

Subject Labor Policy Bill

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Overview

This is the Labor policy bill and includes the following bills heard in the Labor Committee this session:

- **Sections 1, 6-10, 43, 45-47, 54-57:** H.F. 4286, labor standards policy and technical modifications;
- **Sections 2-4, 67, 79:** H.F. 4050, DLI minimum wage modifications;
- **Sections 5, 81:** H.F. 4787, credit card charges for gratuities;
- **Sections 11-41, 77-78, 80:** H.F. 3428, BMS technical bill;
- **Section 42:** H.F. 3587, salary ranges in job postings;
- **Section 44:** H.F. 3442, captive audience posters;
- **Sections 48-52:** H.F. 3516, oral fluid preemployment testing;
- **Section 53:** H.F. 3456, restrictive covenants in certain service contracts prohibited;
- **Sections 58-65:** H.F. 3957, DLI OSHA policy;
- **Section 66:** H.F. 4011, surgical smoke evacuation system policies;
- **Sections 68, 76:** H.F. 4390, well contractor licensure; and
- **Sections 69-75:** H.F. 3947, DLI Construction Codes and Licensing policy and technical modifications.

Summary

Section	Description
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| 1 | <p>[§ 13.79, subd. 1] Identity of complainants.</p> <p>Expands data provision classifying complainant identity data for violations of additional labor chapters as private data. Clarifies that the DLI commissioner may disclose this data to other government entities with written consent of complainant.</p> |
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Section	Description
2	<p>[§ 177.23, subd. 12] Large employer.</p> <p>Adds existing definition of “large employer” to the definitions section of the Minnesota Fair Labor Standards Act. Relatedly, this definition is removed from the minimum wage section in section 4 of the bill.</p> <p>Effective January 1, 2025.</p>
3	<p>[§ 177.23, subd. 13] Small employer.</p> <p>Adds existing definition of “small employer” to the definitions section of the Minnesota Fair Labor Standards Act. Relatedly, this definition is removed from the minimum wage section in section 4 of the bill, and the technical cross reference updated consistently in section 79.</p> <p>Effective January 1, 2025.</p>
4	<p>[§ 177.24, subd. 1] Minimum wage rate.</p> <p>Modifies several minimum wage provisions to remove most minimum wage distinctions and lower rates allowed in the current law.</p> <p>Removes the minimum wage distinctions and lower rates:</p> <ul style="list-style-type: none">▪ Between large and small employers. Relatedly moves the existing definitions of “large employer” and “small employer” to a separate definitions section in sections 2 and 3 of the bill;▪ For summer work travel exchange J-1B nonimmigrant visa holders working for hotels, motels, or resorts, if they provide a food and lodging benefit; and▪ For youth under age 18 working for a large employer. <p>Retains the existing youth training wage allowing employers to pay a lower training rate for the first 90 days of consecutive employment for an employee under age 20. The training rate is also adjusted annually.</p> <p>Retains the existing provision requiring the DLI commissioner to annually calculate the percentage increase to minimum wage and issue an order adjusting the minimum wage rates by September 30 each year. Allows the DLI commissioner to adjust the minimum wage rates by the lesser of the inflation-based percentage or 5 percent. This is an increase from 2.5 percent in the existing law. Also makes consistent updates to technical cross references.</p> <p>As result of these changes, the large employer minimum wage rate, currently set at \$10.85, as adjusted by DLI annually, will become the minimum wage rate applicable to most employers starting January 1, 2025, unless the training wage rate for</p>

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	employees under age 20 or another specific statutory rate applies, for example for trainee election judges under section 67. If a city has a separate minimum wage rate requirement, then the higher of the two rates will apply in that particular city. Effective January 1, 2025.
5	[§ 177.24, subd. 3a] Gratuities; credit cards or charges. Requires tips received by an employee via debit or credit card to be credited to the employee in the pay period received and paid to the employee no later than the next scheduled pay period. Effective August 1, 2024.
6	[§ 177.27, subd. 2] Submission of records; penalty. Allows the DLI commissioner to set the time and manner of submission for employers submitting required labor records.
7	[§ 177.27, subd. 4] Compliance orders. Adds sections 181.10 (wages paid every 15 days) and 181.64 (false statements as inducement to entering employment) to list of labor provisions that the DLI commissioner can enforce through its compliance order authority.
8	[§ 177.27, subd. 7] Employer liability. Allows the DLI commissioner to order reinstatement of an employee as part of the relief granted through its compliance order authority for labor violations.
9	[§ 177.30] Keeping records; penalty. Requires employers to keep records of the earning statements required for each pay period under section 181.032, paragraphs (a) and (b), for three years.
10	[§ 177.42, subd. 2] Project. Modifies the definition of “project” to apply prevailing wage requirements to additional wholly or partially state-funded projects, including a project altering, improving, or restoring a structure, land, or public work that benefits the public or is intended for public use.
11-41	[Chs. 179 and 179A] BMS technical updates. Sections 11 to 41 make technical language changes to Bureau of Mediation Services (BMS) provisions in chapters 179 (labor relations) and 179A (public employment labor relations) to modernize language and provide additional clarity and organization.

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42	<p>[§ 181.173] Salary ranges required in job postings.</p> <p>Requires an employer with 30 or more employees to include the starting salary range and general description of benefits or other compensation for an available position on any job posting, whether the posting is printed or electronic. “Salary range” is defined as the minimum or maximum salary or hourly range of compensation for a job at the time of posting.</p> <p>Effective January 1, 2025.</p>
43	<p>[§ 181.212, subd. 7] Voting.</p> <p>Modifies voting provision of the Minnesota Nursing Home Workforce Standards Board to require that at least two of the five affirmative votes required for the board to take action must be cast by a commissioner member or appointee.</p>
44	<p>[§ 181.531, subd. 3] Notice (captive audience posters).</p> <p>Requires the DLI to develop an employee rights poster that educates and notifies employees about their rights under section 181.531, the employer-sponsored meetings or communications (captive audience) law. The poster must be made available in the five most commonly spoken languages in Minnesota and must be posted by employers to meet the notice requirements of section 181.531. A nonpartisan summary of the law can be found in article 11, section 25, page 31, here.</p> <p>Effective October 1, 2024.</p>
45	<p>[§ 181.939, subd. 2] Pregnancy accommodations.</p> <p>Requires an employer to maintain health insurance coverage for an employee and their dependents during any required period of leave for pregnancy under section 181.939, subdivision 2, provided that the employee pays the employee share of costs.</p>
46	<p>[§ 181.941, subd. 4] Continued insurance.</p> <p>Expands the insurance requirement under the pregnancy and parenting leave under section 181.941 to require an employer to maintain health insurance coverage for an employee and their dependents during any required period of leave under this section, provided that the employee pays the employee share of costs.</p>
47	<p>[§ 181.943] Relationship to other leave.</p> <p>Provides that parenting and pregnancy leave under section 181.941 cannot be reduced by any period of paid or unpaid leave needed for prenatal medical appointments.</p>

Section	Description
48	<p>[§ 181.950, subd. 9a] Oral fluid test.</p> <p>Adds a definition of “oral fluid test” to the Drug and Alcohol Testing in the Workplace statute. An “oral fluid test” is a test that uses a saliva sample to measure the presence of drugs, alcohol, cannabis, or their metabolites at the same or better levels as the existing lab programs under section 181.953, subdivision 1.</p>
49	<p>[§ 181.951, subd. 1] Limitations on testing.</p> <p>Expands current limitations on drug and alcohol testing to add an oral fluid test as another valid means for an employer to test a job applicant for drugs or alcohol, pursuant to a written drug and alcohol testing policy, and as an alternative to the existing lab program testing currently required under the law.</p>
50	<p>[§ 181.953, subd. 1] Use of licensed, accredited, or certified laboratory required.</p> <p>Clarifies that use of a licensed, accredited, or certified lab is not required if an employer follows the procedures for an oral fluid test under subdivision 5a.</p>
51	<p>[§ 181.953, subd. 3] Laboratory testing, reporting, and sample retention requirements.</p> <p>Provides that laboratory testing, reporting, and sample retention requirements, and chain-of-custody requirements under section 181.953, subdivision 5, do not apply to oral fluid testing.</p>
52	<p>[§ 181.953, subd. 5a] Oral fluid testing.</p> <p>Adds procedure for oral fluid testing as an alternative means for an employer to test a job applicant for drugs, alcohol, cannabis, or their metabolites. Under this procedure, a job applicant is required to submit to testing under the existing laboratory procedure within 48 hours of a positive, inconclusive, or invalid oral fluid test. Existing reliability and safeguard provisions on rights, notice, retest procedures, and job offer withdrawals also apply to oral fluid testing.</p>
53	<p>[§ 181.9881] Restrictive employment covenants in service contracts.</p> <p>Prevents a company or partnership that provides services to a customer from restricting the customer from directly or indirectly soliciting or hiring one of their employees. The contract a service provider signs with a customer cannot restrict or prohibit the customer from hiring the employees either.</p> <p>When an existing contract has a restriction in it that is prohibited by this bill, the service provider must provide notice to their employees of the law and the existing contract provision that violates the law.</p> <p>Effective on July 1, 2024, and applies to contracts and agreements entered into on or after that date.</p>

Section	Description
54	<p>[§ 181A.08] Powers and duties of the department.</p> <p>Clarifies that a compliance order issued for a violation of a child labor provision under chapter 181A becomes final if no written objection is filed within 15 days. Expands the relief the DLI commissioner can order against an employer through its compliance order authority for child labor violations.</p>
55	<p>[§ 181A.12, subd. 1] Fine; penalty.</p> <p>Clarifies that fines issued by the department for a child labor violation may be “up to” the amount specified and the DLI commissioner need only consider the size of the business, gravity of the violation, and history of past violations in determining the fine amount. The general factors for state agencies under chapter 14 do not apply.</p>
56	<p>[§ 181A.12, subd. 4] Liquidated damages.</p> <p>Adds a liquidated damages provision for violations of the child labor provision prohibiting minors under age 18 from working in particularly hazardous occupations.</p>
57	<p>[§ 181A.12, subd. 5] Retaliation.</p> <p>Prohibits retaliation by an employer against an employee for asserting their rights or filing a complaint under the child labor provisions in chapter 181A or related rules.</p>
58	<p>[§ 182.6526, subd. 1] Definitions.</p> <p>Makes technical changes to definitions in the Warehouse Distribution Worker Safety Act to use existing definitions for “employee” and “employer” under MNOSHA, section 182.651, subdivisions 7 and 9. Clarifies meaning of “nonexempt” employee by cross-reference.</p>
59	<p>[§ 182.664, subd. 3] Powers and duties of board.</p> <p>Exempts deliberative hearings and meetings of the occupational safety and health review board (the “board”) from Open Meeting Law requirements under chapter 13D, including notice and recording requirements, when the board is deliberating its decision on petitions or appeals.</p>
60	<p>[§ 182.664, subd. 5] Authority of board; scope of review.</p> <p>Adds clarifying language to specify the scope of the board’s authority to review administrative law judge orders and decisions and petitions to vacate a final order of the commissioner. Adds mistake of law by the commissioner as a good cause basis to vacate a commissioner’s final order.</p>

<u>Section</u>	<u>Description</u>
61	<p>[§ 182.665] Judicial review.</p> <p>Adds consistent language clarifying that appeals to the Minnesota Court of Appeals of the board’s final orders, including petitions to vacate final orders of the commissioner, are covered by the Minnesota Administrative Procedure Act.</p>
62	<p>[§ 182.666, subd. 6] Authority to assess fines; consideration.</p> <p>Adds technical cross-reference to clarify that the more specific standards under this section apply to penalties for MNOSHA citations.</p>
63	<p>[§ 182.667, subd. 4] Investigative data.</p> <p>Provides for criminal penalties. Allows investigative data to be shared with city and county attorneys, consistent with section 13.39 that allows investigative data to be shared to “aid the law enforcement process.”</p>
64	<p>[§ 182.677, subd. 1] Definitions.</p> <p>Makes clarifying technical change to the definition of “warehouse distribution center” and “meatpacking site” in the warehouse ergonomics section.</p>
65	<p>[§ 182.677, subd. 2] Ergonomics program required.</p> <p>Makes technical change to the warehouse ergonomics section.</p>
66	<p>[§ 182.678] Surgical smoke evacuation system policies.</p> <p>The use of lasers and electrosurgical units during surgical procedures creates a smoke. The smoke can contain viruses and toxic gases and vapors and can irritate the respiratory tract.</p> <p>Requires health care employers in facilities performing surgeries, including hospitals, ambulatory surgical facilities, and outpatient surgical centers, to use a smoke evacuation system to capture and filter surgical smoke during surgeries likely to generate surgical smoke. Requires the commissioner of labor and industry to enforce the requirement.</p> <p>Effective January 1, 2025.</p>
67	<p>[§ 204B.19, subd. 6] Trainee election judges.</p> <p>Makes consistent change to the lower rate for trainee election judges to clarify they can continue to be paid two-thirds of the minimum wage rate, without distinction for a large employer.</p> <p>Effective January 1, 2025.</p>

<u>Section</u>	<u>Description</u>
68	<p>[§ 326.02, subd. 5] Limitation.</p> <p>Exempts the planning and supervision of the construction and installation of a well by a licensed well contractor from licensing requirements applying to the practices of architecture, professional engineering, land surveying, landscape architecture, professional geoscience, and interior design.</p> <p>Effective the day following final enactment.</p>
69	<p>[§ 326B.0981, subd. 3] Content.</p> <p>Corrects a cross-reference to the subdivision detailing the contents of Internet education courses.</p>
70	<p>[§ 326B.0981, subd. 4] Internet continuing education.</p> <p>Requires Internet continuing education courses for elevator constructors to be approved by the commissioner of labor and industry, rather than allowing approval by the International Distance Education Certification Center or the International Association for Continuing Education and Training.</p>
71	<p>[§ 326B.0981, subd. 8] Facilities.</p> <p>Corrects a cross-reference to the subdivision detailing the contents of Internet education courses.</p>
72	<p>[§ 326B.33, subd. 7] Power limited technician.</p> <p>Removing obsolete provisions for companies holding alarm and communication licenses as of 2003 and for persons who had submitted applications to take limited technician examinations by 2007.</p>
73	<p>[§ 326B.33, subd. 21] Exemptions from licensing.</p> <p>Amends references to the National Electrical Code to include the entire National Electrical Code. Limits the locations where an owner may perform electrical work without a license to property for owner occupancy that has a separate electrical utility service not shared with other residential dwellings.</p>
74	<p>[§ 326B.36, subd. 2] Technology systems.</p> <p>Amends references to the National Electrical Code to include the entire National Electrical Code. Exempts circuitry and equipment for indoor lighting systems from technology systems inspections. Amends the authority of an electrical inspector who witnesses noncompliance with electrical standards to include requiring the filing of an electrical permit, rather than the filing of a request for electrical inspection.</p>

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75	<p>[§ 326B.36, subd. 7] Exemptions from inspections. Amends references to the National Electrical Code to include the entire National Electrical Code.</p>
76	<p>[§ 326B.46, subd. 6] Well contract exempt from licensing and bond; conditions. Expands exemptions from plumbing licensing requirements for licensed well contractors to add designing, in addition to installing, water service lines. Effective day following final enactment.</p>
77	<p>[§ 626.892, subd. 12] Interaction with other laws. Deletes the applicability of Minnesota Rules, chapter 7315, independent review, to peace officer grievance arbitration procedure. Part of BMS technical updates.</p>
78	<p>Revisor Instruction. Makes technical update to subdivision numbering in section 179.35. Part of BMS technical updates.</p>
79	<p>Revisor Instruction. Makes consistent technical cross reference updates based on the changes made to sections 177.23 and 177.24 in sections 2, 3, and 4 of the bill.</p>
80	<p>[Minn. Rules, part 5510.0310, subpart 13] Repealer. Repeals the definition of “hearing officer or mediator” from the Minnesota Rules applying to PELRA. Part of BMS technical updates.</p>
81	<p>[Minn. Rules, part 5200.0080, subpart 7] Repealer. Repeals existing Minnesota Rule covering payment of tips by credit and debit cards, consistent with the new subdivision 3a added to section 177.24 in section 5. Effective August 1, 2024.</p>



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