Minnesota Wage Payment Requirements

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Several federal laws regulate wage payments. These include the Fair Labor Standards Act (FLSA), the Davis-Bacon Act and the Service Contract Act. In addition, Minnesota law imposes state wage payment requirements. When federal and state laws are different, the law that is more favorable to the employee will apply.

The Minnesota Department of Labor and Industry (MDLI) enforces wage payment standards throughout the state.

Method of Payment

Minnesota law requires employers to pay wages in lawful United States currency with cash, check, direct deposit (unless the employee submits a written objection) or payroll card (such as a pre-paid debit card), provided the card meets all the requirements described below.

Payroll Debit Cards

Employers can use **payroll cards** (such as a pre-paid debit card) to pay their employees' wages if all of the following conditions are met:

- The card issuer files a notice with the MDLI containing the entity's true name (and any other name under which it conduct's business), address (cannot be a post office box) and telephone number;
- The employee owns the electronic funds transferred to his or her card account;
- The employee can withdraw, in one transaction, the total amount of his or her net wages beginning on the employee's regular payday;
- The employer provides the employee a written disclosure, in plain language, of the card's terms and conditions, including a complete itemized list of all fees that may be deducted from the employee's account;
- The employee voluntarily consents, in writing, to receive his or her wages through a payroll card;
- The employer provides every employee at least one free transaction history report each month that includes all deposits, withdrawals, deductions and charges made to the employee's account;
- The card account is not linked to any form of credit, including a loan or cash advance options against future pay;
- The employer does not charge initiation, participation, loading, inactivity or dormancy fees, or any other fees to employees who elect to receive their wages through payroll card; and
- The employer does not charge any fees that were not disclosed.

Payment through payroll card cannot be a condition of hire or continued employment. Employers must provide the written disclosure, written consent and payroll card agreement in a language other than English, when necessary.

The employer must switch an employee's payment method from a payroll card to any other acceptable method within 14 days of receiving the employee's request to do so. In addition, the employee must consent, in writing, before the employer can use information generated by the employee's possession or use of a payroll card to process transactions and administer the card and the corresponding account.

Frequency of Payment

As a general rule, employers must pay employee wages **every 31 days**, on established paydays designated in advance by the employer.

However, employers may pay wages at earlier days or at more frequent intervals. However, schools must pay their employees in accordance with the terms and conditions of any existing collective bargaining agreement.

Employers with employees in **transitory employment** must pay wages at least **every 15 days**. Transitory employment is employment that requires workers to change their place of abode. Common transitory employment occupations include:

- Construction;
- Paving;
- Clearing land;
- Producing forest products; and
- Maintaining or repairing roads, highways, sewers or ditches.

Public service corporations in Minnesota must pay wages at least semimonthly (twice per month) within 15 calendar days after the end of the period, unless prevented by an inevitable casualty.

Wage Statements

At the end of each pay period, employers must provide each employee with an itemized earning statement. The statement can be in writing or in an electronic form. Employers that chose to provide electronic statements must allow their employees access to an employer-owned computer during the employee's regular working hours to review and print the statement. Employees that prefer to receive printed statements must provide their employers at least 24 hours' notice. The earning statement must show:

- The employee's name;
- The employee's wage rate and how that rate is calculated (by hour, shift, day, week, salary, piece, commission or other method);
- Any meal or lodging allowance claimed (if any);
- The total number of hours worked by the employee, unless an exemption applies;
- The total amount of gross pay the employee earned during that work period;
- An itemized list of deductions made from the employee's pay;
- The net amount of pay available to the employee (after all deductions are made);
- The end date for the pay period;
- The employer's legal name (and operating name, if different);
- The employer's main office physical address (or mailing address if different); and
- The employer's telephone number.

Withholdings and Deductions

Employers may not withhold any portion of an employee's wages unless the withholding or deduction is **authorized by law** or **by the employee**.

Common deductions authorized by law include taxes, union dues, FICA contributions, garnishments and court-ordered deductions such as child support. Common deductions authorized by employees include funds to pay for union dues (and other expenses allowed by a collective bargaining agreement), insurance premiums, loan payments and wage advances.

These authorizations must be made through a valid and legal agreement. Employers should record each withholding accurately. Unless authorized by law, wage deductions and withholdings may not reduce an employee's gross wages below the minimum wage rate.

Deductions for Lost, Stolen, Damaged Property or Faulty Workmanship

Employers may not deduct any amount (directly or indirectly) from an employee's wages to compensate for lost, stolen or damaged property or faulty workmanship, unless the employee:

- Voluntarily authorizes the deduction in writing; or Is held liable for the lost, stolen or damaged property or faulty workmanship.
- Is held liable for the lost, stolen or damaged property or faulty workmanship.

An authorization for a deduction must indicate the exact amount the employer will deduct from the employee's wages during each pay period. An employee's voluntary agreement to a deduction for lost, stolen or damaged property or faulty workmanship may not be used in any civil or criminal proceeding as evidence against the employee.

Other Deductions

In general, employers can deduct up to $50 for an employee's uniform or equipment. Motor vehicle dealers that furnish uniforms or clothing to their employees on an ongoing basis may deduct up to 50 percent of the dealer's reasonable expense for the uniform or clothing, or $25, whichever is lower. Uniform deductions include the cost of non-home maintenance.

After employment separation, employers are required to reimburse their former employees the full amount they deducted for uniforms and equipment. This requirement does not apply to motor vehicle dealers. Employers that reimburse their former employees for uniform or equipment deductions can require their former employees to surrender any existing uniforms or equipment. However, deductions for the following items are prohibited when subtracting them from an employee's wages would reduce the employee's wages below the minimum wage rate:

- Purchased or rented uniforms or specialized clothing required by the employer, if the use of the uniform or specialized clothing is not generally appropriate outside of the employee's line of work;
- Purchased or rented equipment used in employment, except tools of a trade, a motor vehicle or any other equipment that may be used outside of the employee's line of work;
- Consumable supplies required in the course of employment; and
- Travel expenses incurred in the course of employment, except expenses incurred while traveling to and from the employee's residence and place of employment.

Wage Assignments

Recipients of a wage assignment have the right to collect on a wage assignment only after they receive notice and a copy of the assignment contract **within three days** of when the assignment is made. In general, wage assignments are valid **for up to 60 days**. However, longer assignments are possible if they are for less than five years and exclude the first $1,500 of an employee's monthly wages.

Last Payment of Wages

The table below summarizes the deadlines to pay last wages when an employee separates from employment:

<table>
<tr><th>Reason for Separation</th><th>Deadline to Pay Last Wages</th><th>Penalty for Noncompliance</th></tr>
<tr><td>Resignation</td><td>By the first regularly scheduled payday following separation (unless a collective bargaining agreement dictates otherwise).
If the following scheduled payday is less than five days away, wages may be paid on the second regularly scheduled payday or within 20 days, whichever comes first.</td><td rowspan="3">Wages that are not paid within the established time frame become payable within 24 hours, upon a demand from the employee. If wages are not paid within 24 hours, penalties apply for every day (up to 15) wages remain unpaid, equal to the greater of:
The amount of the employee's average daily earnings at the employee's regular rate of pay; or
The rate required by law.</td></tr>
<tr><td>Resignation (Migrant Employee)</td><td>Within five days of separation</td></tr>
<tr><td>Discharge or Termination</td><td>Upon discharge or termination</td></tr>
<tr><td>Resignation (Employee Paid on Commission)</td><td>Within three working days after separation, if employee gave at least five days written notice.
Within six working days after separation, if employee did not give at least five days written notice.
Within 10 days after separation, if employee was entrusted with collecting, disbursing or handling funds or property.</td><td>A daily penalty applies, equal to one fifteenth of the unpaid commissions earned through the last day of employment, for up to 15 days of delay.</td></tr>
</table>

Reason for Separation	Deadline to Pay Last Wages	Penalty for Noncompliance
Separation for Any Reason (Transitory Employment)	Within 24 hours of separation	The following penalties apply: • Reasonable expenses the employee incurs to remain in the camp or away from home while waiting for the last wage payment; and • Twice the average amount of the employee's daily earnings for every day wages remain unpaid (if wages are not paid within two days of separation).

Deceased Employee

Employers may be required to pay **up to $10,000** of unpaid wages to a deceased employee's surviving spouse if, at the time of death, the employer owed unpaid wages to the deceased employee and no personal representative of the deceased employee's estate has been appointed.

Employers may account for accrued vacation or overtime credits when making this payment. This payment will be considered a full and complete discharge of the employer's duty to pay a deceased employee's wages. The sum, up to the $10,000 limit, will also be applied against the $10,000 exempt property limit the surviving spouse has in addition to the homestead and family allowance.

To certify a surviving spouse qualifies for this payment, the employer may require an affidavit proving the surviving spouse's relationship to the employee and a written acknowledgement from the surviving spouse that he or she received the decedent's unpaid wages.

Employee Protections

Employers may not, with the intent to defraud:

- Provide a statement for wages greater than the amount actually paid to the employee;
- Demand or receive any rebate or refund from the wages owed to an employee;
- Make it appear that wages paid to an employee were greater than the amount actually paid; or
- Retaliate against an employee who asserts his or her rights under the law. Employers that retaliate may be subject to a penalty of between $700 and $3,000 (per violation).

In addition, employers may not, with the intent to delay or reduce the amount of payment, alter the method, time or procedure for the payment of commissions earned through the last day of employment after an employee has resigned or has been terminated.

Wage Disclosure Protection

Under state law, employers cannot prohibit their employees from disclosing their wages as a condition of employment. This prohibition includes requiring employees to sign a waiver or other document that deny their right to disclose their wages or taking any adverse employment action against employees for disclosing their own wages or discussing another employee's wages which have been disclosed voluntarily.

However, this prohibition should not be construed to:

- Create an obligation on any employer or employee to disclose wages;
- Permit an employee, without the written consent of the employer, to disclose proprietary information, trade secret information or information that is otherwise subject to a legal privilege or protected by law;
- Diminish any existing rights under the National Labor Relations Act under United States Code, title 29; or
- Permit employees to disclose wage information of other employees to a competitor of their employer.

Penalties

Employers that violate payroll regulations face possible misdemeanor charges and fines. In addition, public service corporations that neglect or refuse to pay their employees may be assessed a **$10 penalty** in addition to any disbursement allowed by law.

Employers that violate withholding and deduction regulations may be required to pay employees up to **twice the amount** of deducted or withheld funds. Employers that violate these provisions are also subject to civil lawsuits, and may be required to pay:

- Up to twice the amount of the dispute;
- Civil penalties;
- Compensatory damages; and
- Court costs and reasonable witness' and attorneys' fees.

Employers may also be subject to injunctions or any other relief the court may consider appropriate.

Wage Theft

In addition, an employer may face criminal wage theft charges if, with the intent to defraud, the employer:

- Fails to pay an employee all wages, salary, gratuities, earnings or commissions at the employee's rate or rates of pay or at the rate or rates required by law, whichever is greater;
- Directly or indirectly causes any employee to give a receipt for wages for a greater amount than what was actually paid to the employee for the services he or she rendered;
- Directly or indirectly demands or receives from any employee any rebate or refund from the wages owed the employee under contract of employment with the employee; or
- Makes or attempts to make it appear in any manner the wages paid to any employee were greater than the amount actually paid to the employee.

Wage theft in Minnesota is punishable by **a fine, imprisonment or both**. The severity of the penalty depends on the amount of wages that were unpaid, as shown in the adjacent table. Under state law, employees can aggregate unpaid wages over any six-month period to determine the amount of stolen wages.

Unpaid Wages	Maximum Fine	Maximum Imprisonment
More than $35,000	$100,000	20 years
$5,000 - $35,000	$20,000	10 years
$1,000 - $5,000	$10,000	5 years
$500 - $1,000	$3,000	1 year