the employer or the employee is
26.10 retaliated against for requesting or using earned sick and safe time.

26.11 (b) Employers may comply with this section by supplying employees with a notice in
26.12 English and other appropriate languages that contains the information required in paragraph
26.13 (a).

26.14 (c) Employers may comply with this section by displaying a poster in a conspicuous
26.15 and accessible place in each establishment where employees are employed which contains
26.16 all information required under paragraph (a).

26.17 (d) An employer that provides an employee handbook to its employees must include in
26.18 the handbook notice of employee rights and remedies under this section.

26.19 **Subd. 6. Confidentiality and nondisclosure.** If, in conjunction with this section, an
26.20 employer possesses health or medical information regarding an employee or an employee's
26.21 family member or information pertaining to domestic abuse, sexual assault, or stalking of
26.22 an employee or an employee's family member, the employer must treat such information
26.23 as confidential and not disclose the information except with permission of the employee.

26.24 **Subd. 7. No effect on more generous policies.** (a) Nothing in this section shall be
26.25 construed to discourage employers from adopting or retaining earned sick and safe time
26.26 policies that meet or exceed, and do not otherwise conflict with, the minimum standards
26.27 and requirements provided in this section.

26.28 (b) Nothing in this section shall be construed to limit the right of parties to a collective
26.29 bargaining agreement to bargain and agree with respect to earned sick and safe time policies
26.30 or to diminish the obligation of an employer to comply with any contract, collective
26.31 bargaining agreement, or any employment benefit program or plan that meets or exceeds,
26.32 and does not otherwise conflict with, the minimum standards and requirements provided in
26.33 this section.

(c) Employers who provide their employees earned sick and safe time under a paid time off policy or other paid leave policy that meets or exceeds, and does not otherwise conflict with, the minimum standards and requirements provided in this section are not required to provide additional earned sick and safe time.

Subd. 8. Termination, separation, transfer. Nothing in this section may be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned sick and safe time that has not been used. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned sick and safe time accrued at the prior division, entity, or location and is entitled to use all earned sick and safe time as provided in this section. When there is a separation from employment and the employee is rehired within 12 months of separation by the same employer, previously accrued earned sick and safe time that had not been used must be reinstated. An employee is entitled to use accrued earned sick and safe time and accrue additional earned sick and safe time at the commencement of reemployment.

Sec. 10. REPEALER.

Minnesota Statutes 2016, section 181.9413, is repealed.

Sec. 11. EFFECTIVE DATE.

This article is effective 180 days following final enactment.

ARTICLE 5

FAIR SCHEDULING

Section 1. Minnesota Statutes 2016, section 177.27, subdivision 4, is amended to read:

Subd. 4. Compliance orders. The commissioner may issue an order requiring an employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032, 1.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275, subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, ~~or~~ and 181.99, and with any rule promulgated under section 177.28. The commissioner shall issue an order requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is repeated if at any time during the two years that preceded the date of violation, the commissioner issued an order to the employer for violation of sections 177.41 to 177.435 and the order is final or the commissioner and the employer have entered into a settlement agreement that required the employer to pay back wages that

28.1 were required by sections 177.41 to 177.435. The department shall serve the order upon the
28.2 employer or the employer's authorized representative in person or by certified mail at the
28.3 employer's place of business. An employer who wishes to contest the order must file written
28.4 notice of objection to the order with the commissioner within 15 calendar days after being
28.5 served with the order. A contested case proceeding must then be held in accordance with
28.6 sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the
28.7 employer fails to file a written notice of objection with the commissioner, the order becomes
28.8 a final order of the commissioner.

28.9 **Sec. 2. [181.99] NOTICE OF EMPLOYEE SCHEDULES.**

28.10 **Subdivision 1. Definitions.** (a) For the purposes of this section, the terms defined in this
28.11 subdivision have the meanings given them.

28.12 (b) "Commissioner" means the commissioner of labor and industry or authorized designee
28.13 or representative.

28.14 (c) "Employee" means an individual employed by an employer.

28.15 (d) "Employer" means a person or entity that employs one or more employees. The term
28.16 includes an individual, corporation, partnership, association, nonprofit organization, group
28.17 of persons, state, county, town, city, school district, or other governmental subdivision.

28.18 (e) "Flexible working arrangement" means a change in an employee's terms and conditions
28.19 of employment with respect to work schedule, including, but not limited to, a modified
28.20 work schedule, changes in start or end times in a work schedule or work shift, a predictable,
28.21 stable work schedule, part-time employment, job sharing arrangements, working from home,
28.22 telecommuting, limitations on the employee's availability to work, the location of the
28.23 employee's worksite, reduction or change in work duties, or part-year employment.

28.24 (f) "On-call shift" or "on-call hours" mean time that an employer requires an employee
28.25 to be available to work, and to contact the employer or its designee or wait to be contacted
28.26 by the employer or its designee to determine whether the employee must report to work at
28.27 that time.

28.28 (g) "Predictability pay" means payments to an employee, calculated on an hourly basis
28.29 at the employee's regular rate of pay, for applicable schedule changes pursuant to subdivision
28.30 4. An employer must pay an employee predictability pay, when required by this section, in
28.31 addition to any wages earned for work performed by the employee. An employer must pay
28.32 predictability pay to an employee in the same pay period in which it was incurred by the
28.33 employer.

29.1 (h) "Shift" means the consecutive hours an employer requires an employee to work or
29.2 to be on call to work. Breaks totaling two hours or less shall not be considered an interruption
29.3 of consecutive hours.

29.4 (i) "Work week" means a fixed, consecutive seven-day period.

29.5 (j) "Work schedule" means all of an employee's regular and on-call shifts during a work
29.6 week.

29.7 **Subd. 2. Advance notice of work schedules.** (a) An employer must give each employee
29.8 the employee's individual initial work schedule, in writing, at least 21 days before the first
29.9 day of that work schedule. An employer must contact each employee to notify the employee
29.10 of any change in the employee's work schedule before the change takes effect and must
29.11 provide the employee with a revised written work schedule reflecting any changes within
29.12 24 hours of making the change.

29.13 (b) On or before the beginning of an employee's employment, the employer must provide
29.14 the employee with a written work schedule for the employee's first 21 days of employment.

29.15 (c) An employer may not require an employee to work hours not included in the
29.16 employee's initial written work schedule without consent in writing by the employee.

29.17 (d) An employer must post a written schedule that includes the shifts of all current
29.18 employees at a worksite at least 21 days before the start of each work week, whether or not
29.19 they are scheduled to work or be on call that week. The employer must update that posted
29.20 schedule within 24 hours of any change. The written schedule must be posted in a place
29.21 that is readily accessible and visible to all employees at a worksite.

29.22 (e) An employee's work week must begin on the same day of the week each week, unless
29.23 the employer provides 21 days advance written notice of a change in the start day of the
29.24 work week.

29.25 (f) An employee has the right to request a change in work schedule, request to limit his
29.26 or her availability to work particular hours, or otherwise provide input into the employee's
29.27 work schedule.

29.28 (g) An employer must not require an employee to seek or find a replacement employee
29.29 for any shifts or hours an employee is unable to work.

29.30 **Subd. 3. Flexible working arrangements.** (a) An employee has a right to request a
29.31 flexible working arrangement at any time. Such a request must be in writing.

30.1 (b) An employer must consider an employee's request for a flexible working arrangement
30.2 in good faith and engage in an interactive process with the employee to consider the request
30.3 and determine whether the request can be granted in a manner consistent with the employer's
30.4 business operations or legal or contractual obligations. The employer must begin this
30.5 interactive process within two days of receiving the request. If information provided by the
30.6 employee making a request for a flexible working arrangement requires clarification, the
30.7 employer must explain what further information is needed and give the employee reasonable
30.8 time to produce the information.

30.9 (c) After engaging in the interactive process, an employer must notify the employee of
30.10 its decision regarding a flexible working arrangement, in writing, within two days of its last
30.11 communication with the employee during the interactive process.

30.12 (d) If an employee requests a flexible working arrangement because of a serious health
30.13 condition of the employee, the employee's responsibilities as a caregiver, or the employee's
30.14 enrollment in a career-related educational or training program, or if a part-time employee
30.15 makes the request for a reason related to a second job, the employer must grant the request.

30.16 **Subd. 4. Predictability pay required.** (a) Within 21 days of, but not less than 24 hours
30.17 from, the start of an employee's shift, an employer may do any of the following provided
30.18 the employer pays the affected employee one hour of predictability pay in addition to wages
30.19 earned for each changed shift, if any:

- 30.20 (1) subtract hours from a shift;
- 30.21 (2) add hours to a shift or add a shift;
- 30.22 (3) cancel a shift; or
- 30.23 (4) change the start or end time of a shift.

30.24 (b) Within 24 hours of the start of an employee's shift, an employer may do either of the
30.25 following provided the employer pays the affected employee one hour of predictability pay
30.26 in addition to wages earned for each changed shift:

- 30.27 (1) change the start or end time of a shift without changing the total number of hours in
30.28 the shift; or
- 30.29 (2) add hours to a shift.

30.30 (c) Whenever an employee is scheduled to work a shift, and the employer cancels the
30.31 shift or reduces the hours in the shift with less than 24 hours notice, the employer must pay

31.1 the employee the lesser of four hours of predictability pay or predictability pay equal to the
31.2 number of hours originally scheduled for the shift.

31.3 (d) An employer is not required to pay an employee any predictability pay under this
31.4 subdivision when a schedule change is the result of the employee's request, including, but
31.5 not limited to, a request to trade shifts with another employee, to use sick leave, vacation
31.6 time, or any other type of leave.

31.7 (e) An employer is not required to pay an employee any predictability pay under this
31.8 subdivision when a schedule change is the result of mutually agreed upon shift trade among
31.9 employees.

31.10 Subd. 5. **Exception for suspended operations.** The requirements of subdivisions 2 to
31.11 4 do not apply to an employer when that employer's operations are suspended:

31.12 (1) due to threats to employees or property;

31.13 (2) when civil authorities have recommended that work not begin or continue;

31.14 (3) due to failure of public utilities or sewer systems or because public utilities fail to
31.15 supply electricity, water, or gas; or

31.16 (4) due to a natural disaster or weather event.

31.17 Subd. 6. **Right to rest.** An employee has the right to decline work hours that occur (1)
31.18 less than 11 hours after the end of the previous shift, or (2) during the 11 hours following
31.19 the end of a shift that spanned two days. An employer must pay an employee 1-1/2 times
31.20 the employee's regular rate of pay for any such hours worked.

31.21 Subd. 7. **No discrimination based on hours of work.** (a) An employer must not pay a
31.22 different regular rate of pay based on the number of hours an employee is scheduled to work
31.23 to employees whose jobs require equal skill, effort, and duties, and that are performed under
31.24 similar working conditions. An employer may pay different hourly wages based on other
31.25 reasons, such as seniority systems, merit, employee responsibilities, or systems that measure
31.26 earnings by quantity or quality of production.

31.27 (b) An employer must not condition eligibility for leave or time off based on the number
31.28 of hours an employee is scheduled to work for employees whose jobs require equal skill,
31.29 effort, and duties, and that are performed under similar working conditions. An employer
31.30 may prorate employee leave or time off based on the number of hours the employee works.

31.31 (c) An employer must not condition eligibility for raises or promotions based on the
31.32 number of hours an employee is scheduled to work for employees whose jobs require equal

32.1 skill, effort, and duties, and that are performed under similar working conditions. Employers
32.2 may condition eligibility for raises on other reasons, such as seniority systems, merit,
32.3 employee responsibilities, or the nature and amount of an employee's work experience.

32.4 Subd. 8. **Access to hours.** If an employer has additional hours of work available in
32.5 positions held by current employees, the employer must offer those hours to current qualified
32.6 employees before hiring new employees or contractors, including the use of temporary
32.7 services or staffing agencies.

32.8 Subd. 9. **Record-keeping requirements.** (a) An employer must keep an accurate record
32.9 of:

32.10 (1) the name, address, and occupation of each employee;
32.11 (2) the amount paid each pay period to each employee;
32.12 (3) the hours worked each day and each week by each employee; and
32.13 (4) each employee's initial work schedule and all subsequent revisions to that work
32.14 schedule.

32.15 (b) An employer must keep the records required by this subdivision for at least two years
32.16 after the entry date of the record. The records must be maintained at the place of employment,
32.17 at an office of the employer, or with a bank, accountant, or other central location, and must
32.18 be open to inspection and available upon request by the commissioner.

32.19 (c) An employer must allow an employee to inspect records required by this subdivision
32.20 and relating to that employee at a reasonable time and place.

32.21 (d) The commissioner may impose a civil penalty of up to \$1,000 on an employer for
32.22 each failure to keep, furnish, or allow inspection of records under this subdivision.

32.23 Subd. 10. **Employer retaliation.** No employer shall discharge or take any other adverse
32.24 action against any person in retaliation for asserting any claim or right under this section,
32.25 for assisting any other person in doing so, or for informing any person about their rights
32.26 under this section. An employer taking any adverse action against a person within one year
32.27 of a person's engaging in the foregoing activities shall raise a presumption that such action
32.28 was retaliation, which may be rebutted by clear and convincing evidence that such action
32.29 was taken for other permissible reasons.

32.30 Subd. 11. **Individual remedies.** In addition to any other remedies available in law or
32.31 equity, an employee may bring a civil action seeking redress for a violation or violations
32.32 of this section directly to any court of competent jurisdiction. An employee may recover

33.1 any and all damages recoverable at law plus an additional amount equal to twice those
33.2 damages, together with costs and disbursements including reasonable attorney fees, and
33.3 may receive injunctive and other equitable relief as determined by a court.

33.4 Subd. 12. Encouragement of more generous policies. (a) Nothing in this section shall
33.5 be construed to discourage employers from adopting or retaining policies that meet or
33.6 exceed, and do not otherwise conflict with, the minimum standards and requirements
33.7 provided in this section.

33.8 (b) This section does not apply to employees covered under a collective bargaining
33.9 agreement with an employer.

APPENDIX
Article locations in 17-1468

ARTICLE 1	WORKING PARENTS ACT	Page.Ln 1.14
ARTICLE 2	WAGE THEFT PROTECTION	Page.Ln 1.18
ARTICLE 3	PAID FAMILY LEAVE	Page.Ln 13.6
ARTICLE 4	EARNED SICK AND SAFE TIME	Page.Ln 18.26
ARTICLE 5	FAIR SCHEDULING	Page.Ln 27.20

APPENDIX
Repealed Minnesota Statutes: 17-1468

181.9413 SICK LEAVE BENEFITS; CARE OF RELATIVES.

(a) An employee may use personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's child, as defined in section 181.940, subdivision 4, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent, for reasonable periods of time as the employee's attendance may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury. This section applies only to personal sick leave benefits payable to the employee from the employer's general assets.

(b) An employee may use sick leave as allowed under this section for safety leave, whether or not the employee's employer allows use of sick leave for that purpose for such reasonable periods of time as may be necessary. Safety leave may be used for assistance to the employee or assistance to the relatives described in paragraph (a). For the purpose of this section, "safety leave" is leave for the purpose of providing or receiving assistance because of sexual assault, domestic abuse, or stalking. For the purpose of this paragraph:

- (1) "domestic abuse" has the meaning given in section 518B.01;
- (2) "sexual assault" means an act that constitutes a violation under sections 609.342 to 609.3453 or 609.352; and
- (3) "stalking" has the meaning given in section 609.749.

(c) An employer may limit the use of safety leave as described in paragraph (b) or personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent to no less than 160 hours in any 12-month period. This paragraph does not apply to absences due to the illness or injury of a child, as defined in section 181.940, subdivision 4.

(d) For purposes of this section, "personal sick leave benefits" means time accrued and available to an employee to be used as a result of absence from work due to personal illness or injury, but does not include short-term or long-term disability or other salary continuation benefits.

(e) For the purpose of this section, "child" includes a stepchild and a biological, adopted, and foster child.

(f) For the purpose of this section, "grandchild" includes a step-grandchild, and a biological, adopted, and foster grandchild.

(g) This section does not prevent an employer from providing greater sick leave benefits than are provided for under this section.

(h) An employer shall not retaliate against an employee for requesting or obtaining a leave of absence under this section.

APPENDIX
Repealed Minnesota Rule: 17-1468

5200.0080 GRATUITIES/TIPS CREDITS.

Subp. 7. **Credit cards or charges.** Gratuities presented to a direct service employee via inclusion on a charge or credit card shall be credited to that pay period in which they are received by the direct service employee and for which they appear on the direct service employee's tip statement.

Where a tip is given by a customer through a credit or charge card, the full amount of tip must be allowed the direct service employee minus only the percentage deducted from the tip in the same ratio as the percentage deducted from the total bill by the service company.