

Minneapolis Enacts ‘Wage Theft Prevention Ordinance’ on Heels of Minnesota’s Wage Theft Legislation

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On January 1, 2020, the newly passed [Wage Theft Prevention Ordinance](#) will go into effect in the City of Minneapolis.

The Ordinance largely incorporates the State of Minnesota’s wage theft legislation (Minnesota Wage Theft Laws). (For details of the Minnesota wage theft legislation, see our article, [Minnesota Adds New Wage Payment and Recordkeeping Requirements; Criminalizes ‘Wage Theft.’](#)) The Minneapolis law, however, also imposes additional obligations for employers with respect to any employee who works in the City of Minneapolis at least 80 hours in one year. (Significantly, Minneapolis has taken the enforcement position that “an individual who attends a convention, conference, training, educational class, or similar in the City, but performs no other work in the City for an Employer, is *not* covered by the Ordinance.” [Emphasis added.]) Employees alleging violations under the Ordinance may file a complaint with the Minneapolis Department of Civil Rights within two years of the alleged violation, or three years of the alleged violation if the violation is found to be “willful.”

Additional Employee Notice Information Required

As of July 1, 2019, Minnesota’s Wage Theft Laws have required employers to provide detailed information, in writing, to any Minnesota employees at the start of their employment and provide written notice of related changes to all employees, during employment. Beginning January 1, 2020, the notice for covered Minneapolis employees must contain the following *additional* information pursuant to the Ordinance:

1. The date employment will start;
2. Detailed notice of the employee’s rights under Minneapolis’ Sick and Safe Ordinance, including the date the employee will begin to accrue Sick and Safe Time;
3. The employer’s policy regarding gratuities (if applicable to the position); and
4. The overtime policy applicable to the employee’s position, if any (including the rate or rates of pay and when it applies).

The Ordinance expressly requires employers to provide this information to covered employees (including *all* current employees) no later than January 1, 2020, in addition to all new hires. Like the Minnesota Wage Theft Laws, the notice must be signed by the employee, and any changes must be provided to the employee in writing before they take effect. For Minneapolis employees, however, employers must keep records of *when* they provided the initial notice to the employee and Minneapolis employees must *sign* the notice(s) of any changes implemented after the initial notice (neither of these are requirements under the Minnesota Wage Theft Laws).

Additional Earnings Statement Information Required

The Minnesota Wage Theft Laws imposed additional obligations on employers with respect to information they must include on an employee’s payroll earnings statement after July 1, 2019. Beginning on January 1, 2020, the Ordinance will require employers of covered Minneapolis employees to include information regarding the employee’s Minneapolis Sick and Safe Leave Time “accrued and unused” on each paystub. If the employer provides the earning statement electronically, it “must provide employee access to an employer-owned computer during an employee’s regular working hours to review and print earnings statements.”

Anti-Retaliation Protections Broadened

Like the Minnesota Wage Theft Laws, the Ordinance prohibits retaliation against employees for exercising their rights. The Ordinance extends the anti-retaliation protection a significant step: unlawful retaliation will be *rebuttably presumed* if an employer materially changes the terms or conditions of the employee’s employment, including termination, constructive discharge, or a

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reduction in the employee's wages or benefits, or other changes in employment that affect the employee's future career prospects, within 90 days of the employee exercising rights under the Ordinance. The employer may rebut this presumption by presenting clear and convincing evidence that the action was taken for a non-retaliatory purpose.

New Notice Poster Required

The Minnesota Wage Theft Laws do *not* have a poster requirement. But the Ordinance will require employers to post a not-yet-available notice poster regarding employee rights under the Ordinance in English and in any language spoken by at least five percent of the employees at the job site. Employers must post the notice where it may be reviewed easily by employees at the job site. If an employee does not work at a physical job site, the employer may provide a paper or electronic copy to the employee.

Additional Penalties for Non-Compliance

The Ordinance provides for civil penalties (and possible criminal penalties) for violations. Minnesota employers who already are grappling with the many changes that became effective on July 1, 2019, under the Minnesota Wage Theft Laws should start preparing now to comply with the Ordinance before the end of the year.

Jackson Lewis attorneys are ready to assist with any compliance questions.

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