

181.9

ARTICLE 15

181.10

CONSTRUCTION WORKER WAGE PROTECTIONS

181.11 Section 1. Minnesota Statutes 2022, section 177.27, subdivision 1, is amended to read:

181.12 Subdivision 1. **Examination of records.** The commissioner may enter during reasonable
181.13 office hours or upon request and inspect the place of business or employment of any employer
181.14 of employees working in the state, to examine and inspect books, registers, payrolls, and
181.15 other records of any employer that in any way relate to wages, hours, and other conditions
181.16 of employment of any employees. The commissioner may transcribe any or all of the books,
181.17 registers, payrolls, and other records as the commissioner deems necessary or appropriate
181.18 and may question the employees to ascertain compliance with sections 177.21 to 177.435
181.19 and 181.165. The commissioner may investigate wage claims or complaints by an employee
181.20 against an employer if the failure to pay a wage may violate Minnesota law or an order or
181.21 rule of the department.

181.22 Sec. 2. Minnesota Statutes 2022, section 177.27, subdivision 4, is amended to read:

181.23 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
181.24 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
181.25 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.165, 181.172, paragraph (a) or (d),
181.26 181.275, subdivision 2a, 181.722, 181.79, and 181.939 to 181.943, or with any rule
181.27 promulgated under section 177.28. The commissioner shall issue an order requiring an
181.28 employer to comply with sections 177.41 to 177.435 or 181.165 if the violation is repeated.
181.29 For purposes of this subdivision only, a violation is repeated if at any time during the two
181.30 years that preceded the date of violation, the commissioner issued an order to the employer
181.31 for violation of sections 177.41 to 177.435 or 181.165 and the order is final or the
181.32 commissioner and the employer have entered into a settlement agreement that required the
182.1 employer to pay back wages that were required by sections 177.41 to 177.435. The
182.2 department shall serve the order upon the employer or the employer's authorized
182.3 representative in person or by certified mail at the employer's place of business. An employer
182.4 who wishes to contest the order must file written notice of objection to the order with the
182.5 commissioner within 15 calendar days after being served with the order. A contested case
182.6 proceeding must then be held in accordance with sections 14.57 to 14.69 or 181.165. If,
182.7 within 15 calendar days after being served with the order, the employer fails to file a written
182.8 notice of objection with the commissioner, the order becomes a final order of the
182.9 commissioner. For the purposes of this subdivision, an employer includes a contractor that
182.10 has assumed a subcontractor's liability within the meaning of section 181.165.

182.11 Sec. 3. Minnesota Statutes 2022, section 177.27, subdivision 8, is amended to read:

182.12 Subd. 8. **Court actions; suits brought by private parties.** An employee may bring a
182.13 civil action seeking redress for a violation or violations of sections 177.21 to 177.44 and
182.14 181.165 directly to district court. An employer who pays an employee less than the wages
182.15 and overtime compensation to which the employee is entitled under sections 177.21 to

182.16 177.44 or a contractor that has assumed a subcontractor's liability as required by section
182.17 181.165, is liable to the employee for the full amount of the wages, gratuities, and overtime
182.18 compensation, less any amount the employer or contractor is able to establish was actually
182.19 paid to the employee and for an additional equal amount as liquidated damages. In addition,
182.20 in an action under this subdivision the employee may seek damages and other appropriate
182.21 relief provided by subdivision 7 and otherwise provided by law. An agreement between the
182.22 employee and the employer to work for less than the applicable wage is not a defense to
182.23 the action.

182.24 Sec. 4. Minnesota Statutes 2022, section 177.27, subdivision 9, is amended to read:

182.25 Subd. 9. **District court jurisdiction.** Any action brought under subdivision 8 may be
182.26 filed in the district court of the county wherein a violation or violations of sections 177.21
182.27 to 177.44 or 181.165 are alleged to have been committed, where the respondent resides or
182.28 has a principal place of business, or any other court of competent jurisdiction. The action
182.29 may be brought by one or more employees.

182.30 Sec. 5. Minnesota Statutes 2022, section 177.27, subdivision 10, is amended to read:

182.31 Subd. 10. **Attorney fees and costs.** In any action brought pursuant to subdivision 8, the
182.32 court shall order an employer who is found to have committed a violation or violations of
183.1 sections 177.21 to 177.44 or 181.165 to pay to the employee or employees reasonable costs,
183.2 disbursements, witness fees, and attorney fees.

183.3 Sec. 6. **[181.165] WAGE PROTECTION; CONSTRUCTION WORKERS.**

183.4 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
183.5 the meanings given.

183.6 (b) "Claimant" means any person claiming unpaid wages, fringe benefits, penalties, or
183.7 resulting liquidated damages that are owed as required by law, including any applicable
183.8 statute, regulation, rule, ordinance, government resolution or policy, contract, or other legal
183.9 authority.

183.10 (c) "Commissioner" refers to the commissioner of labor and industry.

183.11 (d) "Construction contract" means a written or oral agreement for the construction,
183.12 reconstruction, erection, alteration, remodeling, repairing, maintenance, moving, or
183.13 demolition of any building, structure, or improvement, or relating to the excavation of or
183.14 development or improvement to land. For purposes of this section, a construction contract
183.15 shall not include a home improvement contract for the performance of a home improvement
183.16 between a home improvement contractor and the owner of an owner-occupied dwelling,
183.17 and a home construction contract for one- or two-family dwelling units except where such
183.18 contract or contracts results in the construction of more than ten one- or two-family
183.19 owner-occupied dwellings at one project site annually.

183.20 (e) "Contractor" means any person, firm, partnership, corporation, association, company,
183.21 organization, or other entity, including a construction manager, general or prime contractor,

183.22 joint venture, or any combination thereof, along with their successors, heirs, and assigns,
183.23 which enters into a construction contract with an owner. An owner shall be deemed a
183.24 contractor and liable as such under this section if said owner has entered into a construction
183.25 contract with more than one contractor or subcontractor on any construction site.

183.26 (f) "Owner" means any person, firm, partnership, corporation, association, company,
183.27 organization, or other entity, or a combination of any thereof, with an ownership interest,
183.28 whether the interest or estate is in fee, as vendee under a contract to purchase, as lessee or
183.29 another interest or estate less than fee that causes a building, structure, or improvement,
183.30 new or existing, to be constructed, reconstructed, erected, altered, remodeled, repaired,
183.31 maintained, moved, or demolished or that causes land to be excavated or otherwise developed
183.32 or improved.

184.1 (g) "Subcontractor" means any person, firm, partnership, corporation, company,
184.2 association, organization or other entity, or any combination thereof, that is a party to a
184.3 contract with a contractor or party to a contract with the contractor's subcontractors at any
184.4 tier to perform any portion of work within the scope of the contractor's construction contract
184.5 with the owner, including where the subcontractor has no direct privity of contract with the
184.6 contractor. When the owner is deemed a contractor, subcontractor also includes the owner's
184.7 contractors.

184.8 Subd. 2. **Assumption of liability.** (a) A contractor entering into a construction contract
184.9 shall assume and is liable for any unpaid wages, fringe benefits, penalties, and resulting
184.10 liquidated damages owed to a claimant or third party acting on the claimant's behalf by a
184.11 subcontractor at any tier acting under, by, or for the contractor or its subcontractors for the
184.12 claimant's performance of labor.

184.13 (b) A contractor or any other person shall not evade or commit any act that negates the
184.14 requirements of this section. No agreement by an employee or subcontractor to indemnify
184.15 a contractor or otherwise release or transfer liability assigned to a contractor under this
184.16 section shall be valid. However, if a contractor has satisfied unpaid wage claims of an
184.17 employee and incurred fees and costs in doing so, such contractor may then pursue actual
184.18 and liquidated damages from any subcontractor who caused the contractor to incur those
184.19 damages.

184.20 (c) A contractor shall not evade liability under this section by claiming that a person is
184.21 an independent contractor rather than an employee of a subcontractor unless the person
184.22 meets the criteria required by section 181.723, subdivision 4.

184.23 Subd. 3. **Enforcement.** (a) In the case of a complaint filed with the commissioner under
184.24 section 177.27, subdivision 1, or a private civil action by an employee under section 177.27,
184.25 subdivision 8, such employee may designate any person, organization, or collective
184.26 bargaining agent authorized to file a complaint with the commissioner or in court pursuant
184.27 to this section to make a wage claim on the claimant's behalf.

184.28 (b) In the case of an action against a subcontractor, the contractor shall be jointly and
184.29 severally liable for any unpaid wages, benefits, penalties, and any other remedies available
184.30 pursuant to this section.

184.31 (c) Claims shall be brought consistent with section 541.07, clause (5), for the initiation
184.32 of such claim under this section in a court of competent jurisdiction or the filing of a
184.33 complaint with the commissioner or attorney general. The provisions of this section do not
185.1 diminish, impair, or otherwise infringe on any other right of an employee to bring an action
185.2 or file a complaint against any employer.

185.3 **Subd. 4. Payroll records; data.** (a) Within 15 days of a request by a contractor to a
185.4 subcontractor, the subcontractor, and any other subcontractors hired under contract to the
185.5 subcontractor shall provide payroll records, which, at minimum, contain all lawfully required
185.6 information for all workers providing labor on the project. The payroll records shall contain
185.7 sufficient information to apprise the contractor or subcontractor of such subcontractor's
185.8 payment of wages and fringe benefit contributions to a third party on the workers' behalf.
185.9 Payroll records shall be marked or redacted to an extent only to prevent disclosure of the
185.10 employee's Social Security number.

185.11 (b) Within 15 days of a request of a contractor or a contractor's subcontractor, any
185.12 subcontractor that performs any portion of work within the scope of the contractor's
185.13 construction contract with an owner shall provide:

185.14 (1) the names of all employees and independent contractors of the subcontractor on the
185.15 project, including the names of all those designated as independent contractors and, when
185.16 applicable, the name of the contractor's subcontractor with whom the subcontractor is under
185.17 contract;

185.18 (2) the anticipated contract start date;

185.19 (3) the scheduled duration of work;

185.20 (4) when applicable, local unions with which such subcontractor is a signatory contractor;
185.21 and

185.22 (5) the name and telephone number of a contact for the subcontractor.

185.23 (c) Unless otherwise required by law, a contractor or subcontractor shall not disclose an
185.24 individual's personal identifying information to the general public, except that the contractor
185.25 or subcontractor can confirm that the individual works for them and provide the individual's
185.26 full name.

185.27 **Subd. 5. Payments to contractors and subcontractors.** Nothing in this section shall
185.28 alter the owner's obligation to pay a contractor, or a contractor's obligation to pay a
185.29 subcontractor as set forth in section 337.10, except as expressly permitted by this section.

185.30 **Subd. 6. Exemptions.** (a) Nothing in this section shall be deemed to diminish the rights,
185.31 privileges, or remedies of any employee under any collective bargaining agreement. This

185.32 section shall not apply to any contractor or subcontractor that is a signatory to a bona fide
185.33 collective bargaining agreement with a building and construction trade labor organization
186.1 that: (1) contains a grievance procedure that may be used to recover unpaid wages on behalf
186.2 of employees covered by the agreement; and (2) provides for collection of unpaid
186.3 contributions to fringe benefit trust funds established pursuant to United States Code, title
186.4 29, section 186(c)(5)-(6), by or on behalf of such trust funds.

186.5 (b) This section does not apply to work for which prevailing wage rates apply under
186.6 sections 177.41 to 177.44.

186.7 Sec. 7. Minnesota Statutes 2022, section 181.171, subdivision 4, is amended to read:

186.8 Subd. 4. **Employer; definition.** "Employer" means any person having one or more
186.9 employees in Minnesota and includes the state or a contractor that has assumed a
186.10 subcontractor's liability within the meaning of section 181.165 and any political subdivision
186.11 of the state. This definition applies to this section and sections 181.02, 181.03, 181.031,
186.12 181.032, 181.06, 181.063, 181.10, 181.101, 181.13, 181.14, and 181.16.

186.13 Sec. 8. **EFFECTIVE DATE.**

186.14 Sections 1 to 7 are effective August 1, 2023, and apply to contracts or agreements entered
186.15 into, renewed, modified, or amended on or after that date.