

144.1

**ARTICLE 9**

144.2

**FAIR LABOR STANDARDS FOR AGRICULTURAL AND FOOD PROCESSING  
WORKERS**

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Section 1. Minnesota Statutes 2020, section 177.27, subdivision 4, is amended to read:

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Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an

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employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,

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181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,

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subdivision 2a, 181.722, 181.79, 181.86 to 181.88, and 181.939 to 181.943, or with any

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rule promulgated under section 177.28. The commissioner shall issue an order requiring an

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employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes

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of this subdivision only, a violation is repeated if at any time during the two years that

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preceded the date of violation, the commissioner issued an order to the employer for violation

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of sections 177.41 to 177.435 and the order is final or the commissioner and the employer

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have entered into a settlement agreement that required the employer to pay back wages that

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were required by sections 177.41 to 177.435. The department shall serve the order upon the

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employer or the employer's authorized representative in person or by certified mail at the

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employer's place of business. An employer who wishes to contest the order must file written

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notice of objection to the order with the commissioner within 15 calendar days after being

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served with the order. A contested case proceeding must then be held in accordance with

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sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the

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employer fails to file a written notice of objection with the commissioner, the order becomes

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a final order of the commissioner.

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Sec. 2. Minnesota Statutes 2020, section 179.86, subdivision 1, is amended to read:

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Subdivision 1. **Definition.** For the purpose of this section, "employer" means an employer

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in the meatpacking or poultry processing industry.

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Sec. 3. Minnesota Statutes 2020, section 179.86, subdivision 3, is amended to read:

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Subd. 3. **Information provided to employee by employer.** (a) At the start of

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employment, an employer must provide an explanation in an employee's native language

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of the employee's rights and duties as an employee ~~either~~ both person to person ~~or~~ and

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through written materials that, at a minimum, include:

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(1) a complete description of the salary and benefits plans as they relate to the employee;

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(2) a job description for the employee's position;

145.1 (3) a description of leave policies;

145.2 (4) a description of the work hours and work hours policy; ~~and~~

145.3 (5) a description of the occupational hazards known to exist for the position; and

145.4 (6) the name of the employer's workers' compensation insurance carrier, the carrier's  
145.5 phone number, and the insurance policy number.

145.6 (b) The explanation must also include information on the following employee rights as  
145.7 protected by state or federal law and a description of where additional information about  
145.8 those rights may be obtained:

145.9 (1) the right to organize and bargain collectively and refrain from organizing and  
145.10 bargaining collectively;

145.11 (2) the right to a safe workplace; ~~and~~

145.12 (3) the right to be free from discrimination; and

145.13 (4) the right to workers' compensation insurance coverage.

145.14 (c) The requirements under this subdivision are in addition to the requirements under  
145.15 section 181.032.

145.16 Sec. 4. Minnesota Statutes 2020, section 179.86, is amended by adding a subdivision to  
145.17 read:

145.18 Subd. 5. **Civil action.** An employee injured by a violation of this section has a cause of  
145.19 action for damages for the greater of \$1,000 per violation or twice the employee's actual  
145.20 damages, plus costs and reasonable attorney fees. A damage award shall be the greater of  
145.21 \$1,400 or three times actual damages for an employee injured by an intentional violation  
145.22 of this section.

145.23 Sec. 5. Minnesota Statutes 2020, section 179.86, is amended by adding a subdivision to  
145.24 read:

145.25 Subd. 6. **Fine.** The commissioner of labor and industry shall fine an employer not less  
145.26 than \$400 or more than \$1,000 for each violation of subdivision 3.

145.27 Sec. 6. Minnesota Statutes 2020, section 181.14, subdivision 1, is amended to read:

145.28 Subdivision 1. **Prompt payment required.** (a) When any such employee quits or resigns  
145.29 employment, the wages or commissions earned and unpaid at the time the employee quits  
145.30 or resigns shall be paid in full not later than the first regularly scheduled payday following

146.1 the employee's final day of employment, unless an employee is subject to a collective  
146.2 bargaining agreement with a different provision. Wages are earned and unpaid if the  
146.3 employee was not paid for all time worked at the employee's regular rate of pay or at the  
146.4 rate required by law, including any applicable statute, regulation, rule, ordinance, government  
146.5 resolution or policy, contract, or other legal authority, whichever rate of pay is greater. If  
146.6 the first regularly scheduled payday is less than five calendar days following the employee's  
146.7 final day of employment, full payment may be delayed until the second regularly scheduled  
146.8 payday but shall not exceed a total of 20 calendar days following the employee's final day  
146.9 of employment.

146.10 (b) Notwithstanding the provisions of paragraph (a), in the case of migrant workers, as  
146.11 defined in section 181.85, the wages or commissions earned and unpaid at the time the  
146.12 employee quits or resigns shall become due and payable within ~~five~~ three days thereafter.

146.13 Sec. 7. Minnesota Statutes 2020, section 181.635, subdivision 1, is amended to read:

146.14 Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

146.15 (a) "Employer" means a person who employs another to perform a service for hire.  
146.16 Employer includes any agent or attorney of an employer who, for money or other valuable  
146.17 consideration paid or promised to be paid, performs any recruiting.

146.18 (b) "Person" means a corporation, partnership, limited liability company, limited liability  
146.19 partnership, association, individual, or group of persons.

146.20 (c) "Recruits" means to induce an individual, directly or through an agent, to relocate  
146.21 to Minnesota or within Minnesota to work in food processing by an offer of employment  
146.22 or of the possibility of employment.

146.23 (d) "Food processing" means canning, packing, or otherwise processing poultry or meat  
146.24 for consumption.

146.25 (e) "Terms and conditions of employment" means the following:

146.26 (1) nature of the work to be performed;

146.27 (2) wage rate, nature and amount of deductions for tools, clothing, supplies, or other  
146.28 items;

146.29 (3) anticipated hours of work per week, including overtime;

146.30 (4) anticipated slowdown or shutdown or if hours of work per week vary more than 25  
146.31 percent from clause (3);

147.1 (5) duration of the work;

147.2 (6) workers' compensation coverage and name, address, and telephone number of insurer  
147.3 and Department of Labor and Industry;

147.4 (7) employee benefits available, including any health plans, sick leave, or paid vacation;

147.5 (8) transportation and relocation arrangements with allocation of costs between employer  
147.6 and employee;

147.7 (9) availability and description of housing and any costs to employee associated with  
147.8 housing; and

147.9 (10) any other item of value offered, and allocation of costs of item between employer  
147.10 and employee.

147.11 Sec. 8. Minnesota Statutes 2020, section 181.635, subdivision 2, is amended to read:

147.12 Subd. 2. **Recruiting; required disclosure.** (a) An employer shall provide written  
147.13 disclosure of the terms and conditions of employment to a person at the time it recruits the  
147.14 person to relocate to work in the food processing industry. The disclosure requirement does  
147.15 not apply to an exempt employee as defined in United States Code, title 29, section 213(a)(1).  
147.16 The disclosure must be written in English and Spanish, or another language if the person's  
147.17 preferred language is not Spanish, dated and signed by the employer and the person recruited,  
147.18 and maintained by the employer for ~~two~~ three years. A copy of the signed and completed  
147.19 disclosure must be delivered immediately to the recruited person. The disclosure may not  
147.20 be construed as an employment contract.

147.21 (b) The requirements under this subdivision are in addition to the requirements under  
147.22 section 181.032.

147.23 Sec. 9. Minnesota Statutes 2020, section 181.635, subdivision 3, is amended to read:

147.24 Subd. 3. **Civil action.** A person injured by a violation of this section has a cause of action  
147.25 for damages for the greater of ~~\$500~~ \$1,000 per violation or twice their actual damages, plus  
147.26 costs and reasonable attorney's fees. A damage award shall be the greater of ~~\$750~~ \$1,400  
147.27 or three times actual damages for a person injured by an intentional violation of this section.

147.28 Sec. 10. Minnesota Statutes 2020, section 181.635, subdivision 4, is amended to read:

147.29 Subd. 4. **Fine.** The Department of Labor and Industry shall fine an employer not less  
147.30 than ~~\$200~~ \$400 or more than ~~\$500~~ \$1,000 for each violation of this section.

148.1 Sec. 11. Minnesota Statutes 2020, section 181.635, subdivision 6, is amended to read:

148.2 Subd. 6. **Standard disclosure form.** The Department of Labor and Industry shall provide  
148.3 a standard form for use at the employer's option in making the disclosure required in  
148.4 subdivision 2. The form shall be available in English and Spanish and additional languages  
148.5 upon request.

148.6 Sec. 12. Minnesota Statutes 2020, section 181.85, subdivision 2, is amended to read:

148.7 Subd. 2. **Agricultural labor.** "Agricultural labor" means field labor associated with the  
148.8 cultivation and harvest of fruits and vegetables and work performed in processing fruits and  
148.9 vegetables for market, as well as labor performed in agriculture as defined in Minnesota  
148.10 Rules, part 5200.0260.

148.11 Sec. 13. Minnesota Statutes 2020, section 181.85, subdivision 4, is amended to read:

148.12 Subd. 4. **Employer.** "Employer" means ~~a processor of fruits or vegetables~~ an individual,  
148.13 partnership, association, corporation, business trust, or any person or group of persons that  
148.14 employs, either directly or indirectly through a recruiter, more than 30 migrant workers per  
148.15 day for more than seven days in any calendar year.

148.16 Sec. 14. Minnesota Statutes 2020, section 181.86, subdivision 1, is amended to read:

148.17 Subdivision 1. **Terms.** (a) An employer that recruits a migrant worker shall provide the  
148.18 migrant worker, at the time the worker is recruited, with a written employment statement  
148.19 which shall state clearly and plainly, in English and Spanish, or another language if the  
148.20 worker's preferred language is not Spanish:

148.21 (1) the date on which and the place at which the statement was completed and provided  
148.22 to the migrant worker;

148.23 (2) the name and permanent address of the migrant worker, of the employer, and of the  
148.24 recruiter who recruited the migrant worker;

148.25 (3) the date on which the migrant worker is to arrive at the place of employment, the  
148.26 date on which employment is to begin, the approximate hours of employment, and the  
148.27 minimum period of employment;

148.28 (4) the crops and the operations on which the migrant worker will be employed;

148.29 (5) the wage rates to be paid;

148.30 (6) the payment terms, as provided in section 181.87;

149.1 (7) any deduction to be made from wages; ~~and~~

149.2 (8) whether housing will be provided; and

149.3 (9) the name of the employer's workers' compensation insurance carrier, the carrier's  
149.4 phone number, and the insurance policy number.

149.5 (b) The requirements under this subdivision are in addition to the requirements under  
149.6 section 181.032.

149.7 Sec. 15. Minnesota Statutes 2020, section 181.87, subdivision 2, is amended to read:

149.8 Subd. 2. **Biweekly pay.** The employer shall pay wages due to the migrant worker at  
149.9 least every two weeks, except on termination, when the employer shall pay within three  
149.10 days unless payment is required sooner pursuant to section 181.13.

149.11 Sec. 16. Minnesota Statutes 2020, section 181.87, subdivision 3, is amended to read:

149.12 Subd. 3. **Guaranteed hours.** The employer shall guarantee to each recruited migrant  
149.13 worker a minimum of 70 hours pay for work in any two successive weeks and, should the  
149.14 pay for hours actually offered by the employer and worked by the migrant worker provide  
149.15 a sum of pay less than the minimum guarantee, the employer shall pay the migrant worker  
149.16 the difference within three days after the scheduled payday for the pay period involved.  
149.17 Payment for the guaranteed hours shall be at the hourly wage rate, if any, specified in the  
149.18 employment statement, or the federal or state minimum wage, whichever is ~~higher~~ highest.  
149.19 Any pay in addition to the hourly wage rate specified in the employment statement shall be  
149.20 applied against the guarantee. This guarantee applies for the minimum period of employment  
149.21 specified in the employment statement beginning with the date on which employment is to  
149.22 begin as specified in the employment statement. The date on which employment is to begin  
149.23 may be changed by the employer by written, telephonic, or telegraphic notice to the migrant  
149.24 worker, at the worker's last known address, no later than ten days prior to the previously  
149.25 stated beginning date. The migrant worker shall contact the recruiter to obtain the latest  
149.26 information regarding the date upon which employment is to begin no later than five days  
149.27 prior to the previously stated beginning date. This guarantee shall be reduced, when there  
149.28 is no work available for a period of seven or more consecutive days during any two-week  
149.29 period subsequent to the commencement of work, by five hours pay for each such day,  
149.30 when the unavailability of work is caused by climatic conditions or an act of God, provided  
149.31 that the employer pays the migrant worker, on the normal payday, the sum of ~~\$5~~ \$16 for  
149.32 each such day.

150.1 Sec. 17. Minnesota Statutes 2020, section 181.87, subdivision 7, is amended to read:

150.2 Subd. 7. **Statement itemizing deductions from wages.** The employer shall provide a  
150.3 written statement at the time wages are paid clearly itemizing each deduction from wages.  
150.4 The written statement shall also comply with all other requirements for an earnings statement  
150.5 in section 181.032.

150.6 Sec. 18. Minnesota Statutes 2020, section 181.88, is amended to read:

150.7 **181.88 RECORD KEEPING.**

150.8 Every employer subject to the provisions of sections 181.85 to 181.90 shall maintain  
150.9 complete and accurate records ~~of the names of, the daily hours worked by, the rate of pay~~  
150.10 ~~for and the wages paid each pay period to~~ for every individual migrant worker recruited by  
150.11 that employer; as required by section 177.30 and shall ~~preserve the records~~ also maintain  
150.12 the employment statements required under section 181.86 for a period of at least three years.

150.13 Sec. 19. Minnesota Statutes 2020, section 181.89, subdivision 2, is amended to read:

150.14 Subd. 2. **Judgment; damages.** If the court finds that any defendant has violated the  
150.15 provisions of sections 181.86 to 181.88, the court shall enter judgment for the actual damages  
150.16 incurred by the plaintiff or the appropriate penalty as provided by this subdivision, whichever  
150.17 is greater. The court may also award court costs and a reasonable attorney's fee. The penalties  
150.18 shall be as follows:

150.19 (1) whenever the court finds that an employer has violated the record-keeping  
150.20 requirements of section 181.88, ~~\$50~~ \$200;

150.21 (2) whenever the court finds that an employer has recruited a migrant worker without  
150.22 providing a written employment statement as provided in section 181.86, subdivision 1,  
150.23 ~~\$250~~ \$800;

150.24 (3) whenever the court finds that an employer has recruited a migrant worker after having  
150.25 provided a written employment statement, but finds that the employment statement fails to  
150.26 comply with the requirement of section 181.86, subdivision 1 or section 181.87, ~~\$250~~ \$800;

150.27 (4) whenever the court finds that an employer has failed to comply with the terms of an  
150.28 employment statement which the employer has provided to a migrant worker or has failed  
150.29 to comply with any payment term required by section 181.87, ~~\$500~~ \$1,600;

150.30 (5) whenever the court finds that an employer has failed to pay wages to a migrant worker  
150.31 within a time period set forth in section 181.87, subdivision 2 or 3, ~~\$500~~ \$1,600; and

151.1 (6) whenever penalties are awarded, they shall be awarded severally in favor of each  
151.2 migrant worker plaintiff and against each defendant found liable.

151.3 Sec. 20. Minnesota Statutes 2020, section 181.89, is amended by adding a subdivision to  
151.4 read:

151.5 Subd. 3. **Enforcement.** In addition to any other remedies available, the commissioner  
151.6 may assess the penalties in subdivision 2 and provide the penalty to the migrant worker  
151.7 aggrieved by the employer's noncompliance.