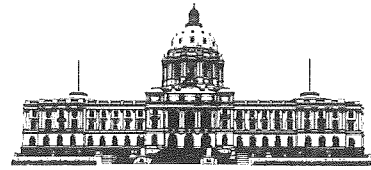


**SENATOR ERIC PRATT**

District 55  
Minnesota Senate Building 3219  
95 University Avenue West  
St. Paul, MN 55155



# Senate

State of Minnesota

Commissioner Nancy Leppink  
Minnesota Department of Labor and Industry  
443 Lafayette Road N.  
St. Paul, MN 55155

Dear Commissioner Leppink,

Last session, the Omnibus Jobs, Economic Development, Commerce, and Energy Conference Committee worked diligently, in a bipartisan effort, to craft wage theft legislation that was ultimately passed into law in Laws 2019, First Special Session Chapter 7. It has become apparent since its passage that what was intended to provide strong protections against wage theft, has also turned into a confusing administrative process for employers.

I understand that you have provided direction via a question and answer (“Q&A”) and other guidance documents on implementation of the new law on your department’s website. However, as recently as last week, the number of questions coming from legal and human resources professionals during a continuing legal education webinar entitled “New Developments In Wage Theft Law In Minnesota,” made it evident that the Q&A and direction from your agency are still leaving employers confused. I am also concerned that the guidance documentation you’ve provided overly complicates and stretches the intent of the wage theft law in certain areas. Your guidance on what is necessary to comply with the initial notice requirement found in Minnesota Statutes § 181.032 has been particularly troublesome.



## **Initial Notice to Employees**

There is confusion between what the law says and what you are telling employers regarding when an initial notice to employees is required by Minnesota Statutes § 181.032, paragraph (d). Specifically, paragraph (d) refers to a written notice that must be provided “at the start of employment” and signed by employees for employees who commence employment after the effective date of the law. The law does not contain a similar requirement for employees who started employment prior to the effective date of the law. Those employees are covered by Minnesota Statutes § 181.032, paragraph (f), which states that “an employer must provide the employee any written changes to the information contained in the notice under paragraph (d) prior to the date the changes take effect.” I recall the desire to make this written communication of changes simple, not to require generation of an initial notice to employees, which must be signed by every employee who was employed before the effective date of the law.

Questions 7 to 9 and 11 of the Q&A address this issue. Statements made in these answers suggest that the Department’s position is that employers must generate initial notices, which must be signed by the employees, when an employer first makes a change that is covered under paragraph (f), even though that procedure is not required under the plain language of the law. I am not in disagreement that giving employees a written notice with information on employment status and terms of employment is a good business practice, but the particular directive you provide was not discussed and is not in the law.

## **Translated Languages Timing Requirement**

Similar confusion is contained in the Q&A pertaining to the timeframe for providing notice in the preferred language of the employee. The language in Minnesota Statutes § 181.032, paragraph (e), states that the initial notice must be provided in English, and “if requested, the employer shall provide the notice in the language requested by the employee.”

Again, as we crafted this portion of the legislation, I recall proceeding with caution to make the language requirement not overly burdensome. We agreed to have your agency provide the translated language. What was not included in the law is the exact timing of when the translated notice language must be provided to the employee. Statements within your guidance on this issue are conflicting. For example, in questions 28 and 40, guidance on the timeframe for the translated notice appears as “obligated to provide the written notice in the requested language at the start of employment” and then as “should be accomplished as close as possible to the

start of employment.” Given that the timing of a request for translation and turnaround by your department may make delivery of the translated language at the exact start of employment impossible, your guidance should reflect that. I believe it would suffice to modify the answer to question 28 to be consistent with the correct interpretation already set forth in the answer to question 40.

These are just two examples of areas of confusion and efforts by your agency, intentional or unintentional, to expand the law without legislation. During the next legislative session, it would be our intent to clarify and fix the language with suggestions from employers and the help of your department to properly carry out the intent of the wage theft legislation that we worked so hard to craft together.

In the meantime, I hope that you and your department’s wage theft enforcement team prioritize the pursuit of actual wage theft claims, and not administrative paperwork and notice requirement mistakes.

A handwritten signature in black ink, appearing to read "Eric Pratt", with a stylized flourish at the end.

Senator Eric Pratt

District 55

CC:

Governor Tim Walz

Majority Leader Paul Gazelka

Speaker Melissa Hortman

Rep. Tim Mahoney

Rep. Mike Sundin