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WHITE PAPER

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January 2024 Updates to Minnesota Employment Laws and Next Steps for Employers

On January 1, 2024, several new employment laws took effect in Minnesota, based on bills passed during the 2023 legislative session. All employers with employees in Minnesota are subject to the following changes, discussed in more detail in this *White Paper*: (i) employers may no longer inquire into the pay history of job applicants; and (ii) employers must provide sick and safe leave to employees. Immediate actions for employers include updating hiring and sick leave policies, and ensuring human resources and management personnel are aware of the changes.

In addition, large employers in the health care, warehousing, and meatpacking industries are subject to new health and safety requirements, including required ergonomics programs for large facilities, and mandatory safety trainings for meat and poultry processing employees.

The following are summaries of the most significant new enactments. Employers should consult with knowledgeable employment counsel about these new laws.

INQUIRIES INTO PAY HISTORY PROHIBITED, MINN. STAT. § 363A.08

Starting January 1, 2024, Minnesota employers are not permitted to inquire into or consider pay history of a job applicant during the hiring process. "Pay history" includes past wages, salaries, benefits, or any other form of compensation. Under the new law, applicants are permitted to disclose pay history voluntarily for the purpose of negotiating their compensation. However, employers may not ask, encourage, or prompt applicants for this information.

Importantly, employers are still permitted to inquire into an applicant's *expectations* regarding compensation. Employers are also permitted to consider any voluntarily disclosed information regarding past compensation, but only to support a *higher wage or salary* than initially offered.

Next Steps for Employers

Management and human resources, as well as all employees who participate in the recruitment or interview process, should be trained on the new law. Job applications and standard interview questions should also be reviewed and updated if necessary.

STATEWIDE EARNED SICK AND SAFE LEAVE, MINN. STAT. §§ 181.9445-9448 AND § 177.50

Minnesota's new statewide paid sick and safe leave law went into effect on January 1, 2024. The newly enacted provisions require individuals and businesses with one or more employees in Minnesota to provide paid sick and safe leave to eligible employees. The sick and safe leave must be paid at the hourly rate of pay for the shift for which the employee uses sick and safe leave, but does not include compensation for gratuities or overtime pay. The benefits apply to all Minnesota employees who perform work for at least 80 hours in a year in Minnesota, but do not apply to independent contractors, certain persons employed by air carriers, or as otherwise conflicts with federal law.

Permissible Uses

Employees may use sick and safe time: (i) to care for their own physical or mental health, or for that of a family member; (ii) for absences addressing domestic violence concerns of the employee or his/her family member; (iii) in the event of school, work, or care facility closures resulting from weather or public emergencies; and (iv) in connection with communicable disease obstacles or health protocols. Both the definition related to eligible use of sick and safe time and the definition of family members are written broadly.

Accrual Method

Under the new statute, an employee accrues one hour of earned sick and safe time for every 30 hours worked and can accrue up to 48 hours in a year (or more if the employer permits it). Accrued hours must be permitted to roll over into the following year, but an employer may cap the total amount of accrued time at 80 hours. Employees who are exempt from overtime requirements are deemed to work 40 hours in each workweek for purposes of accruing earned sick and safe time, unless their normal workweek is less than 40 hours, in which case they will accrue time based on the normal workweek. Upon an employee's termination, an employer is not required to pay out unused sick and safe time.

Front-Loading / Lump-Sum Method

Alternatively, instead of permitting rollover, an employer may front-load sick and safe time by: (i) granting 48 hours at the beginning of the year, if the employer pays out unused time at the end of the year; or (ii) granting 80 hours at the beginning of the year, if the employer does not pay out unused time.

Substitution of Other Paid Leave

An employer's existing leave policy, such as a paid time off policy, vacation policy, or sick leave policy may already fully or partially meet Minnesota's earned sick and safe time requirements if it provides employees 80 hours of paid time off, usable at the beginning of the year, and allows employees to take leave for any reasons described in the statute.

Changes to Employee Earnings Statements

In the earnings statements released each pay period, employers must indicate the total number of sick and safe time hours accrued, available, and hours used during the pay period.

Notice

Employers must now provide notice to all employees in English and the employee's primary language: (i) "that they are entitled to earned sick and safe time, including the amount of earned sick and safe time"; (ii) "the accrual year for the employee"; (iii) "the terms of its use . . . , and a copy of the written policy for providing notice . . ."; (iv) "that retaliation against employees who request or use earned sick and safe time is prohibited"; and (v) "that each employee has the right to file a complaint or bring a civil action if earned sick and safe time is denied by the employer or the employee is retaliated against for requesting or using earned sick and safe time." Notice can be provided via a physical posting, by sending a paper or electronic copy to employees, or through a conspicuous posting on an employee work platform. If an employer has a handbook, notice of the rights and remedies under this law must be included. The notice should be provided at the start of employment or by the effective date. The Minnesota Department of Labor has published [a sample notice](#).

Conflict With Local Ordinances

Several Minnesota cities including Bloomington, St. Paul, Minneapolis, and Duluth previously enacted ordinances providing sick and safe leave for employees working within those cities. The statute requires that an employer must follow the most protective provisions of the statute or local ordinance, so employers must be aware of these ordinances if they have employees working in those cities. However, Bloomington and St. Paul already have amended their ordinances to better align with the new state statute, and Duluth has repealed its ordinance entirely. The Minneapolis ordinance is still in effect, but it generally provides for fewer benefits than the new state law.

Next Steps for Employers

Employers whose current leave policies do not meet the requirements of sick and safe leave, or who decide to offer additional sick and safe leave, should determine whether they prefer the accrual or upfront method for providing sick leave, including whether they want to pay out unused sick leave on a yearly basis. All employers must revise their employee handbooks, leave policies and procedures, payroll processes, and employee earnings statements accordingly.

EMPLOYER ERGONOMICS PROGRAM REQUIREMENT, MINN. STAT. § 182.677

On January 1, 2024, an ergonomics program requirement went into effect for health care facilities, warehouse distribution centers, and meatpacking sites with 100 or more employees in Minnesota. Each such business must establish an ergonomics program demonstrating a plan to minimize the risk of musculoskeletal disorders to its employees.

Required Components of a Plan

A compliant plan must include: (i) an assessment to identify and reduce musculoskeletal disorder risk factors in the facility; (ii) employee training on ergonomics and certification of such training; (iii) a reporting procedure; (iv) a process for employee participation in providing possible solutions to reduce the risk of musculoskeletal disorders; (v) procedures to ensure construction and plant modification is consistent with the ergonomics program goals; and (vi) annual evaluations of the program. The ergonomics program must be developed by a facility committee, which must include: (i) a certified professional ergonomist; (ii) a licensed, board-certified physician; and (iii) at least three workers employed in the facility who have completed a general industry outreach course. Employers must evaluate ergonomics programs annually.

Training

Employers must provide training to new employees on the facility's ergonomics program, the signs and symptoms of common musculoskeletal disorders, the procedures for reporting injuries at the facility, and the controls in place related to ergonomic hazards at the facility. Employers are also required to provide ongoing training to current employees in accordance with the employer's ergonomics plan. The training must be provided during working hours, and employees must earn their regular rate of pay during training.

Funding

The state has established an [ergonomics grant program](#) to provide matching funding up to \$10,000 for employers who are subject to this section to make ergonomic improvements recommended by an on-site safety survey.

Next Steps for Employers

Management and human resources should be trained on the new law, and on the facility's ergonomics program. Employees should also be trained on the facility's ergonomics program. If necessary, employers should consider applying for state funding.

THE SAFE WORKPLACES FOR MEAT AND POULTRY PROCESSING WORKERS ACT, MINN. STAT. §§ 179.87 TO 179.877

Additionally, on January 1, 2024, portions of a law establishing new health and safety standards for meatpacking operations with 100 or more employees in Minnesota went into effect.

Impacted Employees

The law applies to all meat processing workers, or all employees who are directly in contact with raw meatpacking products in a meatpacking operation. This includes independent contractors, temporary workers, inspectors, and cleaning and maintenance staff. However, the statute specifically excludes grocery stores, butcher shops, meat markets, delis, and restaurants.

Requirements

Employers must now provide workers training on how to safely perform new tasks, the ergonomic and other hazards associated with the task, and the early signs and symptoms of musculoskeletal injuries and the procedures for reporting them. Furthermore, employers must train employees on how to safely perform new tasks, and provide a minimum of eight hours of health and safety training annually to all employees. Retaliation against a worker who raises a concern about health and safety is prohibited. Additionally, employers must provide notice to employees of their rights as a meatpacking or poultry processing worker in their language of fluency; the state has published [a sample notice](#).

Next Steps for Employers

Employers must create and present trainings that comply with the new law. Management and human resources should also be trained on the new law.

INCREASES IN MINIMUM WAGE

Finally, on January 1, 2024, Minnesota's minimum wage increased from \$10.59 to \$10.85 per hour for large employers (with annual gross revenues of at least \$500,000) and from \$8.63 to \$8.85 per hour for small employers (annual gross revenues of less than \$500,000). The minimum wage for employees under 18 years of age and employees under 20 years of age but in their first 90 consecutive days of employment also increased from \$8.63 to \$8.85.

The minimum wage applicable to large employers (more than 100 employees) in Minneapolis and "macro businesses" (more than 10,000 employees) in St. Paul increased to \$15.57 per hour on January 1, 2024. This minimum-wage rate applies to work performed within those cities. Other local minimum-wage rates will step-up on July 1, 2024, as indicated below.

Notice

Employers must display [a poster](#) with the new minimum-wage rates, and, if employees will have their wages increased as a result of the change, employers must provide [written notice](#) to those employees of the change.

Looking Forward

Minimum wages for others in Minneapolis and St. Paul will increase on July 1, 2024, as follows:

- The Minneapolis minimum wage for employers with 100 or fewer employees will increase from \$14.50 to \$15.57.
- The St. Paul minimum wage for large businesses (101 to 10,000 employees) will increase from \$15.00 to \$15.57, and the minimum wage for small businesses (six to 100 employees) will increase from \$13.00 to \$14.00. The minimum wage at "micro" businesses (five or fewer employees) will increase from \$11.50 to \$12.25.

Next Steps for Employers

Employers should ensure that all paid wage rates exceed the applicable minimum, and update required postings and notices to reflect the higher minimum-wage rates.

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