DEPARTMENT OF LABOR AND INDUSTRY

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Department of Labor and Industry (DLI) operating areas

DLI's mission is to ensure Minnesota's work and living environments are equitable, healthy and safe.

DLI's vision is to be a trusted resource and an impartial regulator for employers, employees, property owners and other stakeholders.

DLI operating areas:

- Workers' Compensation
- Occupational Safety and Health (OSHA)
- Labor Standards
- Apprenticeship Minnesota
- Construction Codes and Licensing
- Minnesota Dual-Training Pipeline
- Youth Skills Training
- Office of Combative Sports
- General Support

Labor Standards Division

- Ensures workers are paid fairly, enforce workplace rights and help prevent employment law violations.
- Provide guidance on wage and hour issues, including earned sick and safe time, child labor, overtime, pregnancy and parental rights, retaliation, worker misclassification and more.

Labor Standards services and process

- Investigations
  - Wage claim
  - Inform and educate
  - Investigation
- Education and outreach
  - Technical assistance
  - Training
  - Videos
  - Website and materials

Labor Standards protections for Minnesota workers

- Young workers
- Full and part-time workers
- Exempt and non-exempt
- Lower wage workers
- Seasonal workers
- People with disabilities
- TNC drivers
- Immigrants

Minnesota FLSA: Who is an employee?

Employee: Any individual employed by an employer.

Exceptions include (not exhaustive list):

- various agricultural workers
- those who meet tests for "executive, administrative, or professional" employees
- independent contractors
- 19+ exceptions (see Minnesota Statutes 177.23, Subdivision 7)

What does wage theft look like?

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- Paying less than the required minimum wage
- Not paying one-and-a-half times employee's regular rate of pay for overtime hours
- Not paying a final check upon separation of employment
- Not paying out earned tips
- Pay deductions for short rest breaks
- Working off the clock
- Misclassifying employees as independent contractors to avoid wage and hour requirements.
- Unlawful paycheck deductions

Independent contractor misclassification

Misclassification definition

The practice of labeling workers as independent contractors instead of employees in order to avoid certain legal obligations, such as worker's compensation, tax obligations, and fair labor standards.

Minnesota minimum wage

2026: $11.41/hour

2027: $11.87/hour

90-day training wage (under 20 years of age)
2026: $9.31/hour

2027: $9.68/hour

St. Paul ($14.25-$16.37) and Minneapolis ($16.37) have minimum wage ordinances that require a higher rate of pay.

The state minimum wage is higher than the federal minimum wage ($7.50). Employees must be paid the higher applicable minimum wage

Tips

- Employers may not count tips received by an employee toward the payment of minimum wage.
- Employees must receive the full amount of tips paid by card or e-payment.
- Gratuities received through credit cards or other types of electronic payments must be paid to the employee in the next pay period.
- Generally, employers may not require tip pools or splitting.
    - Employees may choose to pool or share tips
    - Dividing what is left in a tip jar among direct service employees working the same shift is not a violation of the law

Overtime rules

Minnesota law: Over 48 hours

- The Minnesota Fair Labor Standards Act requires employers to pay overtime for all hours worked over 48 per workweek, unless the employee is exempt under Minnesota Statutes 177.23, subdivision 7.

Federal law: Over 40 hours

- The federal Fair Labor Standards Act requires most employers to pay overtime for all hours worked in excess of 40 per workweek.

Overtime is

1.5x regular rate

Keep accurate records of employees' hours worked

Rest breaks

Rest breaks:

- **Allow at least 15 minutes** or enough time to utilize the nearest convenient restroom, whichever is longer**,** within **each four consecutive hours** of work.

- **Different rest breaks** may be established through **collective bargaining agreements.**

Meal breaks law

Meal breaks:

- An employer must allow each employee who is working for **six or more consecutive hours a meal break of at least 30 minutes.**
- **Different rest breaks** may be established through **collective bargaining agreements.**

What does it mean to "allow" breaks

Employers must "allow" their employees to take rest and meal breaks. However, employees may choose to not take these breaks.

An analysis of whether an employer "allows" their employees to take breaks is fact-intensive and may include, but is not limited to, whether:

- the employer has breaks-related policies;
- these policies have been communicated to employees; and
- work circumstances make it possible for employees to take breaks.

If an employee voluntarily waives their breaks, it is a best practice to confirm this in writing with the employee. Employers may consider seeking the assistance of an employment law attorney to determine whether their policies and practices allow employees to take breaks as required by Minnesota law.

Earned sick and safe time (ESST) eligibility

- Effective Jan. 1, 2024
- Employee **anticipated by the employer** to work at least 80 hours in a year
- Temporary and part-time employees
- Employees earn one hour of ESST for every 30 hours worked, up to 48 hours/year

WESA provisions enforced by DLI

1. Wage Disclosure Protection (Minn. Stat. §181.172)
2. Nursing Mothers, Lactating Employees, and Pregnancy Accommodations (Minn. Stat. §181.939)
3. Pregnancy and Parenting Leave (Minn. Stat. §181.941);
4. Reinstatement Following Leave (Minn. Stat. § 181.942); and
5. Employer Notice Requirements (Minn. Stat. §181.939)

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Paid leave, DLI responsibilities

DLI enforces Paid Leave program employment protections, including:

- employee right to reinstatement after leave;
- employers may not retaliate against an employee for requesting or obtaining benefits;
- employee right to continued insurance during leave; and
- agreements to waive paid leave rights are void.

Employee wage notice

The employee notice must include details on:

- exemptions from wage and hour laws;
- pay period length, scheduled paydays;
- the first payment date;
- It must also specify the rate(s) of pay;
- provisions for PTO;
- permissible deductions;
- employer's legal and operating names; and
- contact information including physical and mailing addresses and telephone number.

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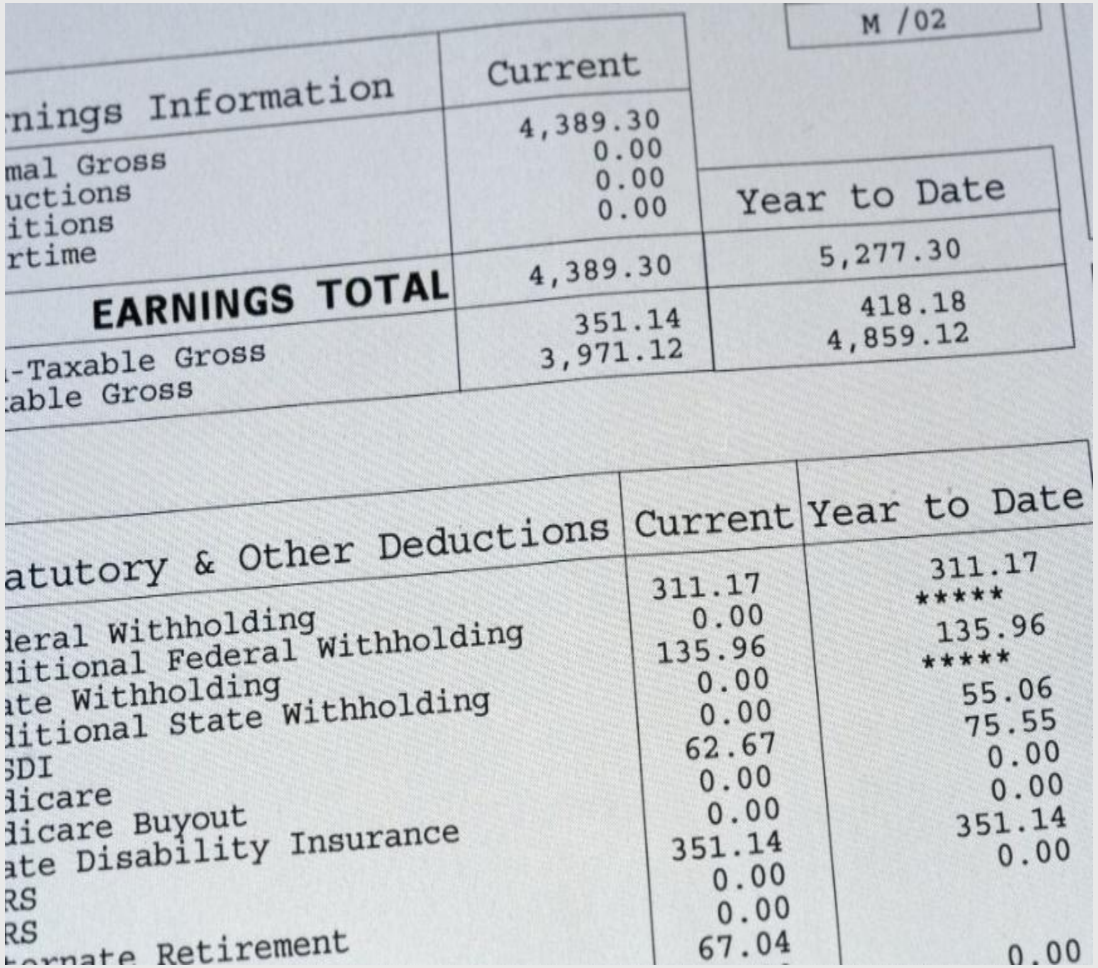
Employee notice

1. Employee:	Address:
Phone number:	Email address:
Date employment began:	
2. Legal name of employer:	Main office/principal place of business address:
Phone number:	Email address:
Operating name of employer (if different):	
Mailing address (if different):	
3. Employment status (exempt or non-exempt):	
☐ Employee is exempt from: ☐minimum wage ☐overtime ☐other provisions of Minnesota Statutes 177	
Legal basis for exemption:	
☐ Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)	
4. Rate or rates of pay	
Paid by: Hour☐ Shift☐ Day☐ Week☐ Salary☐ Piece☐ Commission☐ Other method☐	

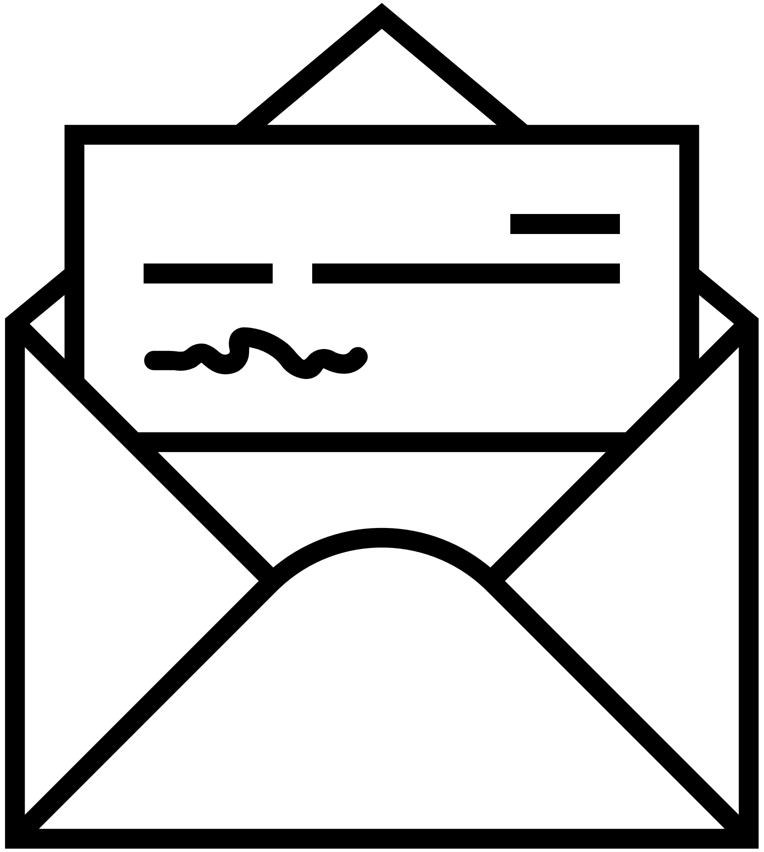
Earnings statement requirements



- Name of the employee
- Total hours worked by the employee in the pay period
- Total amount of gross pay earned by the employee in the pay period
- Net amount of pay after all deductions are made
- List of deductions made from the employee's pay
- Date pay period ended
- Employer's legal and operating name

Final wages upon separation of employment

- Employees **terminated, discharged or fired** are due all wages and commissions within 24 hours of a written demand for payment.
- For employees who **voluntarily leave employment**, wages and commissions are due on the next regularly scheduled payday. If the payday is within five days of the last day of work, the employer has up to 20 days to make final payment.
- **Penalties:** The employer may be liable to pay their former employee's average daily earnings for up to 15 days if the employer is late paying wages.



Available resources and assistance

- Stay up to date with the Labor Standards through the Wage and Hour Bulletin: dli.mn.gov/bulletin or scan the QR code.
- Labor Standards: dli.mn.gov/laborlaw
- Contact Labor Standards at 651-284-5075 or dli.laborstandards@state.mn.us.

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Wage and Hour Bulletin

Thank you

651-284-5075

dli.laborstandards@state.mn.us