

MINNESOTA

Minnesota Passes Wide-ranging Labor and Employment Policy Bill

On May 17, 2024, Minnesota enacted the [2024 Omnibus Labor and Industry Policy Bill](#), which makes several important changes to the state's employment laws. This law will:

- Require employers to disclose pay ranges in job postings;
- Prohibit certain employers from entering into restrictive employment covenants and require employees to notify employees concerning prohibited restrictive employment covenants;
- Eliminate the state's minimum wage rate tiers for large and small employers;
- Impose new wage and hour recordkeeping requirements on employers;
- Change certain child labor enforcement provisions;
- Allow employers to conduct oral fluid drug testing;
- Expand pregnancy and parental leave protections; and
- Modify the posting requirement for the state's law related to employer-sponsored meetings and communications.

The enactment date for these changes varies depending on the specific provision.

Pay Range Disclosure

Minnesota passed a new law requiring employers with **30 or more employees** at one or more worksites in the state to disclose the minimum and maximum annual salary or hourly compensation range in each job posting as well as a general description of all benefits and other compensation to be offered, including any health or retirement benefits. This law takes effect on **Jan. 1, 2025**.

The salary range can be based on the employer's good faith estimate at the time of posting an advertisement for the position. **Postings** include any solicitation intended to recruit job applicants for a specific available position. This includes electronic and printed advertisements as well as indirect recruitment done using third parties. If an employer does not plan to offer a salary range for a position, it must list a fixed pay rate; however, posted salary ranges cannot be

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Important Dates

July 1, 2024

The new law's restrictive employment covenant provisions take effect.

Aug. 1, 2024

The new law's recordkeeping, child labor, drug testing, and pregnancy and parent leave requirements take effect.

Jan. 1, 2025

The new law's pay range disclosure requirements and minimum wage provisions take effect.

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Employment Covenant Restrictions and Notification Requirements

The new law restricts service providers' ability to use restrictive employment covenants in certain situations and imposes a notification requirement when employment covenants violate these restrictions. Effective **July 1, 2024**, service providers cannot restrict or prohibit a customer from directly or indirectly soliciting or hiring their employees or independent contractors. Service providers must notify all employees whose employment contracts contain a restrictive employment covenant that violates the new law. This law only applies to contracts and agreements entered into on or after July 1, 2024.

Under the law, "**service provider**" is any partnership, association, corporation, business or group acting directly or indirectly as an employer or manager for work contracted or requested by a customer. The prohibition on restrictive employment covenants does not apply to workers providing professional business consulting for computer software development and related services who are seeking employment with a service provider with the knowledge and intent of being considered for a permanent employment position with the service provider's customer.

Minimum Wage Provisions

The Minnesota Fair Labor Standards Act (MFLSA) establishes wage rate tiers that vary depending on the employer's size. Effective **Jan. 1, 2025**, there will no longer be a distinction between **large** (an enterprise whose annual gross volume of sales made or business done is not less than \$500,000) and **small employers** (an enterprise whose annual gross volume of sales made or business done is less than \$500,000) for the purposes of meeting the state's minimum wage rate requirements. Both large and small employers will be required to pay all employees the state's single standard minimum wage. The amendment to the state's minimum wage statute will not impact employers' ability to pay a subminimum wage to employees under the age of 20 who are "in training" during their first 90 consecutive days of employment.

Additionally, the amendment raises the state's annual minimum wage cost of living adjustment from 2.5% to 5%, effective **Aug. 1, 2024**.

Recordkeeping Requirements

Under the MFLSA, covered employers are required to retain certain records for each employee. The new law expands these existing requirements by requiring all covered employers to retain earnings statements for each employee paid for each pay period. This amendment will take effect on **Aug. 1, 2024**.

Child Labor Standards

The new law amends various provisions of the Minnesota Child Labor Standards Act (MCLSA), which will become effective on **Aug. 1, 2024**. Under the new law, the Minnesota Department of Labor and Industry ("Department") may order an employer to cease and desist from engaging in a practice that violates the MCLSA and take affirmative steps to remedy any violations. The Department may also order an employer to reimburse the Department and the state's attorney general for litigation and hearings costs expended in preparing for and conducting a contested case proceeding, plus interest, unless the costs would impose extreme financial hardship on the employer. If an employer can establish extreme financial hardship, the Department can order the employer to pay a percentage of the total costs. Employers will now have **15 days**, instead of 10, to contest a compliance order issued by the Department before the order becomes final.

Under the amendment, the Department now only needs to consider the employer's size, the gravity of the situation and any history of previous violations when determining the total number of fines for MCLSA violations. Additionally, employers may be liable for liquidated damages in an amount equal to the minor's regular rate of pay for employing minors under the age of 18 who are injured in hazardous employment.

Lastly, the amendment prohibits employers from discharging, disciplining, penalizing, interfering with, threatening, restraining, coercing or otherwise retaliating or discriminating against an employee for asserting their rights under the MCLSA.

Oral Fluid Drug Testing

The new law amends Minnesota's Drug and Alcohol Testing in the Workplace (DATWA) to allow employers to use oral fluid testing in situations where an employer is authorized to conduct drug, alcohol or cannabis testing for employees or job applicants as an alternative to using the services of a testing laboratory. **Oral fluid test** means analysis of a saliva sample for the purpose of measuring the presence of the same substances as drug, alcohol and cannabis testing that can detect drugs, alcohol, cannabis or their metabolites in levels at or above the threshold detection levels contained in the standards of one of the programs listed in the DATWA and does not require the services of a testing laboratory. This amendment, which takes effect **Aug. 1, 2024**, does not change existing requirements for workplace drug, alcohol or cannabis testing.

Employers must notify employees or applicants of the results of oral fluid tests at the time of the test. If an oral fluid test produces a positive, inconclusive or invalid result, the employee or job applicant may request, within 48 hours, to be tested using the services of a testing laboratory at no cost. If the laboratory-conduct test result is positive, the employee or applicant is responsible for the costs of any subsequent retests.

Parental and Pregnancy Leave Protections

The new law amends the state's pregnancy accommodation and parenting leave laws to require employers to maintain coverage under any group insurance policy, group subscriber contract or health care plan for employees and their dependents under the same conditions as if the employees were not on leave. Employees must continue to pay their share of the benefits costs. This amendment is effective **Aug. 1, 2024**. The amendment also prohibits an employer from reducing an employee's pregnancy or parenting leave amount for any period of paid or unpaid leave taken for prenatal care medical appointments.

Poster Requirement

In Minnesota, employers are prohibited from taking or threatening to take any adverse employment action against an employee who declines to attend employer-sponsored meetings or receive employer communications concerning the religious or political opinions of the employer. Employers subject to this law must post the notice in a place where employee notices are customarily located within the workplace. The new law requires the Department to develop an educational poster providing notice of employees' rights regarding employer-sponsored meetings or communications. This poster will be made available in English and the five most common languages spoken in Minnesota. This new section becomes effective on **Oct. 1, 2024**.