

FAQ: MINNESOTA REHIRE + RETENTION LEGISLATION



What is the Emergency Rehire and Retention Law? What does it do?

The purpose of the bill is to promote economic recovery by requiring certain employers to offer re-employment to the workers they chose to hire and retain and then laid-off during the pandemic. Workers returning to their previous jobs lessens disruption to the economy and speeds economic recovery.

The law would require any covered employer to offer a worker laid off since January 31 2020 as a result of government order, lack of business, a reduction in force or other, economic, non-disciplinary reasons the option to return to their job by classification and seniority. To ensure the employee receives this offer, the employer must make the offer in writing by mail, email and text the employee. There are also protections for workers if their employer's operation is sold or transferred.

For the proposed Minnesota statute, covered employers are those operating a hotel over 75 rooms, large event centers, airport hospitality businesses, airport service providers and building service providers.

Why does the proposed ordinance target hospitality workers?

The hospitality industry is a major employer in Minnesota and its employees, many of whom are immigrants and people of color, have been especially hard hit by the COVID-19 pandemic. Over 30% of the year-over-year drop in employment in the Twin Cities was in the leisure and hospitality sector alone – even prior to the worsening of the local COVID-19 crisis and the traditionally slow winter season. Without policy action, workers who lost their jobs through no fault of their own could be left to face a challenging labor market already rife with racial disparities.

Have any other local governments passed similar laws?

Yes. Lawmakers are adopting policies to protect hospitality workers' right to return to their pre-pandemic jobs as business returns. Cities that have passed similar legislation include Baltimore, Los Angeles, New Haven, Oakland, Philadelphia, Providence and Washington DC.

How long does the employee have to respond to an offer to return to work?

5 business days.

Are all hotels statewide included?

No. Hotels must contain 75 or more guestrooms to be covered.

Does this effect all laid-off workers?

Covered employees are those who worked for the employer for at least 6 months of the 12 months ending January 31 2020 and whose most recent separation from active employment with the employer occurred on or after January 31, 2020 as a result of a government order, lack of business, a reduction in force or other, economic, non-disciplinary reasons.



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What if a business has made changes due to COVID-19 and needs workers in different jobs now?

The law only requires employers to rehire qualified employees. The law considers that an employee is qualified for an open position if 1) the employee held the same or similar position prior to layoff, or 2) is or can be qualified for the position with the same training that would be provided to a new employee hired into that position.

What are the requirements on an employer that has newly taken control of a covered business?

The successor employer must maintain a preferential hiring list of employees identified by the incumbent employer and hire from that list for 6 months. Employees that are hired shall have a 90-day transitional employment period. If the eligible employee's performance during the 90-day transition employment period is satisfactory, the successor employer shall consider offering the eligible employee continued employment.

How is the Emergency Rehire and Retention Law enforced?

Under the proposed Minnesota Statute, the Minnesota Department of Labor and Industry, Labor Standards and Apprenticeship Division would enforce the law and would develop rules and regulations for enforcement.

What are the penalties?

The Minnesota Department of Labor and Industry, Labor Standards and Apprenticeship Division would enforce the statute and develop appropriate rules and regulations. As provided in the legislation, remedies can include hiring or restatement of the laid off worker, with or without back pay at regular rates and compensation for benefits that would have been received.

Can an employer retaliate?

No. No employer may discharge, reduce in compensation or otherwise discriminate against any employee or laid off worker for asserting their rights under the law.

Will this hurt businesses and result in job cuts?

This legislation simply requires employers to rehire the workers whom they employed prior to COVID-19, as business demand allows for it. Unless an employer was otherwise intending to use the crisis to replace long-term employees with new employees at lower wages, it does not carry any significant economic burden. This is common-sense legislation that stabilizes a key part of the Minnesota economy as businesses and workers alike recover from the COVID-19 crisis.

Will this law still be in effect after the pandemic subsides?

The statute is designed to last for the duration of the pandemic's economic effects. Because the duration of the pandemic and of its lasting economic effects are uncertain, by December 31, 2022, the Commissioner of Labor and Industry will report to the legislature regarding the effectiveness of the statute in promoting stability of employment and will advise the legislature on the need for further action.