

Subject Labor Omnibus

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### Overview

Appropriates money; makes policy and technical changes to labor and industry provisions; makes conforming changes to OSHA penalties; modifies fair labor standards for agricultural and food processing workers; provides for agricultural worker wellness and refinery safety; and makes a variety of technical changes to combative sports.

## Article 1: Appropriations

Appropriates money to the Department of Labor and Industry, Workers' Compensation Court of Appeals, and the Bureau of Mediation Services. See fiscal spreadsheet for details.

## Article 2: Labor and Industry Policy and Technical

Makes several policy and technical changes to labor and industry provisions.

### Section Article 2: Labor and Industry Policy and Technical

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**1, 2, 4-6, 8, 9** **Division of Apprenticeship (multiple sections).**

Create the Division of Apprenticeship, separate from the Division of Labor Standards. Remove obsolete language.

**3** **Compliance orders.**

Adds section 11 [§ 181.991] to the list of statutes the commissioner of labor and industry may issue a compliance order to an employer about, effective for franchise agreements entered into or amended on or after the day following final enactment.

**7** **Labor education advancement grant program.**

Modifies the labor education advancement grant program to focus on both recruiting and retaining people of color, Indigenous people, and women in registered

**Section Article 2: Labor and Industry Policy and Technical**

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apprenticeship programs. Allows grants to nonprofits and Tribal governments as well as community-based organizations.

**10 Covenants not to compete void in employment agreements; substantive protections of Minnesota law apply. [§ 181.988]**

Adds § 181.988, prohibiting non-compete agreements unless the exception applies.

**Subd. 1. Definitions.** Provides the definitions used in the bill. Defines a “covenant not to compete” as an employment agreement that restricts an employee’s ability to work for another employer after their termination for a certain time period, in a certain geographic area, or in a similar capacity.

**Subd. 2. Covenants not to compete void and unenforceable.** Makes covenants not to compete in contracts and employment agreements void and unenforceable. Clarifies that any remaining provisions of the contract or agreement remain in effect. Provides an exception for families earning above a certain amount if the employer pays 50% of the employee’s salary on a pro rata basis during the restricted period. Provides for injunctive relief plus attorney’s fees for violations.

**Subd. 3. Choice of law; venue.** Prohibits an employer from requiring an employee working and living in Minnesota from agreeing to resolve claims outside of Minnesota law or without the protection of Minnesota law. Provides an exception if the employee has legal counsel in negotiating their contract. Provides for injunctive relief plus attorney’s fees for violations.

**Subd. 4. Severability.** Clarifies that all remaining provisions in the bill remain valid and in force if any portion is found void or unconstitutional by a court.

**Effective date.** Effective the day following final enactment. Applies to contracts entered into on or after that date.

**11 Restrictive Franchise Agreements prohibited. [§ 181.991]**

Adds § 181.991, prohibiting and amending restrictive franchise agreements.

**Subd. 1. Definitions.** Provides the definitions used in the bill.

**Subd. 2. Prohibition on restrictive franchise agreements.** Prohibits restrictive franchise agreements. A franchisor cannot restrict, restrain, or prohibit a franchisee from soliciting or hiring employees of the same franchisor or the general franchisor.

**Section Article 2: Labor and Industry Policy and Technical**

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**Subd. 3. Franchise agreement amendment.** Requires existing franchise agreements to be amended within one year to remove restrictive employment provisions.

**Subd. 4. Civil action; penalties.** Creates a civil cause of action for damages and injunctive relief for an aggrieved employee. An employee may be awarded actual damages plus injunctive relief, or a \$5,000 penalty, whichever is greater. If no civil action is brought in district court, the commissioner of labor and industry must impose a \$5,000 per employee penalty on the employer to be paid to the aggrieved employee.

**Subd. 5. Severability.** Provides that if any part of the section is found to be unconstitutional or void, the other provisions remain in effect.

**Effective date.** Effective the day following final enactment and applies to franchise agreements entered into or amended after that date.

**12 License fees and license renewal fees.**

Removes all contractor licensing fees for the period from July 1, 2022, through June 30, 2024, except that from October 1, 2021, through September 30, 2023, the base license fee for business licenses shall be \$120.

**13 State licensed facility.**

Designates assisted living facilities, including those with dementia care, as state licensed facilities where the commissioner of labor and industry is directly responsible for administration and enforcement of the State Building Code.

**14 Adoption of code.**

Directs the commissioner of labor and industry to adopt each new published edition of the model commercial energy code and amend it as necessary to achieve a minimum of eight percent additional energy efficiency.

**15 Special requirements.**

Alters the State Building Code requirements for window cleaning safety by obligating the commissioner of labor and industry to adopt rules using the expedited rulemaking process to require window cleaning safety features that comply with a nationally recognized standard for all windows on new buildings and existing buildings undergoing alterations if there are not currently safe window cleaning features and they can be added to the proposed alterations.

**Section Article 2: Labor and Industry Policy and Technical**

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**16 Building permits.**

Reduces the total valuation and fee schedule used for setting building permit fees retroactively from October 1, 2021, through October 1, 2023, when these reductions will expire.

**17 Elevator.**

Clarifies, with section 18, the definition of “platform lift.”

**18 Platform lift.**

Defines “platform lift” as a powered device for transporting mobility-impaired people on a guided platform.

**19 Exemption from licensing.**

Allows work to be performed on conveyors, platform lifts other than those carrying mobility-impaired people, and dock levelers without being a licensed elevator contractor.

**20 Exemptions from inspections.**

Exempts the replacement or repair of load control equipment owned and maintained by a utility company, other than a public utility, from the inspection requirement if done before December 31, 2027, by a licensed Class A electrical contractor.

**21 Laws Chapter 32 effective date.**

Clarifies the effective date for articles 1 (cleanup proposals) and 2 (filing location amendments), sections 1 to 12 of the Workers’ Compensation Advisory Council bill, Minnesota Laws 2022, chapter 32, was February 4, 2022.

**Article 3: OSHA Penalty Conformance**

Makes several conforming changes to OSHA penalties. Sections 1 to 5 increase the fine amounts for willful or repeat, serious, nonserious, failure to correct, and posting violations of occupational safety and health standards to conform to federal law. Section 6 provides that future yearly increases to fine amounts will be tied to inflation.

**Article 4: Fair Labor Standards for Agricultural and Food Processing Workers**

Makes various modifications and additions to labor standards for agricultural and food processing workers. Section 1 adds the Migrant Labor Law to the sections of law for which the

commissioner of labor and industry can issue compliance orders. Sections 2 to 5 make changes to the Packinghouse Workers Bill of Rights (Minn. Stat. § 179.86). Section 6 makes a conforming change with the timing of payment required under the Migrant Labor Law. Sections 7 to 11 make changes to the Recruitment in Food Processing Law (Minn. Stat. § 181.635). Sections 12 to 20 make changes to the Migrant Labor Law (Minn. Stat. §§ 181.85 - 181.91).

**Section Article 4: Fair Labor Standards for Agricultural and Food Processing Workers**

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- 1 Compliance orders.**  
Adds provisions of the Migrant Labor Law to the list of statutes the commissioner of labor and industry may issue a compliance order to an employer about.
- 2 Definition.**  
Expands the definition of “employer” under the Packinghouse Workers Bill of Rights to include the poultry processing industry.
- 3 Information provided to employee by employer.**  
Modifies the requirements for the information that must be provided to packinghouse employees by the employer. Requires information to employees at the start of employment in person and in writing and provides that additional explanation must be provided, including information about workers’ compensation coverage. Clarifies that this information is additional to the notice required under Minn. Stat. § 181.032.
- 4 Civil action.**  
Creates a civil action for damages for packinghouse employees for violations of the Packinghouse Workers Bill of Rights.
- 5 Fine.**  
Creates a fine of \$400 to \$1000 on packinghouse employers for each violation of the information requirements.
- 6 Prompt payment required.**  
Makes conforming change to require that migrant worker wages are due and payable within three days of quitting or resignation.
- 7 Definitions.**  
Modifies the definition of “recruits” to include inducing an employee to relocate for employment or the possibility of employment within Minnesota.
- 8 Recruiting; required disclosure.**  
Modifies the disclosure requirements for recruits by requiring that the disclosure be provided in the person’s preferred language, if it is not English or Spanish, and requiring that the signed disclosure be maintained by the employer for three years.

**Section Article 4: Fair Labor Standards for Agricultural and Food Processing Workers**

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- Clarifies that this disclosure is additional to the notice required under Minn. Stat. § 181.032.
- 9      **Civil action.**  
Increases the damage amounts available to plaintiffs in a civil action for violations of the Recruitment in Food Processing Employment Law.
- 10     **Fine.**  
Increases the fine amount for each violation of the Recruitment in Food Processing Employment Law.
- 11     **Standard disclosure form.**  
Provides that the standard disclosure form from the Department of Labor and Industry must be provided in languages other than English and Spanish upon request.
- 12     **Agricultural labor.**  
Modifies the definition of “agricultural labor” to also include labor performed in agriculture, as defined in Minnesota Rules, part 5200.0260.
- 13     **Employer.**  
Expands the definition of “employer” under the Migrant Labor Law to include an individual, partnership, association, corporation, business trust, or any person or group of persons who employs any number of migrant workers through a recruiter.
- 14     **Terms.**  
Requires the written employment statement for migrant workers be provided in the worker’s preferred language, if it is not Spanish. Requires that additional information about workers’ compensation coverage be provided. Clarifies that the written employment statement under this section is additional to the notice required under Minn. Stat. § 181.032.
- 15     **Biweekly pay.**  
Adds a cross reference to Minn. Stat. § 181.13, providing that migrant worker wages are immediately due and payable if discharged.
- 16     **Guaranteed hours.**  
Modifies payment requirements for the 70 guaranteed hours for migrant workers. Requires payment of the highest wage rate applicable under state or federal minimum wage laws, or as provided in the employment statement.

**Section Article 4: Fair Labor Standards for Agricultural and Food Processing Workers**

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**17 Statement itemizing deductions from wages.**

Requires migrant labor employers to comply with the earning statement requirements under Minn. Stat. § 181.032, part of the wage theft law, in addition to providing an itemized statement of deductions from wages.

**18 Record keeping.**

Requires migrant labor employers to comply with the recordkeeping requirements under Minn. Stat. § 177.30, part of the Minnesota Fair Labor Standards Act, and to maintain the written employment statement required for migrant worker recruits under Minn. Stat. § 181.86 for six years.

**19 Judgment; damages.**

Increases the damage amounts available to plaintiffs in a civil action for violations of the Migrant Labor Law.

**20 Enforcement.**

Allows the Department of Labor and Industry to assess penalties for violations of the Migrant Labor Law to be paid to aggrieved migrant workers.

## **Article 5: Combative Sports**

Makes a variety of technical changes to the combative sports licensing system. Notable changes include:

- Redefining “tough person contest” (section 1).
- Reducing the advisory council from nine members to five, all of which must have knowledge of the combative sports industry, and exempting advisory council meetings on issues related to contest outcome challenges from the open meeting requirements of chapter 13D (section 2).
- Incorporating the most recent version of the Unified Rules of Boxing by reference as part of the chapter (section 3).
- Exempting most martial arts events and amateur boxing from the chapter, but requiring regulation by the applicable sporting or school association (section 4).
- Adjusting schedule for payment of fees, license expiration, and other pre-event requirements (sections 5-8).
- Establishing procedures for event approval (section 9).
- Stipulating that the promoter of an event supply an ambulance and two emergency medical technicians on site for all contests (section 10).
- Requiring a negative pregnancy test from female combatants (section 11).

- Setting rules for challenging the outcome of a combative sport contest (section 12).
- Allowing the commissioner to impose civil penalties if a regulatory body for a martial arts or amateur boxing event does not submit bout results and any suspensions to the commissioner within 72 hours after the event (section 13).

## **Article 6: Public Employment Relations Board**

Makes changes to Public Employment Relations Board (PERB) data and effective date.

### **Section Article 6: Public Employment Relations Board**

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**1 Access by labor organizations, Bureau of Mediation Services, Public Employment Relations Board.**

Amends the Minnesota Government Data Practices Act (MGDPA) to allow the PERB access to personnel data if the labor organization responsible authority determines it is necessary or as ordered by the Bureau of Mediation Services or the PERB.

**2 Public Employment Relations Board data.**

Adds a new provision to the MGDPA. Makes data maintained by the PERB related to an unfair labor practice charge, complaint, or appeal protected nonpublic or confidential data under the MGDPA that may be subject to protective order.

Makes other types of data related to the PERB public data, including the: (1) filing date of an unfair labor charge; (2) status of an unfair labor charge; (3) name and job class of the charging and charged party; (4) alleged provision of law violated; (5) complaint issued by the PERB and all data in the complaint; (6) full and complete record of an evidentiary hearing on the charge; (7) recommended decisions and orders; (8) exceptions to a recommended decision and order; (9) briefs filed with the PERB; and (10) decisions and orders issued by the PERB.

Also provides individuals with access to their own statements made to the PERB and allows the PERB to grant access to protected nonpublic or confidential data if it would aid in implementing chapters 179 and 179A.

**3 Open meetings.**

Provides that open meeting laws do not apply to certain meetings of the PERB, including those deliberating the merits of unfair labor charges, reviewing a recommended decision and order, or reviewing a decision by the Bureau of Mediations Services related to unfair labor practices.



**Section Article 6: Public Employment Relations Board**

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**4 PERB effective date.**

Makes implementation of the PERB effective the day following final enactment. Unfair labor practice claims from July 1, 2021, until the day following final enactment remain subject to district court jurisdiction.

## **Article 7: Refinery Safety**

Creates a new requirement that at least a certain percent of the employees of any contractor working at a petroleum refinery must have experience with a registered apprenticeship program in the applicable trade. Establishes fines and a private right of action to punish violators and allows the commissioner to issue compliance orders.

**Section Article 7: Refinery Safety**

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**1 Compliance orders. [§ 177.27, subd. 4]**

Adds section 2 [§ 181.987] to the list of statutes the commissioner of labor and industry may issue a compliance order to an employer about, effective October 15, 2022.

**2 Use of skilled and trained contractor workforces at petroleum refineries. [§ 181.987]**

Creates a new requirement that at least a certain percent of the employees of any contractor working at a petroleum refinery must have experience with a registered apprenticeship program in the applicable trade. Establishes fines and a private right of action to punish violators. Effective October 15, 2022.

**Subd. 1. Definitions.** Provides definitions, including defining “skilled and trained workforce” as a minimum percent of the employees of a contractor or subcontractor working at the site of the petroleum refinery either currently or previously being registered apprentices in the applicable trade. The minimum percentage begins at 65 percent by October 15, 2022, and steps up annually by 10 percent until reaching 85 percent by October 15, 2024.

**Subd. 2. Use of contractors by owner, operator; requirement.** Requires the owner or operator of a petroleum refinery to require that all contractors and subcontractors performing certain types of work on site to use a skilled and trained workforce as defined in subdivision 1, unless hired to perform OEM work necessary to comply with equipment warranty requirements.

**Subd. 3. Penalties.** Directs the commissioner of labor and industry to fine owners, operators, contractors, or subcontractors at least \$5,000, but no more

**Section Article 7: Refinery Safety**

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than \$10,000 for every shift where the skilled and trained workforce requirement is violated, in addition to other penalties. Allows the size of the penalty to be scaled to the size of the violator's business and the gravity of the violation.

**Subd. 4. Civil actions.** Creates a private right of action for anyone injured by a violation of this section to sue the violator for damages in district court. Allows the court to award a successful plaintiff these damages, plus attorney fees, cost, disbursements, and other relief.

**Effective date.** This section is effective October 15, 2022.

## **Article 8: Agricultural Worker Wellness**

Creates an ombudsperson of safety, health, and well-being of agricultural and food processing workers and agricultural worker wellness committee at the Department of Labor and Industry.

**Section Description – Article 8: Agricultural Worker Wellness**

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**1 Ombudsperson for the safety, health, and well-being of agricultural and food processing workers. [§ 179.911]**

Adds new section 179.911 establishing an ombudsperson of safety, health, and well-being of agricultural and food processing workers at the Department of Labor and Industry.

**Subd. 1. Definitions.** Defines “food processing” and “agricultural work” for the purposes of sections 179.911 and 179.912.

**Subd. 2. Appointment.** Requires the governor to appoint an ombudsperson to assist agricultural and food processing workers with housing, workplace safety, fair labor standards, and other challenges.

**Subd. 3. Qualifications.** Provides qualification requirements for the ombudsperson, including knowledge and competence in workplace safety, health, and well-being of agricultural and food-processing workers, as well as housing and fair labor standards. Requires the ombudsperson to have experience working with agricultural and food processing workers and to speak a language other than English common to those workers.

**Subd. 4. Duties.** Provides the duties of the ombudsperson, including outreach, education, and coordination of efforts and services to assist agricultural and food processing workers with workplace safety, housing, labor standards, and other concerns. Directs the ombudsperson to work with agencies and stakeholders, to

**Section Description – Article 8: Agricultural Worker Wellness**

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make recommendations, and to report to the commissioner annually on the duties carried out.

**Subd. 5. Complaints.** Allows the ombudsperson to receive and review complaints from any agency, facility, or program.

**Subd. 6. Access to records.** Allows the ombudsperson access to any state agency data necessary to carry out their duties, including confidential data or private data on individuals, with the individual's consent.

**Subd. 7. Staff support.** Authorizes the ombudsperson to appoint and compensate support staff.

**Subd. 8. Independence of action.** Allows the ombudsperson to testify and periodically report to the legislature and to address concerns of agricultural and food processing workers.

**Subd. 9. Civil actions.** Provides that the ombudsperson or their designee are not civilly liable for any action taken in good faith within the scope of their authority under this section.

**Subd. 10. Posting.** Requires the commissioners of labor and industry, employment and economic development, health, administration, and human rights to post the contact information for the ombudsperson on their websites and provide it to agricultural stakeholders upon request.

**2 Agricultural worker wellness committee. [§ 179.912]**

Adds new section 179.912 creating an agricultural worker wellness committee at the Department of Labor and Industry.

**Subd. 1. Agricultural worker wellness committee established.** Establishes the committee to carry out the work of the committee established under [Executive Order No. 21-14](#) and authorizes the commissioner of labor and industry to hire two full-time equivalent support staff.

**Subd. 2. Definitions.** Defines the terms “food processing” and “agricultural work” for this section as defined in section 179.911.

**Subd. 3. Membership.** Lists the 21 voting members of the committee, including the commissioners of labor and industry, employment and economic development, health, administration, and human rights as well as members to be appointed by the governor, including representatives of the Migrant Services Consortium, agricultural employers, public health, community-based organizations, agricultural sector geographic regions, and unions.

**Section Description – Article 8: Agricultural Worker Wellness**

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**Subd. 4. Membership terms; compensation.** Requires the governor to make initial appointments by October 1, 2022, and provides for compensation and staggered terms of members.

**Subd. 5. Chairs; other officers.** Provides that the commissioners of agriculture and labor and industry will serve as the co-chairs of the committee.

**Subd. 6. Committee responsibilities.** Provides the committee responsibilities, including recommending policies, coordinating response and initiative efforts, and acting as a forum for stakeholders on various issues impacting agricultural and food processing workers.

**Subd. 7. Central inventory of reports and analyses on agricultural and food processing workers.** Directs the committee to establish a central inventory of data reports and analyses regarding agricultural and food processing worker information and definitions.

**Subd. 8. Report to legislature and governor.** Requires an annual report to the governor and legislative committees with jurisdiction over labor and agriculture about the committee's annual work plan and efforts.



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