



Labor law changes in agriculture

Siv Dobrovolny | Strategic compliance lead, Labor Standards

David Skovholt | Outreach coordinator, Labor Standards

Agenda

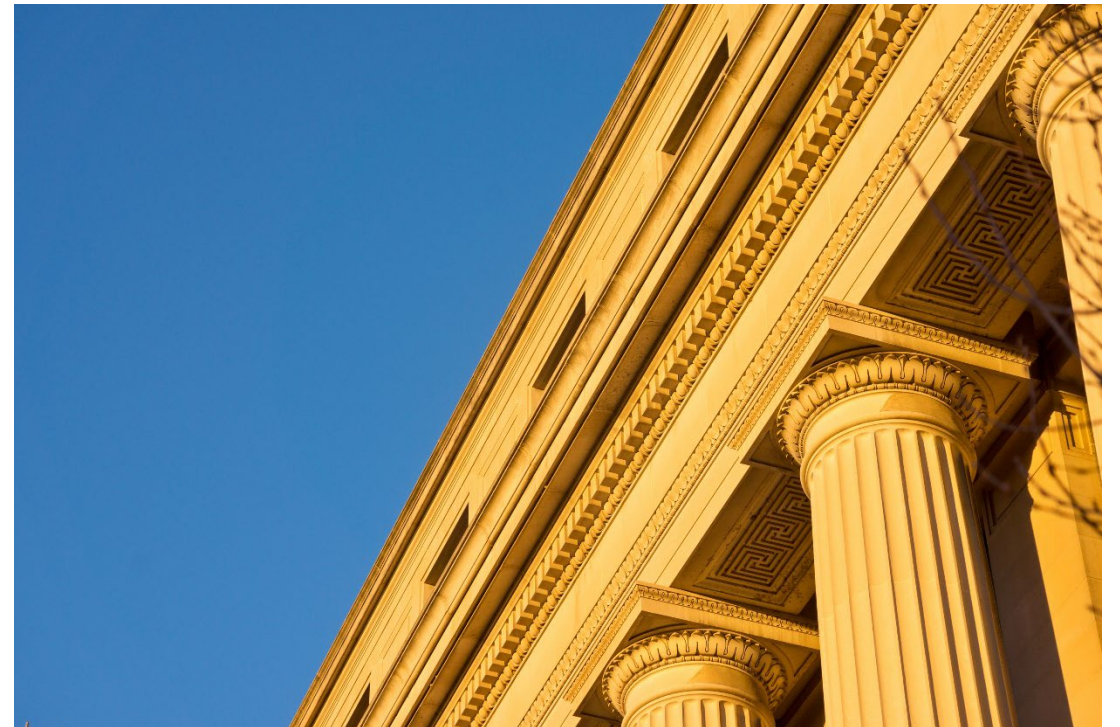
Email your questions to Dave Skovholt at
david.skovholt@state.mn.us.

We will do our best to answer as many questions as time allows.

Topic	Speaker
Welcome	Dave Skovholt, Labor Standards, Minnesota Department of Labor and Industry (DLI)
State wage and hour laws impacting the agricultural industry	Siv Dobrovolny, Labor Standards, DLI
New wage and hour laws impacting all industries	David Skovholt, Labor Standards, DLI
Updates to state meat and poultry processing wage and hour laws	Emmanuel Martinez-Cruz, workers' rights coordinator, DLI
Minnesota OSHA Compliance ergonomics and warehouse safety	Emily Tintes-Schiwal, senior industrial hygienist, DLI
Question-and-answer period	David Skovholt, facilitator, DLI

What has changed in the migrant labor law?

1. An expanded scope of workers is covered by the law to include all recruited migrant agricultural workers, not just those performing cannery work.
2. An expanded definition of employer under Minnesota Statutes 181.85, subdivision 4.



Resulting in more employers required to:

- Provide an employment statement at the time of recruitment.
- Compensate employees according to a 70-hour pay guarantee.



Recruited migrant agricultural worker

Recruited: An employer who recruits a worker, through an agent or recruiter, to travel to Minnesota by an offer of a job or possibility of a job.

Migrant: A worker 17 years or older who travels more than 100 miles to Minnesota from another state for seasonal agricultural work.

Agricultural: Field labor associated with the cultivation and harvest of fruits and vegetables and work performed in processing fruits and vegetables for market, as well as labor performed in agriculture as defined in Minnesota Rules, part 5200.0260.

Agricultural labor definition expanded

Agricultural labor: The migrant labor law now covers more kinds of workers because the definition of agriculture was expanded to mean farming in all its branches and includes but is not limited to:

- dairying;
- the field production, cultivation, growing, and harvesting of any agricultural or horticulture commodity; and
- the raising of livestock, bees, fur-bearing animals, and poultry.

Agriculture also includes repair, maintenance and construction work incidental to such operation and the cleaning, processing, preservation, loading and transporting to market or storage of the farmer's own agricultural products (Minnesota Rules 5200.0260).

Are H-2A workers considered recruited migrant agricultural workers under this law?

H-2A workers travel from another country, not another state, to Minnesota to work. This law does not apply to H-2A workers.



Employer definition

Past law

- An employer used to be defined as a processor of fruits or vegetables who employed more than 30 migrant workers.

Current law

- Employer means an individual, partnership, association, corporation, business trust, or any person or group of persons that employs, either directly or indirectly through a recruiter, one or more migrant workers in any calendar year.



Recruited migrant agricultural worker rights

A recruited migrant agricultural worker must receive:

- an employment statement (sometimes referred to as a “migrant contract”); and
- wages reflecting the 70 hour-pay guarantee.



Employment statement

An employment statement must be:

- provided to the worker at the time of recruitment;
- provided in English and Spanish or preferred language;
- employer must keep the statement for three years; and
- include workers' compensation information.

Seventy-hour pay guarantee

Wages reflecting the 70-hour pay guarantee

- Payment for guaranteed hours shall be the hourly wage rate in the employment statement, federal, state or local minimum wage, whichever is highest.
- The amount to be paid to migrant workers per day when work is not available because of climatic conditions or an act of God was increased from \$5 to \$50 per day.

70-hour pay guarantee, question

Question

I came from Texas to work at this farm. I arrived and received orientation but didn't actually start working on the farm for two more weeks. I heard there is a 70-hour guarantee of work for farm workers. What does that mean?

Pregunta

Vine de Texas para trabajar en esta granja. Llegué y recibí orientación, pero no trabajé en la granja durante dos semanas más. Escuché que hay una garantía de trabajo de 70 horas para los trabajadores agrícolas. ¿Qué significa eso?

70-hour pay guarantee, answer

Answer

Recruited migrant agricultural workers are guaranteed a minimum of 70 hours pay for work in any two successive weeks. Your work started the day you received orientation training so you should be paid for 70 hours of work even if the employer did not have any work for you to do.

Respuesta

A los trabajadores migrantes agrícolas contratados se les garantiza un mínimo de 70 horas de salario por el trabajo en dos semanas consecutivas. Su trabajo comenzó el día en que recibió la capacitación de orientación, por lo que se le debe pagar por 70 horas de trabajo, aunque el empleador no tuviera ningún trabajo para que usted hiciera.

Overtime over 48 hours

Agricultural employees in Minnesota must be paid overtime (unless there is an exemption):

- at the rate of one and a half times the employee's regular rate of pay;
- for all hours worked in excess of 48 hours; and
- in a workweek.



Overtime for agricultural workers

Question

I worked 25 hours in my first week at the farm and 55 hours the second week. I got my paycheck and did not get overtime. Why?

Pregunta

Trabajé 25 horas en mi primera semana en la granja y 55 horas la segunda semana. Recibí mi cheque y no recibí mis horas extras pagadas. ¿Por qué?

Overtime for agricultural workers, continued

Answer

Overtime should be paid for farm workers at one-and-a-half times their regular rate of pay when they work more than 48 hours in a week unless there is a specific exemption from overtime in the law. Overtime should have been paid for seven hours in the second week.

Respuesta

Las horas extras trabajadas deben de ser pagadas a los trabajadores agrícolas a tiempo y medio de su salario regular cuando trabajan más de 48 horas a la semana. Las horas extras deberían haberse pagado por 7 horas en la segunda semana.

Salary

A salary is defined as a guaranteed predetermined wage for each workweek.

This graph shows the minimum amount that must be paid each week to agricultural workers to be exempt from Minnesota overtime requirements.

Provision	Current law
Large-employer salary	\$797.48 a week
Small-employer salary	\$650.48 a week

Women's Economic Security Act (WESA)

WESA aims to strengthen workplace accommodations for pregnant and nursing employees in the workforce and includes provision regarding wage disclosure; nursing mothers; pregnancy and parental leave; sick and safe leave; and pregnancy accommodations.

Pregnancy accommodations

- More frequent food, water and bathroom breaks
- Seating accommodations
- Limits on lifting over 20 pounds
- Any other reasonable accommodation requested, such as transfer to a less strenuous or demanding position

Nursing accommodations

- Enough break time to nurse or pump
- A private room to nurse or pump
- A room other than a bathroom or toilet stall
- A room close to the work area
- A room with access to an electrical outlet

Earned sick and safe time

The screenshot shows a web browser displaying the Minnesota Department of Labor and Industry website. The page title is "EARNED SICK AND SAFE TIME". The navigation bar includes "DIRECTIONS", "CONTACT US", "CHECK A LICENSE", "GET A PERMIT", "RENEW A LICENSE", and "MAKE A PAYMENT". The main content area features a breadcrumb trail: "For business > Employment practices > Earned sick and safe time". Below the breadcrumb is a large image showing a family, a woman wearing a face mask, and a doctor examining a child. The text below the image states: "Effective Jan. 1, 2024, Minnesota's earned sick and safe time law requires employers to provide paid leave to employees who work in the state. Minnesota's current sick and safe leave law remains in effect until Dec. 31, 2023 and will be replaced by the new earned sick and safe time law on Jan. 1, 2024." A link is provided: "View FAQs about earned sick and safe time." Below this is a section titled "What is sick and safe time?" with a text block: "Sick and safe time is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse." At the bottom, there is a section titled "Who is eligible for sick and safe time?" and a red button labeled "MINNESOTA PAID FAMILY AND MEDICAL LEAVE".

DEPARTMENT OF LABOR AND INDUSTRY

DIRECTIONS CONTACT US CHECK A LICENSE GET A PERMIT RENEW A LICENSE MAKE A PAYMENT

ABOUT THE DEPARTMENT FOR BUSINESS FOR WORKERS

Select Language Powered by Google Translate

APPRENTICESHIP AND DUAL TRAINING

CODES AND LAWS

CONSTRUCTION CONTRACTOR REGISTRATION

ELECTRICAL CONTRACTORS

ELEVATOR CONTRACTORS

EMPLOYMENT PRACTICES

Age, hours restrictions

Brochures and fact sheets about labor standards

Child labor laws

Contact Labor Standards

Earned sick and safe time

FAQs: Earned sick and safe time (ESST)

Employment termination

For business > Employment practices > Earned sick and safe time

EARNED SICK AND SAFE TIME

Effective Jan. 1, 2024, Minnesota's earned sick and safe time law requires employers to provide paid leave to employees who work in the state. [Minnesota's current sick and safe leave law](#) remains in effect until Dec. 31, 2023 and will be replaced by the new earned sick and safe time law on Jan. 1, 2024.

- View FAQs about earned sick and safe time.

What is sick and safe time?

Sick and safe time is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse.

[EMAIL US](#) [CALL US](#)

Who is eligible for sick and safe time?

[MINNESOTA PAID FAMILY AND MEDICAL LEAVE](#)

Who is eligible for sick and safe time?

An employee is eligible for sick and safe time if they:

- work at least 80 hours in a year for an employer in Minnesota; and
- are not an independent contractor.

Temporary and part-time employees are eligible for sick and safe time.



Paid family and medical leave

- Paid family and medical leave is a new program launching for Minnesotans in 2026. It provides paid leave when:
 - a serious health condition prevents an employee from working;
 - an employee needs time to care for a family member or a new child; and
 - an employee needs to tend to certain military-related events or personal safety issues.
- Additional information is available on [the Department of Employment and Economic Development's website](#).

Resources

- Labor Standards agriculture landing page: dli.mn.gov/agriculture
- DLI's posters and notices page: dli.mn.gov/posters
- DLI's earned sick and safe time page: dli.mn.gov/sick-leave
- Workplace protections for new and expectant parents page: dli.mn.gov/newparents
- Contact Labor Standards at 651-284-5075 or dli.laborstandards@state.mn.us
- Stay up to date with *The Wage and Hour Bulletin*: dli.mn.gov/business/employment-practices/minnesota-wage-and-hour-bulletin



Workers' rights coordinator

Emmanuel Martinez-Cruz

Emmanuel.Martinez-Cruz@state.mn.us

651-508-1595

History

- This law passed during the 2023 legislative session and went into full effect on Jan. 1, 2024.



Workers' rights coordinator

- Enforces the act
- Inspect the facilities
- Review and recommend improvements to the practices and procedures of Minnesota meatpacking operations
- Submit an annual report
- Notify employers of the law and updates
- A meat-processing employer must grant DLI full access to all meatpacking operations in the state at any time that meatpacking products are being processed or meat-processing workers are on the job

Workers' rights coordinator, continued

- Minnesota Statutes 179.86:
Packinghouse Workers Bill of Rights
- Minn. Stat. 181.635: Recruitment;
food processing employment
- Minn. Stat. 179.87-179.877: Safe
Workplace for Meat and Poultry
Processing Workers Act



Packinghouse Workers Bill of Rights

- Employers are required to provide employees at the start of their employment with certain information about their rights and responsibilities, both verbally and in writing, and in their native language.
- This information includes a description of salary, benefits, job responsibilities, leave policies, work hours, and occupational hazards, as well as workers' compensation insurance information.
- Additional information must be provided regarding the right to: organize and bargain collectively; a safe workplace; be free from discrimination; and workers' compensation insurance coverage.
- Sample notices in English and Spanish can be found at dli.mn.gov/posters

Recruitment; food processing employment

- Employers are required to provide written disclosure of the terms and conditions of employment to a person at the time the person is recruited to relocate to Minnesota or within Minnesota to work in food processing by an offer of employment or of the possibility of employment.
- The required terms and conditions include, but are not limited to, the nature of work to be performed, the wage rate, the anticipated hours of work, workers' compensation coverage information, employee benefits, and housing availability and costs.
- The written disclosure must be in English and Spanish, or English and another language if the person's preferred language is not English or Spanish.
- Sample notices in English and Spanish can be found at dli.mn.gov/posters



Safe Workplaces for Meat and Poultry Processing Workers Act

Meat-processing worker

A "meat-processing worker" or simply "worker" is someone who works with raw meat products in a meatpacking operation. This includes independent contractors, temporary workers, and those who inspect, package, clean, maintain, or sanitize equipment or surfaces. Government inspectors are not considered meat-processing workers.



Meat-processing employer

A "meatpacking operation" or "meat-processing employer" is a meatpacking or poultry processing site with 100 or more employees in Minnesota and a North American Industrial Classification System "NAICS" code from 311611 to 311615, excluding NAICS code 311613. It does not include businesses that prepare meatpacking products for immediate consumption or for sale in a retail establishment or otherwise directly to an end-consumer, such as grocery stores, butcher shops, meat markets, delis, and restaurants.

Notifications

- Meat-processing employers are required to provide workers with written information and notifications concerning their rights under this law. This information must be provided in the worker's language of fluency at least once a year. If a worker is unable to understand the written materials, the employer must verbally provide the information and notifications in the worker's language of fluency.
- Sample notices in English, Spanish, Hmong, Somali and Russian can be found at dli.mn.gov/posters



Workplace safety – Ergonomics committee

Meat-processing employers must implement an ergonomics program developed by a knowledgeable committee to ensure worker safety. The committee must include:

- A certified professional ergonomist;
- A licensed, board-certified physician, with preference given to a physician who has specialized experience and training in occupational medicine; and
- At least three workers employed in the employer's facility who have completed a general industry outreach course approved by DLI, one of whom must be a union representative if the employer is party to a collective bargaining agreement.

If a certified professional ergonomist or a licensed, board-certified physician is not able to be on the committee, the meatpacking employer must have their ergonomics program reviewed by a certified professional ergonomist and a licensed, board-certified physician before implementation and every year thereafter.

Workplace safety – New task training

Meat-processing employers must train workers on new tasks they have not done before. The meat-processing employer must train workers about:

- How to safely perform the task;
- The ergonomic and other hazards associated with the task; and
- The early signs and symptoms of musculoskeletal injuries and the procedures for reporting them.

The employer must offer refresher training on the new task topics within 30 days of initial training. Training must be given in a language and with vocabulary the worker can understand.

Workplace safety – Annual training

Meat-processing employers must provide workers with at least eight hours of safety training each year covering relevant health and safety topics such as:

- Cuts, lacerations, amputations, machine guarding, biological hazards, lockout/tagout, hazard communication, ergonomic hazards, and personal protective equipment.

At least two hours of this training must cover the facility's ergonomic injury prevention program, including assessing surveillance data and creating an ergonomic hazard prevention and control plan. The training must be provided in a language and with vocabulary workers can understand.

Workplace safety – Medical services and qualifications

Meat-processing employers must ensure:

- All medical staff engaged by the employer are licensed and perform within the scope of their licensed practice;
- A licensed occupational medicine physician supervises the medical management of musculoskeletal disorders and advises on their management and prevention; and
- Medical management of musculoskeletal injuries follows the most current version of the American College of Occupational and Environmental Medicine practice guidelines.

Meat-processing employers cannot discourage employees from reporting injuries, hazards, or safety violations.

Workplace safety – Pandemic protections

The law requires enhanced health, safety, and sanitation measures during a peacetime public health emergency involving airborne transmission. These measures include but are not limited to the following:

- physical distancing and barriers;
- face masks and shields at no cost to the employee;
- hand sanitation;
- disinfecting the workplace;
- ventilation systems; and
- personal protective equipment at no cost to the employee.

Refusal to work under dangerous conditions

Meat-processing workers can refuse to work under dangerous conditions and must continue to receive pay without being subject to discrimination.



Retaliation

- No meat-processing employer or other person may discharge or discriminate against workers who raise health and safety concerns or otherwise exercise their rights under Minnesota's Occupational Safety and Health Act.
- No meat-processing employer or other person may require workers to sign contracts that restrict them from disclosing workplace health and safety information. Such agreements are void and unenforceable, and any attempt to impose them is a violation of the law.
- Reporting or threatening to report a meat-processing worker or their family member's immigration status for exercising their rights under the law is a violation of the law.

Enforcement – DLI

DLI may issue a compliance order requiring an employer to comply with certain provisions of the law. DLI can also order a stop-work or business closure if there is a practice that could result in death or serious physical harm.



Enforcement – Private right of action

If a meat-processing employer does not comply with the law, an aggrieved worker, union representative or other person may file a lawsuit within three years of an alleged violation.

Under certain conditions, a whistleblower lawsuit can be commenced.



Relief

- Injunctive relief
- Payment of reasonable costs, disbursements, and attorney fees
- Civil penalties of not less than \$100 per day per worker for violations
- Treble damages in addition to lost pay for retaliation violations
- Fines of up to \$10,000 for retaliation violations

Resources

- Visit dli.mn.gov/business/employment-practices/safe-workplaces-meat-and-poultry-processing-workers-act
- Visit dli.mn.gov/packinghouse
- Visit dli.mn.gov/posters
- Contact Emmanuel Martinez-Cruz (651-508-1595 or emmanuel.martinez-cruz@state.mn.us) for questions related to the laws that apply to the food processing industry or to request trainings or presentations



2023 Minnesota OSHA: Minnesota Statute 182.677, Ergonomics

Emily Tintes-Schiwal

Subdivision 1, Definitions – health care facility

“Health care facility” means:

- a hospital with a NAICS code of 622110, 622210 or 622310;
- an outpatient surgical center with a NAICS code of 621493; and
- a nursing home with a NAICS code of 623110.



Subdivision 1, Definitions – warehouse distribution center

“Warehouse distribution center” means:

- an employer with 100 or more employees in Minnesota and a NAICS code of –
 - 493110,
 - 423110 to 423990,
 - 424110 to 424990,
 - 454110 or
 - 492110.



Subdivision 1, Definitions – meatpacking site

“Meatpacking site” means:

- a meatpacking or poultry processing site with 100 or more employees in Minnesota and a NAICS code of 311611 to 311615, except 311613.



Subdivision 1, Definitions – musculoskeletal disorder

“Musculoskeletal disorder” (MSD)
means:

- a disorder of the muscles, nerves, tendons, ligaments, joints, cartilage, blood vessels or spinal discs.



Subdivision 2, Ergonomics program required

The program shall include:

- 1) an assessment to identify and reduce musculoskeletal disorder risk factors in the facility;
- 2) an initial and ongoing training of employees on ergonomics and its benefits, including the importance of reporting early symptoms of musculoskeletal disorders;
- 3) a procedure to ensure early reporting of musculoskeletal disorders to prevent or reduce the progression of symptoms, the development of serious injuries and lost-time claims;

Subdivision 2, Ergonomics program required, continued

- 4) a process for employees to provide possible solutions that may be implemented to reduce, control or eliminate workplace musculoskeletal disorders;
- 5) procedures to ensure that physical plant modifications and major construction projects are consistent with program goals; and
- 6) annual evaluations of the ergonomics program and whenever a change to the work process occurs.

Subdivision 3, Annual evaluation of program required

- There must be an established procedure to annually assess the effectiveness of the ergonomics program, including evaluation of the process to mitigate work-related risk factors in response to reporting of symptoms of musculoskeletal disorders by employees.
- The annual assessment shall determine the success of the implemented ergonomic solutions and whether goals set by the ergonomics program have been met.

Subdivision 4, Employee training

All employees must be trained on the following:

- 1) the name of each individual on the employer's safety committee;
- 2) the facility's ergonomics program;
- 3) the early signs and symptoms of musculoskeletal injuries and the procedures for reporting them;
- 4) the procedures for reporting injuries and other hazards;

Subdivision 4, Employee training, continued

- 5) any administrative or engineering controls related to ergonomic hazards that are in place or will be implemented for their positions; and
- 6) the requirements of Minn. Stat. § 182.677, subd. 9.

Subdivision 5, Involvement of employees

- Employers subject to this section must solicit feedback for its ergonomics program through its safety committee required by Minn. Stat. § 182.676, in addition to any other opportunities for employee participation the employer may provide.
- The safety committee must be directly involved in ergonomics worksite assessments and participate in the annual evaluation required by Minn. Stat. § 182.677, subd. 3.

Subdivision 6, Workplace program or AWAIR program

- An employer subject to this section must reference its ergonomics program in a written A Workplace Accident and Injury Reduction (AWAIR) program required by Minn. Stat. § 182.653, subd. 8.
- Additional information about AWAIR programs is available at dli.mn.gov/business/workplace-safety-and-health/mnosha-compliance-awair-program.

Subdivision 7, Recordkeeping

An employer subject to this section must maintain:

- 1) a written certification dated and signed by each person who provides training and containing the name and job title of each employee who receives training pursuant to this section –
 - The certifications must include the date training was conducted. The certification completed by the training providers must state that the employer has provided training consistent with the requirements of this section and include a brief summary or outline of the information that was included in the training session;

Subdivision 7, Recordkeeping, continued

- 2) a record of all worker visits to on-site medical or first aid personnel for the past five years, regardless of severity or type of illness or injury; and
- 3) a record of all musculoskeletal disorders suffered by employees for the past five years.

Subdivision 8, Availability of records

- (a) The employer must ensure that the certification records required by subdivision 7, clause (1), are up to date and available to the commissioner, employees and authorized employee representatives, if any, upon request.
- (b) Upon the request of the commissioner, an employee who is a member of the facility's safety committee, or an authorized employee representative, the employer must provide the requestor a redacted version of the medical or first aid records and records of all musculoskeletal disorders. The name, contact information and occupation of an employee, and any other information that would reveal the identity of an employee, must be removed in the redacted version. The redacted version must only include, to the extent it would not reveal the identity of an employee, the ...

Subdivision 8, Availability of records, continued

... location where the employee worked, the date of the injury or visit, a description of the medical treatment or first aid provided, and a description of the injury suffered.

(c) The employer must also make available to the commissioner and the employee who is the subject of the records the unredacted medical or first aid records and unredacted records of musculoskeletal disorders required by subdivision 7, clause (2), upon request.

Subdivision 9, Reporting encouraged

- Any employer subject to this section must not institute or maintain any program, policy or practices that discourage employees from reporting injuries, hazards, or safety and health standard violations, including ergonomic-related hazards and symptoms of musculoskeletal disorders.

Grant program

- Information about the Safety Grant Program – ergonomics is available at dli.mn.gov/business/workplace-safety-and-health/safety-grant-program-ergonomics.



Effective date

- This section is effective Jan. 1, 2024, except subd. 9 and 12 are effective July 1, 2023.

More information

Minnesota OSHA Compliance

- 651-284-5050 or 877-470-6742
- osha.compliance@state.mn.us
- This is the enforcement arm of Minnesota OSHA and can impose fines.

Minnesota OSHA Workplace Safety Consultation

- 651-284-5060 or 800-657-3776
- osha.consultation@state.mn.us
- This is the consultation arm of Minnesota OSHA. It provides services at the request of the employer and does not impose fines.

Disclaimer

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For more information, contact:

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St. Paul, MN 55155

651-284-5050 or 877-470-6742

osha.compliance@state.mn.us

dli.mn.gov/business/safety-and-health-work

Thank you

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