

Wage theft in Minnesota: Employer information

Most Minnesota employers correctly pay their employees for the work they perform. However, there are some that do not. When an employer fails to pay all wages earned by employees, it is **wage theft**. The Minnesota Department of Labor and Industry (DLI) estimates more than 39,000 workers suffer from wage theft statewide each year. This has an impact of \$11.9 million of wages owed, but not paid to Minnesota workers.

Common illegal wage-theft practices

- Paying less than the minimum wage
- Not paying time-and-a-half for overtime
- Not paying earned tips
- Deducting pay for short rest breaks
- Requiring or allowing work off the clock without pay
- Not paying a final check upon separation of employment
- Misclassifying employees as independent contractors
- Paycheck deductions for loss of or damage to property

How to avoid committing wage theft

Employers that commit wage theft are breaking the law and undercutting competing employers, hurting business and revenue of those operating under the law. They are also open to additional liabilities under labor standards laws. The following advice will help employers avoid committing wage theft.

- Pay your employees at least the state minimum wage. Minnesota's 2021 minimum-wage rates are \$10.08 an hour for large employers and \$8.21 an hour for small employers. For additional details about the state's minimum-wage rates, visit www.dli.mn.gov/business/employment-practices/minimum-wage-minnesota. New rates take effect Jan. 1 each year. Employers operating in Minneapolis or St. Paul should understand the requirements of the minimum-wage ordinances in those cities.
- Pay your employees for all hours worked. Employees must be paid for employer-required training and for time needed to prepare to perform work, such as restocking supplies and performing safety checks. If you require employees to meet at a centralized location before driving to a worksite, pay the employee for the drive-time from the location to the worksite. Employers cannot require employees to remain at work and "punch in" only when it gets busy, "punching out" when business gets slow.
- Pay your hourly employees for overtime. Federal law requires most hourly employees to receive overtime after working 40 hours in a workweek. Some employees are exempt from this requirement, but still need to be paid overtime after 48 hours in a workweek under Minnesota law.
- Pay your employees at least every 31 days, on a regularly scheduled payday that they are notified of in advance.
- Do not misclassify employees as independent contractors. Such misclassification not only adversely impacts employees, it also creates a competitive disadvantage for employers that comply with state laws related to workers' compensation, unemployment insurance and tax withholding.

- Do not take unlawful deductions from your employees' paychecks. Deductions that generally *cannot* be made include: property loss or damage; cash shortages; and tool or uniform expenses.
- Do not require your employees to pool or share tips.

Wage-claim process

Labor Standards initiates wage claims to resolve cases of unpaid wages. This process reduces the likelihood of further investigation, litigation or penalties, which is mutually beneficial to employers and employees.

DLI's Labor Standards is here to help

1. Visit DLI's Employment Practices webpage at www.dli.mn.gov/business/employment-practices for information about child labor, minimum wage, nursing mother accommodations, overtime, parental leave, payroll recordkeeping and tips regulations, plus other important labor standards issues.
2. Subscribe to the Labor Standards *Wage and Hour Bulletin* at www.dli.mn.gov/business/employment-practices/minnesota-wage-and-hour-bulletin.
3. Contact us if you have any questions. DLI's Labor Standards staff is available from 8 a.m. to 4:30 p.m., Monday through Friday, at 651-284-5075 and dli.laborstandards@state.mn.us.
4. Invite Labor Standards to meet with your company or business association. We meet with businesses, nonprofits and others to explain Minnesota labor standards law.



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