

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4483

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DATE	D-PG	OFFICIAL STATUS
03/04/2024	11898	Introduction and first reading Referred to Labor

1.1A bill for an act

1.2relating to employees; prohibiting misclassification of employees; imposing

1.3penalties; classifying data; amending Minnesota Statutes 2022, sections 177.27,

1.4subdivision 3; 181.171, subdivision 1; 181.722; 181.723; 270B.14, subdivision

1.517, by adding a subdivision; 326B.081, subdivisions 3, 6, 8; 326B.082, subdivisions

1.61, 2, 4, 6, 7, 10, 11, 13, by adding a subdivision; 326B.701; Minnesota Statutes

1.72023 Supplement, section 177.27, subdivisions 1, 2, 4, 7; proposing coding for

1.8new law in Minnesota Statutes, chapter 181.

1.9BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10Section 1. Minnesota Statutes 2023 Supplement, section 177.27, subdivision 1, is amended

1.11to read:

1.12Subdivision 1. **Examination of records.** The commissioner may enter during reasonable

1.13office hours or upon request and inspect the place of business or employment of any employer

1.14of employees working in the state, to examine and inspect books, registers, payrolls, and

1.15other records of any employer that in any way relate to wages, hours, and other conditions

1.16of employment of any employees. The commissioner may transcribe any or all of the books,

1.17registers, payrolls, and other records as the commissioner deems necessary or appropriate

1.18and may question the employer, employees, and other persons to ascertain compliance with

1.19any of the sections 177.21 to 177.435 and 181.165 listed in subdivision 4. The commissioner

1.20may investigate wage claims or complaints by an employee against an employer if the failure

1.21to pay a wage may violate Minnesota law or an order or rule of the department.

2.1 Sec. 2. Minnesota Statutes 2023 Supplement, section 177.27, subdivision 2, is amended
2.2 to read:

2.3 Subd. 2. **Submission of records; penalty.** The commissioner may require the employer
2.4 of employees working in the state to submit to the commissioner photocopies, certified
2.5 copies, or, if necessary, the originals of ~~employment~~ records that relate to employment or
2.6 employment status which the commissioner deems necessary or appropriate. The records
2.7 which may be required include full and correct statements in writing, including sworn
2.8 statements by the employer, containing information relating to wages, hours, names,
2.9 addresses, and any other information pertaining to the employer's employees and the
2.10 conditions of their employment as the commissioner deems necessary or appropriate.

2.11 The commissioner may require the records to be submitted by certified mail delivery
2.12 or, if necessary, by personal delivery by the employer or a representative of the employer,
2.13 as authorized by the employer in writing.

2.14 The commissioner may fine the employer up to \$10,000 for each failure to submit or
2.15 deliver records as required by this section. This penalty is in addition to any penalties
2.16 provided under section 177.32, subdivision 1. In determining the amount of a civil penalty
2.17 under this subdivision, the appropriateness of such penalty to the size of the employer's
2.18 business and the gravity of the violation shall be considered.

2.19 Sec. 3. Minnesota Statutes 2022, section 177.27, subdivision 3, is amended to read:

2.20 Subd. 3. **Adequacy of records.** If the records maintained by the employer do not provide
2.21 sufficient information to determine the exact amount of back wages due an employee, the
2.22 commissioner may make a determination of wages due based on available evidence ~~and~~
2.23 ~~mediate a settlement with the employer.~~

2.24 Sec. 4. Minnesota Statutes 2023 Supplement, section 177.27, subdivision 4, is amended
2.25 to read:

2.26 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
2.27 employer to comply with sections 177.21 to 177.435, 179.86, 181.02, 181.03, 181.031,
2.28 181.032, 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.165, 181.172, paragraph
2.29 (a) or (d), 181.214 to 181.217, 181.275, subdivision 2a, 181.635, 181.722, 181.723, 181.79,
2.30 181.85 to 181.89, 181.939 to 181.943, 181.9445 to 181.9448, 181.987, 181.991, 268B.09,
2.31 subdivisions 1 to 6, and 268B.14, subdivision 3, with any rule promulgated under section
2.32 177.28, 181.213, or 181.215. The commissioner shall issue an order requiring an employer
2.33 to comply with sections 177.41 to 177.435, 181.165, or 181.987 if the violation is repeated.

For purposes of this subdivision only, a violation is repeated if at any time during the two years that preceded the date of violation, the commissioner issued an order to the employer for violation of sections 177.41 to 177.435, 181.165, or 181.987 and the order is final or the commissioner and the employer have entered into a settlement agreement that required the employer to pay back wages that were required by sections 177.41 to 177.435. The department shall serve the order upon the employer or the employer's authorized representative in person or by certified mail at the employer's place of business. An employer who wishes to contest the order must file written notice of objection to the order with the commissioner within 15 calendar days after being served with the order. A contested case proceeding must then be held in accordance with sections 14.57 to 14.69 or 181.165. If, within 15 calendar days after being served with the order, the employer fails to file a written notice of objection with the commissioner, the order becomes a final order of the commissioner. For the purposes of this subdivision, an employer includes a contractor that has assumed a subcontractor's liability within the meaning of section 181.165.

Sec. 5. Minnesota Statutes 2023 Supplement, section 177.27, subdivision 7, is amended to read:

Subd. 7. **Employer liability.** If an employer is found by the commissioner to have violated a section identified in subdivision 4, or any rule adopted under section 177.28, 181.213, or 181.215, and the commissioner issues an order to comply, the commissioner shall order the employer to cease and desist from engaging in the violative practice and to take such affirmative steps that in the judgment of the commissioner will effectuate the purposes of the section or rule violated. In addition to remedies, damages, and penalties provided for in the violated section, the commissioner shall order the employer to pay to the aggrieved parties back pay, gratuities, and compensatory damages, less any amount actually paid to the ~~employee~~ aggrieved parties by the employer, and for an additional equal amount as liquidated damages. Any employer who is found by the commissioner to have repeatedly or willfully violated a section or sections identified in subdivision 4 shall be subject to ~~a~~ an additional civil penalty of up to \$10,000 for each violation for each employee. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered. In addition, the commissioner may order the employer to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparation for and in conducting the contested case proceeding, unless payment of costs would impose extreme financial hardship on the employer. If the employer is able to establish extreme financial hardship, then the commissioner may order the employer to pay a

percentage of the total costs that will not cause extreme financial hardship. Costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the cost of transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's order from the date the order is signed by the commissioner until it is paid, at an annual rate provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish escrow accounts for purposes of distributing remedies and damages.

Sec. 6. Minnesota Statutes 2022, section 181.171, subdivision 1, is amended to read:

Subdivision 1. **Civil action; damages.** A person may bring a civil action seeking redress for violations of sections 181.02, 181.03, 181.031, 181.032, 181.08, 181.09, 181.10, 181.101, 181.11, 181.13, 181.14, 181.145, ~~and 181.15~~, 181.722, and 181.723 directly to district court. An employer who is found to have violated the above sections is liable to the aggrieved party for the civil penalties or damages provided for in the section violated. An employer who is found to have violated the above sections shall also be liable for compensatory damages and other appropriate relief including but not limited to injunctive relief.

Sec. 7. Minnesota Statutes 2022, section 181.722, is amended to read:

181.722 MISREPRESENTATION MISCLASSIFICATION OF EMPLOYMENT RELATIONSHIP PROHIBITED EMPLOYEES.

Subdivision 1. ~~Prohibition~~ **Prohibited activities related to employment status.** ~~No employer shall misrepresent the nature of its employment relationship with its employees to any federal, state, or local government unit; to other employers; or to its employees. An employer misrepresents the nature of its employment relationship with its employees if it makes any statement regarding the nature of the relationship that the employer knows or has reason to know is untrue and if it fails to report individuals as employees when legally required to do so.~~

(a) A person shall not:

(1) fail to classify, represent, or treat an individual who is the person's employee pursuant to subdivision 3 as an employee in accordance with the requirements of any applicable local, state, or federal law. A violation under this clause is in addition to any violation of local, state, or federal law;

(2) fail to report or disclose to any person or to any local, state, or federal government agency an individual who is the person's employee pursuant to subdivision 3 as an employee when required to do so under any applicable local, state, or federal law. Each failure to report or disclose an individual as an employee shall constitute a separate violation of this clause; or

(3) require or request an individual who is the person's employee pursuant to subdivision 3 to enter into any agreement or complete any document that misclassifies, misrepresents, or treats the individual as an independent contractor or otherwise does not reflect that the individual is the person's employee pursuant to subdivision 3. Each agreement or completed document constitutes a separate violation of this provision.

(b) In addition to the person providing or performing building construction or improvement services in the course of the person's trade, business, occupation, or profession, any owner, partner, principal, member, officer, agent, superintendent, supervisor, foreperson, or other employee performing management responsibilities for the person, may be held individually liable for engaging in any of the prohibited activities in this subdivision.

(c) An order issued by the commissioner to a person for engaging in any of the prohibited activities in this subdivision is in effect against any successor person. A person is a successor person if the person shares three or more of the following with the person to whom the order was issued:

(1) has one or more of the same owners, members, principals, officers, managers, supervisors, forepersons, or individuals involved in the person's direction or control;

(2) performs similar work within the state of Minnesota;

(3) has one or more of the same telephone or fax numbers;

(4) has one or more of the same email addresses or websites;

(5) employs or engages substantially the same individuals to provide or perform services;

(6) utilizes substantially the same vehicles, facilities, or equipment; or

(7) lists or advertises substantially the same project experience and portfolio of work.

Subd. 1a. **Definitions.** (a) "Person" means any individual, sole proprietor, limited liability company, limited liability partnership, corporation, partnership, incorporated or unincorporated association, joint stock company, or any other legal or commercial entity.

(b) "Department" means the Department of Labor and Industry.

(c) "Commissioner" means the commissioner of labor and industry or a duly designated representative of the commissioner who is either an employee of the Department of Labor and Industry or a person working under contract with the Department of Labor and Industry.

(d) "Individual" means a human being.

~~Subd. 2. **Agreements to misclassify prohibited.** No employer shall require or request any employee to enter into any agreement, or sign any document, that results in misclassification of the employee as an independent contractor or otherwise does not accurately reflect the employment relationship with the employer.~~

Subd. 3. **Determination of employment relationship.** For purposes of this section, the nature of an employment relationship is determined using the same tests and in the same manner as employee status is determined under the applicable workers' compensation and or unemployment insurance program laws and rules.

~~Subd. 4. **Civil remedy Damages and penalties.** A construction worker, as defined in section 179.254, who is not an independent contractor and has been injured by a violation of this section, may bring a civil action for damages against the violator. If the construction worker injured is an employee of the violator of this section, the employee's representative, as defined in section 179.01, subdivision 5, may bring a civil action for damages against the violator on behalf of the employee. The court may award attorney fees, costs, and disbursements to a construction worker recovering under this section.~~

(a) The following damages and penalties may be imposed for a violation of this section:

(1) compensatory damages to the individual the person has failed to classify, represent, or treat as an employee pursuant to subdivision 3. Compensatory damages includes but is not limited to the value of supplemental pay including overtime; shift differentials; vacation pay, sick pay, and other forms of paid time off; health insurance; life and disability insurance; retirement plans; savings plans and any other form of benefit; employer contributions to unemployment insurance; Social Security and Medicare; and any costs and expenses incurred by the individual resulting from the person's failure to classify, represent, or treat the individual as an employee;

(2) a penalty of up to \$10,000 but not less than \$5,000 for each individual the person failed to classify, represent, or treat as an employee pursuant to subdivision 3;

(3) a penalty of up to \$10,000 for each violation of subdivision 1; and

(4) a penalty of \$1,000 for each person who delays, obstructs, or otherwise fails to cooperate with the commissioner's investigation. Each day of delay, obstruction, or failure to cooperate constitutes a separate violation.

(b) This section may be investigated and enforced under the commissioner's authority under state law.

Subd. 5. **Reporting of violations.** Any court finding that a violation of this section has occurred shall transmit a copy of its findings of fact and conclusions of law to the commissioner of labor and industry. The commissioner of labor and industry shall report the finding to relevant local, state, and federal agencies, including the commissioner of commerce, the commissioner of employment and economic development, the commissioner of revenue, the federal Internal Revenue Service, and the United States Department of Labor.

Sec. 8. Minnesota Statutes 2022, section 181.723, is amended to read:

181.723 MISCLASSIFICATION OF CONSTRUCTION CONTRACTORS EMPLOYEES.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Person" means any individual, sole proprietor, limited liability company, limited liability partnership, corporation, partnership, incorporated or unincorporated association, ~~sole proprietorship~~, joint stock company, or any other legal or commercial entity.

(b) "Department" means the Department of Labor and Industry.

(c) "Commissioner" means the commissioner of labor and industry or a duly designated representative of the commissioner who is either an employee of the Department of Labor and Industry or person working under contract with the Department of Labor and Industry.

(d) "Individual" means a human being.

(e) "Day" means calendar day unless otherwise provided.

(f) "Knowingly" means knew or could have known with the exercise of reasonable diligence.

(g) "Business entity" means a person ~~other than an individual or a sole proprietor~~ as that term is defined in paragraph (a), except the term does not include an individual.

(h) "Independent contractor" means a business entity that meets all the requirements under subdivision 4, paragraph (a).

8.1 Subd. 2. **Limited application.** This section only applies to ~~individuals~~ persons providing
8.2 or performing public or private sector commercial or residential building construction or
8.3 improvement services. Building construction and or improvement services do not include
8.4 all public or private sector commercial or residential building construction or improvement
8.5 services except for: (1) the manufacture, supply, or sale of products, materials, or
8.6 merchandise; (2) landscaping services for the maintenance or removal of existing plants,
8.7 shrubs, trees, and other vegetation, whether or not the services are provided as part of a
8.8 contract for the building construction or improvement services; and (3) all other landscaping
8.9 services, unless the other landscaping services are provided as part of a contract for the
8.10 building construction or improvement services.

8.11 Subd. 3. **Employee-employer relationship.** Except as provided in subdivision 4, for
8.12 purposes of chapters 176, 177, 181, 181A, 182, and 268, ~~as of January 1, 2009 and 326B~~,
8.13 an individual who provides or performs building construction or improvement services for
8.14 a person that are in the course of the person's trade, business, profession, or occupation is
8.15 an employee of that person and that person is an employer of the individual.

8.16 Subd. 4. **Independent contractor.** (a) An individual is an independent contractor and
8.17 not an employee of the person for whom the individual is providing or performing services
8.18 in the course of the person's trade, business, profession, or occupation only if the individual
8.19 is operating as a business entity that meets all of the following requirements at the time the
8.20 services were provided or performed:

8.21 ~~(1) maintains a separate business with the individual's own office, equipment, materials,~~
8.22 ~~and other facilities;~~

8.23 ~~(2)(i) holds or has applied for a federal employer identification number or (ii) has filed~~
8.24 ~~business or self-employment income tax returns with the federal Internal Revenue Service~~
8.25 ~~if the individual has performed services in the previous year;~~

8.26 ~~(3) is operating under contract to perform the specific services for the person for specific~~
8.27 ~~amounts of money and under which the individual controls the means of performing the~~
8.28 ~~services;~~

8.29 ~~(4) is incurring the main expenses related to the services that the individual is performing~~
8.30 ~~for the person under the contract;~~

8.31 ~~(5) is responsible for the satisfactory completion of the services that the individual has~~
8.32 ~~contracted to perform for the person and is liable for a failure to complete the services;~~

~~(6) receives compensation from the person for the services performed under the contract on a commission or per job or competitive bid basis and not on any other basis;~~

~~(7) may realize a profit or suffer a loss under the contract to perform services for the person;~~

~~(8) has continuing or recurring business liabilities or obligations; and~~

~~(9) the success or failure of the individual's business depends on the relationship of business receipts to expenditures.~~

~~An individual who is not registered, if required by section 326B.701, is presumed to be an employee of a person for whom the individual performs services in the course of the person's trade, business, profession, or occupation. The person for whom the services were performed may rebut this presumption by showing that the unregistered individual met all nine factors in this paragraph at the time the services were performed.~~

~~(b) If an individual is an owner or partial owner of a business entity, the individual is an employee of the person for whom the individual is performing services in the course of the person's trade, business, profession, or occupation, and is not an employee of the business entity in which the individual has an ownership interest, unless:~~

~~(1) the business entity meets the nine factors in paragraph (a);~~

~~(2) invoices and payments are in the name of the business entity; and~~

~~(3) the business entity is registered with the secretary of state, if required.~~

~~If the business entity in which the individual has an ownership interest is not registered, if required by section 326B.701, the individual is presumed to be an employee of a person for whom the individual performs services and not an employee of the business entity in which the individual has an ownership interest. The person for whom the services were performed may rebut the presumption by showing that the business entity met the requirements of clauses (1) to (3) at the time the services were performed.~~

(1) was established and maintained separately from and independently of the person for whom the services were provided or performed;

(2) owns, rents, or leases equipment, tools, vehicles, materials, supplies, office space, or other facilities that are used by the business entity to provide or perform building construction or improvement services;

(3) provides or performs, or offers to provide or perform, the same or similar building construction or improvement services for multiple persons or the general public;

- 10.1 (4) is in compliance with all of the following:
- 10.2 (i) holds a federal employer identification number if required by federal law;
- 10.3 (ii) holds a Minnesota tax identification number if required by Minnesota law;
- 10.4 (iii) has received and retained 1099 forms for income received for building construction
10.5 or improvement services provided or performed, if required by Minnesota or federal law;
- 10.6 (iv) has filed business or self-employment income tax returns, including estimated tax
10.7 filings, with the federal Internal Revenue Service and the Department of Revenue, as the
10.8 business entity or as a self-employed individual reporting income earned, for providing or
10.9 performing building construction or improvement services in the previous 24 months; and
- 10.10 (v) has completed and provided a W-9 federal income tax form to the person for whom
10.11 the services were provided or performed if required by federal law;
- 10.12 (5) is in good standing as defined by section 5.26 and, if applicable, has a current
10.13 certificate of good standing issued by the secretary of state pursuant to section 5.12;
- 10.14 (6) has a Minnesota unemployment insurance account if required by chapter 268;
- 10.15 (7) has obtained required workers' compensation insurance coverage if required by
10.16 chapter 176;
- 10.17 (8) holds current business licenses, registrations, and certifications if required by chapter
10.18 326B and sections 327.31 to 327.36;
- 10.19 (9) is operating under a written contract to provide or perform the specific services for
10.20 the person that:
- 10.21 (i) is signed and dated by both an authorized representative of the business entity and
10.22 of the person for whom the services are being provided or performed;
- 10.23 (ii) is fully executed before the contracted-for services commence;
- 10.24 (iii) identifies the specific services to be provided or performed under the contract; and
- 10.25 (iv) provides for a stipulated sum, lump sum, or fixed price in payment for completion
10.26 of the specific services to be provided or performed under the contract. A cost-plus contract
10.27 with or without a cap, labor and materials contract, labor contract, or any other type of
10.28 contract that provides for payment for services provided or performed to be calculated in
10.29 whole or in part based on an hourly rate, unit rate, or any basis other than a stipulated sum,
10.30 lump sum, or fixed price does not meet this requirement;

11.1 (10) submits invoices and receives payments for completion of the specific services
11.2 provided or performed under the written contract in the name of the business entity. Payments
11.3 made in cash do not meet this requirement;

11.4 (11) the terms of the written contract provide the business entity sole direction and
11.5 control over the means of providing or performing the specific services, and the business
11.6 entity in fact directs and controls the provision or performance of the specific services;

11.7 (12) incurs the main expenses and costs related to providing or performing the specific
11.8 services under the written contract, including labor, tools, materials, vehicles, equipment,
11.9 supplies, office space or other facilities, and overhead expenses and costs;

11.10 (13) is responsible for the satisfactory completion of the specific services to be provided
11.11 or performed under the written contract and is responsible, as provided under the written
11.12 contract, for failure to complete the specific services; and

11.13 (14) may realize additional profit or suffer a loss, if costs and expenses to provide or
11.14 perform the specific services under the written contract are less than or greater than the
11.15 written contract's stipulated sum, lump sum, or fixed price.

11.16 (b)(1) Any individual providing or performing the services as or for a business entity is
11.17 an employee of the person who engaged the business entity and is not an employee of the
11.18 business entity, unless the business entity meets all of the requirements under subdivision
11.19 4, paragraph (a).

11.20 (2) Any individual who is determined to be the person's employee is acting in the interest
11.21 of the person when engaging any other individual or business entity to provide or perform
11.22 any portion of the services that the business entity was engaged by the person to provide or
11.23 perform.

11.24 (3) Any individual engaged by an employee of the person, at any tier under the person,
11.25 is also the person's employee, unless the individual is providing or performing the services
11.26 as or for a business entity that meets the requirements of subdivision 4, paragraph (a).

11.27 **Subd. 7. Prohibited activities related to independent contractor status.** (a) The
11.28 prohibited activities in ~~this subdivision~~ paragraphs (b) and (c) are in addition to ~~those the~~ the
11.29 activities prohibited in sections 326B.081 to 326B.085.

11.30 (b) An individual providing or performing building construction or improvement services
11.31 shall not hold himself or herself out represent themselves as an independent contractor
11.32 unless the individual is operating as a business entity that meets all the requirements of
11.33 subdivision 4, paragraph (a).

(c) A person who provides or performs building construction or improvement services in the course of the person's trade, business, occupation, or profession shall not:

(1) as a condition of payment for services provided or performed, require an individual through coercion, misrepresentation, or fraudulent means, who is the person's employee pursuant to this section, to register as a construction contractor under section 326B.701, or to adopt or agree to being classified, represented, or treated as an independent contractor status or form a business entity. Each instance of conditioning payment to an individual who is the person's employee on one of these conditions shall constitute a separate violation of this provision;

(2) ~~knowingly misrepresent or misclassify an individual as an independent contractor;~~ fail to classify, represent, or treat an individual who is the person's employee pursuant to this section as an employee in accordance with the requirements of any of the chapters listed in subdivision 3. Failure to classify, represent, or treat an individual who is the person's employee pursuant to this section as an employee in accordance with each requirement of a chapter listed in subdivision 3 shall constitute a separate violation of this provision;

(3) fail to report or disclose to any person or to any local, state, or federal government agency an individual who is the person's employee pursuant to subdivision 3, as an employee when required to do so under any applicable local, state, or federal law. Each failure to report or disclose an individual as an employee shall constitute a separate violation of this provision;

(4) require or request an individual who is the person's employee pursuant to this section to enter into any agreement or complete any document that misclassifies, misrepresents, or treats the individual as an independent contractor or otherwise does not reflect that the individual is the person's employee pursuant to this section. Each agreement or completed document shall constitute a separate violation of this provision; or

(5) require an individual who is the person's employee to register under section 326B.701.

(d) In addition to the person providing or performing building construction or improvement services in the course of the person's trade, business, occupation, or profession, any owner, partner, principal, member, officer, agent, superintendent, supervisor, foreperson, or other employee performing management responsibilities for the person, may be held individually liable for engaging in any of the prohibited activities in this subdivision.

(e) An order issued by the commissioner to a person for engaging in any of the prohibited activities in this subdivision is in effect against any successor person. A person is a successor

13.1 person if the person shares three or more of the following with the person to whom the order
13.2 was issued:

13.3 (1) has one or more of the same owners, members, principals, officers, managers,
13.4 supervisors, forepersons, or individuals involved in the person's direction or control;

13.5 (2) performs similar work within the state of Minnesota;

13.6 (3) has one or more of the same telephone or fax numbers;

13.7 (4) has one or more of the same email addresses or websites;

13.8 (5) employs or engages substantially the same individuals to provide or perform building
13.9 construction or improvement services;

13.10 (6) utilizes substantially the same vehicles, facilities, or equipment; or

13.11 (7) lists or advertises substantially the same project experience and portfolio of work.

13.12 (f) If a person who has engaged an individual to provide or perform building construction
13.13 or improvement services that are in the course of the person's trade, business, profession,
13.14 or occupation, classifies, represents, treats, reports, or discloses the individual as an
13.15 independent contractor, the person shall maintain, for at least three years, and in a manner
13.16 that may be readily produced to the commissioner upon demand, all the information and
13.17 documentation upon which the person based the determination that the individual met all
13.18 the requirements under subdivision 4, paragraph (a), at the time the individual was engaged
13.19 and at the time the services were provided or performed. Failure to produce all information
13.20 and documentation within the time prescribed by the commissioner's demand shall result
13.21 in the person's waiver of the defense that the individual is an independent contractor.

13.22 (g) The following damages and penalties may be imposed for a violation of this section:

13.23 (1) compensatory damages to the individual the person failed to classify, represent, or
13.24 treat as an employee pursuant to this section. Compensatory damages include but are not
13.25 limited to the value of supplemental pay including overtime; shift differentials; vacation
13.26 pay; sick pay; and other forms of paid time off; health insurance; life and disability insurance;
13.27 retirement plans; saving plans and any other form of benefit; employer contributions to
13.28 unemployment insurance; Social Security and Medicare and any costs and expenses incurred
13.29 by the individual resulting from the person's failure to classify, represent, or treat the
13.30 individual as an employee;

13.31 (2) a penalty of up to \$10,000 but not less than \$5,000 for each individual the person
13.32 failed to classify, represent, or treat as an employee pursuant to this section;

14.1 (3) a penalty of up to \$10,000 for each violation of this subdivision; and

14.2 (4) a penalty of \$1,000 for any person who delays, obstructs, or otherwise fails to
14.3 cooperate with the commissioner's investigation. Each day of delay, obstruction, or failure
14.4 to cooperate constitutes a separate violation.

14.5 (h) This section may be investigated and enforced under the commissioner's authority
14.6 under state law.

14.7 Subd. 13. **Rulemaking.** The commissioner may, in consultation with the commissioner
14.8 of revenue and the commissioner of employment and economic development, adopt, amend,
14.9 suspend, and repeal rules under the rulemaking provisions of chapter 14 that relate to the
14.10 commissioner's responsibilities under this section. ~~This subdivision is effective May 26,~~
14.11 ~~2007.~~

14.12 Subd. 15. **Notice and review by commissioners of revenue and employment and**
14.13 **economic development.** When the commissioner has reason to believe that a person has
14.14 violated subdivision 7, ~~paragraph (b); or (c), clause (1) or (2);~~ the commissioner must notify
14.15 the commissioner of revenue and the commissioner of employment and economic
14.16 development. Upon receipt of notification from the commissioner, the commissioner of
14.17 revenue must review the information returns required under section 6041A of the Internal
14.18 Revenue Code. The commissioner of revenue shall also review the submitted certification
14.19 that is applicable to returns audited or investigated under section 289A.35.

14.20 Sec. 9. **[181.724] INTERGOVERNMENTAL MISCLASSIFICATION**
14.21 **ENFORCEMENT AND EDUCATION PARTNERSHIP ACT.**

14.22 Subdivision 1. **Citation.** This section and section 181.725 may be cited as the
14.23 "Intergovernmental Misclassification Enforcement and Education Partnership Act."

14.24 Subd. 2. **Policy and statement of purpose.** It is the policy of the state of Minnesota to
14.25 prevent employers from misclassifying workers, because employee misclassification allows
14.26 an employer to illegally evade obligations under state labor, employment, and tax laws,
14.27 including but not limited to the laws governing minimum wage, overtime, unemployment
14.28 insurance, workers' compensation insurance, temporary disability insurance, the payment
14.29 of wages, and payroll taxes.

14.30 Subd. 3. **Definitions.** (a) For the purposes of this section, the following terms have the
14.31 meanings given, unless the language or context clearly indicates that a different meaning
14.32 is intended.

15.1 (b) "Partnership entity" means one of the following governmental entities with jurisdiction
15.2 over employee misclassification in Minnesota:

15.3 (1) the Department of Labor and Industry;

15.4 (2) the Department of Revenue;

15.5 (3) the Department of Employment and Economic Development;

15.6 (4) the Department of Commerce; and

15.7 (5) the attorney general in its enforcement capacity under sections 177.45 and 181.1721.

15.8 (c) "Employee misclassification" means the practice by an employer of not properly
15.9 classifying workers as employees.

15.10 Subd. 4. **Coordination, collaboration, and information sharing.** For purposes of this
15.11 section, a partnership entity:

15.12 (1) shall communicate with other entities to help detect and investigate instances of
15.13 employee misclassification;

15.14 (2) may request from, provide to, or receive from the other partnership entities data
15.15 necessary for the purpose of detecting and investigating employee misclassification, unless
15.16 prohibited by federal law; and

15.17 (3) may collaborate with one another when investigating employee misclassification,
15.18 unless prohibited by federal law. Collaboration includes but is not limited to referrals,
15.19 strategic enforcement, and joint investigations by two or more partnership entities.

15.20 Sec. 10. **[181.725] INTERGOVERNMENTAL MISCLASSIFICATION**
15.21 **ENFORCEMENT AND EDUCATION PARTNERSHIP.**

15.22 Subdivision 1. **Composition.** The Intergovernmental Misclassification Enforcement and
15.23 Education Partnership is composed of the following members or their designees, who shall
15.24 serve on behalf of their respective partnership entities:

15.25 (1) the commissioner of labor and industry;

15.26 (2) the commissioner of revenue;

15.27 (3) the commissioner of employment and economic development;

15.28 (4) the commissioner of commerce; and

15.29 (5) the attorney general.

16.1 Subd. 2. **Meetings.** The commissioner of labor and industry, in consultation with other
16.2 members of the partnership, shall convene and lead meetings of the partnership to discuss
16.3 issues related to the investigation of employee misclassification and public outreach.

16.4 Members of the partnership may select a designee to attend any such meeting. Meetings
16.5 must occur at least quarterly.

16.6 Subd. 3. **Roles.** Each partnership entity may use the information received through its
16.7 participation in the partnership to investigate employee misclassification within their relevant
16.8 jurisdictions as follows:

16.9 (1) the Department of Labor and Industry in its enforcement authority under chapters
16.10 176, 177, and 181;

16.11 (2) the Department of Revenue in its enforcement authority under chapters 289A and
16.12 290;

16.13 (3) the Department of Employment and Economic Development in its enforcement
16.14 authority under chapters 268 and 268B;

16.15 (4) the Department of Commerce in its enforcement authority under chapters 45, 60A,
16.16 60K, 79, and 79A; and

16.17 (5) the attorney general in the attorney general's enforcement authority under sections
16.18 177.45 and 181.1721.

16.19 Subd. 4. **Annual presentation to the legislature.** At the request of the chairs, the
16.20 Intergovernmental Misclassification Enforcement and Education Partnership shall present
16.21 annually to members of the house of representatives and senate committees with jurisdiction
16.22 over labor. The presentation shall include information about how the partnership carried
16.23 out its duties during the preceding calendar year.

16.24 Subd. 5. **Nonentity.** The Intergovernmental Misclassification Enforcement and Education
16.25 Partnership is not a state agency under section 13.02, subdivision 17.

16.26 Subd. 6. **Duties.** The Intergovernmental Misclassification Enforcement and Education
16.27 Partnership shall:

16.28 (1) set goals to maximize Minnesota's efforts to detect, investigate, and deter employee
16.29 misclassification;

16.30 (2) share information to facilitate the detection and investigation of employee
16.31 misclassification;

(3) develop a process or procedure that provides a person with relevant information and connects them with relevant partnership entities, regardless of which partnership entity that person contacts for assistance;

(4) identify best practices in investigating employee misclassification;

(5) identify resources needed for better enforcement of employee misclassification;

(6) inform and educate stakeholders on rights and responsibilities related to employee misclassification;

(7) serve as a unified point of contact for workers, businesses, and the public impacted by misclassification;

(8) inform the public on enforcement actions taken by the partnership entities; and

(9) perform other duties as necessary to:

(i) increase the effectiveness of detection investigation, enforcement, and deterrence of employee misclassification; and

(ii) carry out the purposes of the partnership.

Subd. 7. **Public outreach.** (a) The commissioner of labor and industry shall maintain on the department's website information about the Intergovernmental Misclassification Enforcement and Education Partnership, including information about how to file a complaint related to employee misclassification.

(b) Each partnership entity shall maintain on its website information about worker classification laws, including requirements for employers and employees, consequences for misclassifying workers, and contact information for other partnership entities.

Subd. 8. **No limitation of other duties.** This section does not limit the duties or authorities of a partnership entity, or any other government entity, under state law.

Sec. 11. Minnesota Statutes 2022, section 270B.14, subdivision 17, is amended to read:

Subd. 17. **Disclosure to Department of Commerce.** (a) The commissioner may disclose to the commissioner of commerce information required to administer the Uniform Disposition of Unclaimed Property Act in sections 345.31 to 345.60, including the Social Security numbers of the taxpayers whose refunds are on the report of abandoned property submitted by the commissioner to the commissioner of commerce under section 345.41. Except for data published under section 345.42, the information received that is private or nonpublic

18.1 data retains its classification, and can be used by the commissioner of commerce only for
18.2 the purpose of verifying that the persons claiming the refunds are the owners.

18.3 (b) The commissioner may disclose a return or return information to the commissioner
18.4 of commerce under section 45.0135 to the extent necessary to investigate employer
18.5 compliance with section 176.181.

18.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.7 Sec. 12. Minnesota Statutes 2022, section 270B.14, is amended by adding a subdivision
18.8 to read:

18.9 Subd. 23. **Disclosure to the attorney general.** The commissioner may disclose a return
18.10 or return information to the attorney general for the purpose of determining whether a
18.11 business is an employer and to the extent necessary to enforce section 177.45 or 181.1721.

18.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.13 Sec. 13. Minnesota Statutes 2022, section 326B.081, subdivision 3, is amended to read:

18.14 Subd. 3. **Applicable law.** "Applicable law" means the provisions of sections 181.165,
18.15 181.722, 181.723, 325E.66, 327.31 to 327.36, this chapter, and chapter 341, and all rules,
18.16 orders, stipulation agreements, settlements, compliance agreements, licenses, registrations,
18.17 certificates, and permits adopted, issued, or enforced by the department under sections
18.18 181.165, 181.722, 181.723, 325E.66, 327.31 to 327.36, this chapter, or chapter 341.

18.19 Sec. 14. Minnesota Statutes 2022, section 326B.081, subdivision 6, is amended to read:

18.20 Subd. 6. **Licensing order.** "Licensing order" means an order issued under section
18.21 326B.082, subdivision 12, ~~paragraph (a).~~

18.22 Sec. 15. Minnesota Statutes 2022, section 326B.081, subdivision 8, is amended to read:

18.23 Subd. 8. **Stop work order.** "Stop work order" means an order issued under section
18.24 326B.082, subdivision 10.

18.25 Sec. 16. Minnesota Statutes 2022, section 326B.082, subdivision 1, is amended to read:

18.26 Subdivision 1. **Remedies available.** The commissioner may enforce all applicable law
18.27 under this section. The commissioner may use any enforcement provision in this section,
18.28 including the assessment of monetary penalties, against a person required to have a license,
18.29 registration, certificate, or permit under the applicable law based on conduct that would

provide grounds for action against a licensee, registrant, certificate holder, or permit holder under the applicable law. The use of an enforcement provision in this section shall not preclude the use of any other enforcement provision in this section or otherwise provided by law. The commissioner's investigation and enforcement authority under this section may be used by the commissioner in addition to or as an alternative to any other investigation and enforcement authority provided by law.

Sec. 17. Minnesota Statutes 2022, section 326B.082, subdivision 2, is amended to read:

Subd. 2. **Access to information and property; subpoenas.** (a) In order to carry out the purposes of the applicable law, the commissioner may:

(1) administer oaths and affirmations, certify official acts, interview, question, take oral or written statements, demand data and information, and take depositions;

(2) request, examine, take possession of, test, sample, measure, photograph, record, and copy any documents, apparatus, devices, equipment, or materials;

(3) at a time and place indicated by the commissioner, request persons to appear before the commissioner to give testimony, provide data and information, and produce documents, apparatus, devices, equipment, or materials;

(4) issue subpoenas to compel persons to ~~appear before the commissioner to give~~ testimony, provide data and information, and to produce documents, apparatus, devices, equipment, or materials; and

(5) with or without notice, enter without delay ~~upon and access all areas of~~ any property, public or private, for the purpose of taking any action authorized under this subdivision or the applicable law, including ~~obtaining~~ to request, examine, take possession of, test, sample, measure, photograph, record, and copy any data, information, ~~remedying~~ documents, apparatus, devices, equipment, or materials; to interview, question, or take oral or written statements; to remedy violations; or ~~conducting~~ to conduct surveys, inspections, or investigations.

(b) Persons requested by the commissioner to give testimony, provide data and information, or produce documents, apparatus, devices, equipment, or materials shall respond within the time and in the manner specified by the commissioner. If no time to respond is specified in the request, then a response shall be submitted within 30 days of the commissioner's service of the request.

(c) Upon the refusal or anticipated refusal of a property owner, lessee, property owner's representative, or lessee's representative to permit the commissioner's entry ~~onto~~ and access

to all areas of any property as provided in paragraph (a), the commissioner may apply for an administrative inspection order in the Ramsey County District Court or, at the commissioner's discretion, in the district court in the county in which the property is located. The commissioner may anticipate that a property owner or lessee will refuse entry and access to all areas of a property if the property owner, lessee, property owner's representative, or lessee's representative has refused to permit entry or access to all areas of a property on a prior occasion or has informed the commissioner that entry or access to areas of a property will be refused. Upon showing of administrative probable cause by the commissioner, the district court shall issue an administrative inspection order that compels the property owner or lessee to permit the commissioner to enter and be allowed access to all areas of the property for the purposes specified in paragraph (a).

(d) Upon the application of the commissioner, a district court shall treat the failure of any person to obey a subpoena lawfully issued by the commissioner under this subdivision as a contempt of court.

Sec. 18. Minnesota Statutes 2022, section 326B.082, subdivision 4, is amended to read:

Subd. 4. **Fax or email transmission.** When this section or section 326B.083 permits a request for reconsideration or request for hearing to be served by fax on the commissioner, or when the commissioner instructs that a request for reconsideration or request for hearing be served by email on the commissioner, the fax or email shall not exceed 15 printed pages in length. The request shall be considered timely served if the fax or email is received by the commissioner, at the fax number or email address identified by the commissioner in the order or notice of violation, no later than 4:30 p.m. central time on the last day permitted for faxing or emailing the request. Where the quality or authenticity of the faxed or emailed request is at issue, the commissioner may require the original request to be filed. Where the commissioner has not identified quality or authenticity of the faxed or emailed request as an issue and the request has been faxed or emailed in accordance with this subdivision, the person faxing or emailing the request does not need to file the original request with the commissioner.

Sec. 19. Minnesota Statutes 2022, section 326B.082, subdivision 6, is amended to read:

Subd. 6. **Notices of violation.** (a) The commissioner may issue a notice of violation to any person who the commissioner determines has committed a violation of the applicable law. The notice of violation must state a summary of the facts that constitute the violation and the applicable law violated. The notice of violation may require the person to correct

21.1 the violation. If correction is required, the notice of violation must state the deadline by
21.2 which the violation must be corrected.

21.3 (b) In addition to any person, a notice of violation may be issued to any individual
21.4 identified in section 181.723, subdivision 7, paragraph (d). A notice of violation is effective
21.5 against any successor person as defined in section 181.723, subdivision 7, paragraph (e).

21.6 ~~(b)~~ (c) The commissioner shall issue the notice of violation by:

21.7 (1) serving the notice of violation on the property owner or on the person who committed
21.8 the violation; or

21.9 (2) posting the notice of violation at the location where the violation occurred.

21.10 ~~(e)~~ (d) If the person to whom the commissioner has issued the notice of violation believes
21.11 the notice was issued in error, then the person may request reconsideration of the parts of
21.12 the notice that the person believes are in error. The request for reconsideration must be in
21.13 writing and must be served on, faxed, or emailed to the commissioner at the address, fax
21.14 number, or email address specified in the notice of violation by the tenth day after the
21.15 commissioner issued the notice of violation. The date on which a request for reconsideration
21.16 is served by mail shall be the postmark date on the envelope in which the request for
21.17 reconsideration is mailed. If the person does not serve, fax, or email a written request for
21.18 reconsideration or if the person's written request for reconsideration is not served on or
21.19 faxed to the commissioner by the tenth day after the commissioner issued the notice of
21.20 violation, the notice of violation shall become a final order of the commissioner and will
21.21 not be subject to review by any court or agency. The request for reconsideration must:

21.22 (1) specify which parts of the notice of violation the person believes are in error;

21.23 (2) explain why the person believes the parts are in error; and

21.24 (3) provide documentation to support the request for reconsideration.

21.25 The commissioner shall respond in writing to requests for reconsideration made under
21.26 this paragraph within 15 days after receiving the request. A request for reconsideration does
21.27 not stay a requirement to correct a violation as set forth in the notice of violation. After
21.28 reviewing the request for reconsideration, the commissioner may affirm, modify, or rescind
21.29 the notice of violation. The commissioner's response to a request for reconsideration is final
21.30 and shall not be reviewed by any court or agency.

22.1 Sec. 20. Minnesota Statutes 2022, section 326B.082, subdivision 7, is amended to read:

22.2 Subd. 7. **Administrative orders; correction; assessment of monetary penalties.** (a)
22.3 The commissioner may issue an administrative order to any person who the commissioner
22.4 determines has committed a violation of the applicable law. The commissioner shall issue
22.5 the administrative order by serving the administrative order on the person. The administrative
22.6 order may require the person to correct the violation, may require the person to cease and
22.7 desist from committing the violation, and may assess monetary damages and penalties. The
22.8 commissioner shall follow the procedures in section 326B.083 when issuing administrative
22.9 orders. Except as provided in paragraph (b), the commissioner may issue to each person a
22.10 monetary penalty of up to \$10,000 for each violation of applicable law committed by the
22.11 person. The commissioner may order that part or all of the monetary penalty will be forgiven
22.12 if the person to whom the order is issued demonstrates to the commissioner by the 31st day
22.13 after the order is issued that the person has corrected the violation or has developed a
22.14 correction plan acceptable to the commissioner.

22.15 (b) The commissioner may issue an administrative order for failure to correct a violation
22.16 by the deadline stated in a final notice of violation issued under subdivision 6 or a final
22.17 administrative order issued under paragraph (a). Each day after the deadline during which
22.18 the violation remains uncorrected is a separate violation for purposes of calculating the
22.19 maximum monetary penalty amount.

22.20 (c) Upon the application of the commissioner, a district court shall find the failure of
22.21 any person to correct a violation as required by a final notice of violation issued under
22.22 subdivision 6 or a final administrative order issued by the commissioner under this
22.23 subdivision as a contempt of court.

22.24 (d) In addition to any person, an administrative order may be issued to any individual
22.25 identified in section 181.723, subdivision 7, paragraph (d). An administrative order shall
22.26 be effective against any successor person as defined in section 181.723, subdivision 7,
22.27 paragraph (e).

22.28 Sec. 21. Minnesota Statutes 2022, section 326B.082, subdivision 10, is amended to read:

22.29 Subd. 10. **Stop work orders.** (a) ~~If the commissioner determines based on an inspection~~
22.30 ~~or investigation that a person has violated or is about to violate the applicable law, The~~
22.31 ~~commissioner may issue to the person a stop work order requiring the person to cease and~~
22.32 ~~desist from committing the violation~~ cessation of all business operations of a person at one
22.33 or more of the person's workplaces and places of business or across all of the person's
22.34 workplaces and places of business. A stop work order may be issued to any person who has

23.1 violated the applicable law, who has engaged in any of the activities under subdivision 11,
23.2 paragraph (b), or section 326B.701, subdivision 5, or who has failed to comply with a final
23.3 notice, final administrative order, or final licensing order issued by the commissioner under
23.4 this section or a final order to comply issued by the commissioner under section 177.27.

23.5 (b) The stop work order is effective upon its issuance under paragraph (e). The order
23.6 remains in effect until the commissioner issues an order lifting the stop work order upon
23.7 finding that the person has come into compliance with the applicable law, has come into
23.8 compliance with a final order or notice of violation issued by the commissioner, has ceased
23.9 and desisted from engaging in any of the activities under subdivision 11, paragraph (b), or
23.10 section 326B.701, subdivision 5, and has paid in any remedies, damages, penalties, and
23.11 other monetary sanctions, including wages owed to employees under paragraph (j), to the
23.12 satisfaction of the commissioner, or if the commissioner or appellate court modifies or
23.13 vacates the order.

23.14 (c) In addition to any person, a stop work order may be issued to any individual identified
23.15 in section 181.723, subdivision 7, paragraph (d). The stop work order is effective against
23.16 any successor person as defined in section 181.723, subdivision 7, paragraph (e).

23.17 ~~(b)~~ (d) If the commissioner determines that a condition exists on real property that
23.18 ~~violates the applicable law~~ is the basis for issuing a stop work order, the commissioner may
23.19 also issue a stop work order to the owner or lessee of the real property to cease and desist
23.20 ~~from committing the violation and to correct the condition that is in violation.~~

23.21 ~~(e)~~ (e) The commissioner shall issue the stop work order by:

23.22 (1) serving the order on the person ~~who has committed or is about to commit the violation;~~

23.23 (2) posting the order at the location where the violation was committed ~~or is about to be~~
23.24 ~~committed~~ or at the location where the ~~violating~~ condition exists that is the basis for issuing
23.25 the stop work order; or

23.26 (3) serving the order on any owner or lessee of the real property where the ~~violating~~
23.27 ~~condition exists~~ violations or conditions exist.

23.28 ~~(d)~~ (f) A stop work order shall:

23.29 (1) describe the act, conduct, or practice committed ~~or about to be committed~~, or the
23.30 condition, and include a reference to the applicable law ~~that the act, conduct, practice, or~~
23.31 ~~condition violates or would violate~~, the final order or final notice of violation, the provisions
23.32 in subdivision 11, paragraph (b); the provisions in section 326B.701, subdivision 5; or
23.33 liability under section 181.165, as applicable; and

(2) provide notice that any person aggrieved by the stop work order may request a hearing as provided in paragraph ~~(e)~~ (g).

~~(e)~~ (g) Within 30 days after the commissioner issues a stop work order, any person aggrieved by the order may request an expedited hearing to review the commissioner's action. The request for hearing must be made in writing and must be served on, emailed, or faxed to the commissioner at the address, email address, or fax number specified in the order. If the person does not request a hearing or if the person's written request for hearing is not served on, emailed, or faxed to the commissioner on or before the 30th day after the commissioner issued the stop work order, the order will become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail is the postmark date on the envelope in which the request for hearing is mailed. The hearing request must specifically state the reasons for seeking review of the order. The person who requested the hearing and the commissioner are the parties to the expedited hearing. The hearing shall be commenced within ten days after the commissioner receives the request for hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The administrative law judge shall issue a report containing findings of fact, conclusions of law, and a recommended order within ten days after the completion of the hearing, the receipt of late-filed exhibits, or the submission of written arguments, whichever is later. Any party aggrieved by the administrative law judge's report shall have five days after the date of the administrative law judge's report to submit written exceptions and argument to the commissioner that the commissioner shall consider and enter in the record. Within 15 days after receiving the administrative law judge's report, the commissioner shall issue an order vacating, modifying, or making permanent the stop work order. The commissioner and the person requesting the hearing may by agreement lengthen any time periods described in this paragraph. The Office of Administrative Hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this subdivision.

~~(f)~~ (h) A stop work order issued under this subdivision ~~shall be~~ is in effect until it is lifted by the commissioner under paragraph (b) or is modified or vacated by the commissioner or an appellate court under paragraph (b). The administrative hearing provided by this subdivision and any appellate judicial review as provided in chapter 14 shall constitute the exclusive remedy for any person aggrieved by a stop order.

(i) The commissioner may assess a civil penalty of \$5,000 per day against a person for each day the person conducts business operations that are in violation of a stop work order issued under this section.

(j) Once a stop work order becomes final, any of the person's employees affected by a stop work order issued pursuant to this subdivision shall be entitled to average daily earnings from the person for up to the first ten days of work lost by the employee because of the issuance of a stop work order. Lifting of a stop work order may be conditioned on payment of wages to employees. The commissioner may issue an order to comply under section 177.27 to obtain payment from persons liable for the payment of wages owed to the employees under this section.

~~(g)~~ (k) Upon the application of the commissioner, a district court shall find the failure of any person to comply with a final stop work order lawfully issued by the commissioner under this subdivision as a contempt of court.

Sec. 22. Minnesota Statutes 2022, section 326B.082, subdivision 11, is amended to read:

Subd. 11. **Licensing orders; grounds; reapplication.** (a) The commissioner may deny an application for a permit, license, registration, or certificate if the applicant does not meet or fails to maintain the minimum qualifications for holding the permit, license, registration, or certificate, or has any unresolved violations ~~or~~ ₂ unpaid fees₂ or monetary damages or penalties related to the activity for which the permit, license, registration, or certificate has been applied for or was issued.

(b) The commissioner may deny, suspend, limit, place conditions on, or revoke a person's permit, license, registration, or certificate, or censure the person holding or acting as qualifying person for the permit, license, registration, or certificate, if the commissioner finds that the person:

(1) committed one or more violations of the applicable law;

(2) committed one or more violations of chapter 176, 177, 181, 181A, 182, 268, 270C, or 363A;

~~(2)~~ (3) submitted false or misleading information to ~~the~~ any state agency in connection with activities for which the permit, license, registration, or certificate was issued, or in connection with the application for the permit, license, registration, or certificate;

~~(3)~~ (4) allowed the alteration or use of the person's own permit, license, registration, or certificate by another person;

~~(4)~~ (5) within the previous five years, was convicted of a crime in connection with activities for which the permit, license, registration, or certificate was issued;

~~(5)~~ (6) violated: (i) a final administrative order issued under subdivision 7, (ii) a final stop work order issued under subdivision 10, (iii) injunctive relief issued under subdivision 9, or (iv) a consent order, order to comply, or other final order ~~of~~ issued by the commissioner or the commissioner of human rights, employment and economic development, or revenue;

~~(6)~~ (7) delayed, obstructed, or otherwise failed to cooperate with a commissioner's investigation, including a request to give testimony, to provide data and information, to produce documents, things, apparatus, devices, equipment, or materials, or to enter and access all areas of any property ~~under subdivision 2;~~

~~(7)~~ (8) retaliated in any manner against any employee or person who makes a complaint, is questioned by, cooperates with, or provides information to the commissioner ~~or an employee or agent authorized by the commissioner who seeks access to property or things under subdivision 2;~~

~~(8)~~ (9) engaged in any fraudulent, deceptive, or dishonest act or practice; or

~~(9)~~ (10) performed work in connection with the permit, license, registration, or certificate or conducted the person's affairs in a manner that demonstrates incompetence, untrustworthiness, or financial irresponsibility.

(c) In addition to any person, a licensing order may be issued to any individual identified in section 181.723, subdivision 7, paragraph (d). A licensing order is effective against any successor person as defined in section 181.723, subdivision 7, paragraph (e).

~~(e)~~ (d) If the commissioner revokes or denies a person's permit, license, registration, or certificate under paragraph (b), the person is prohibited from reapplying for the same type of permit, license, registration, or certificate for at least two years after the effective date of the revocation or denial. The commissioner may, as a condition of reapplication, require the person to obtain a bond or comply with additional reasonable conditions the commissioner considers necessary to protect the public, including but not limited to demonstration of current and ongoing compliance with the laws the violation of which were the basis for revoking or denying the person's permit, license, registration, or certificate under paragraph (b) or that the person has ceased and desisted in engaging in activities under paragraph (b) that were the basis for revoking or denying the person's permit, license, registration, or certificate under paragraph (b).

~~(d)~~ (e) If a permit, license, registration, or certificate expires, or is surrendered, withdrawn, or terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the permit, license, registration, or certificate

27.1 was last effective and enter a revocation or suspension order as of the last date on which
27.2 the permit, license, registration, or certificate was in effect.

27.3 Sec. 23. Minnesota Statutes 2022, section 326B.082, subdivision 13, is amended to read:

27.4 Subd. 13. **Summary suspension.** In any case where the commissioner has issued an
27.5 order to revoke, suspend, or deny a license, registration, certificate, or permit under
27.6 subdivisions 11, paragraph (b), and 12, the commissioner may summarily suspend the
27.7 person's permit, license, registration, or certificate before the order becomes final. The
27.8 commissioner shall issue a summary suspension order when the safety of life or property
27.9 is threatened or to prevent the commission of fraudulent, deceptive, untrustworthy, or
27.10 dishonest acts against the public, including but not limited to violations of section 181.723,
27.11 subdivision 7. The summary suspension shall not affect the deadline for submitting a request
27.12 for hearing under subdivision 12. If the commissioner summarily suspends a person's permit,
27.13 license, registration, or certificate, a timely request for hearing submitted under subdivision
27.14 12 shall also be considered a timely request for hearing on continuation of the summary
27.15 suspension. If the commissioner summarily suspends a person's permit, license, registration,
27.16 or certificate under this subdivision and the person submits a timely request for a hearing,
27.17 then a hearing on continuation of the summary suspension must be held within ten days
27.18 after the commissioner receives the request for hearing unless the parties agree to a later
27.19 date.

27.20 Sec. 24. Minnesota Statutes 2022, section 326B.082, is amended by adding a subdivision
27.21 to read:

27.22 Subd. 16a. **Additional penalties and damages.** Any person who delays, obstructs, or
27.23 otherwise fails to cooperate with the commissioner's investigation may be issued a penalty
27.24 of \$1,000. Each day of delay, obstruction, or failure to cooperate shall constitute a separate
27.25 violation.

27.26 Sec. 25. Minnesota Statutes 2022, section 326B.701, is amended to read:

27.27 **326B.701 CONSTRUCTION CONTRACTOR REGISTRATION.**

27.28 Subdivision 1. **Definitions.** The following definitions apply to this section:

27.29 (a) "Building construction or improvement services" means public or private sector
27.30 commercial or residential building construction or improvement services.

27.31 ~~(a)~~ (b) "Business entity" means a person other than an individual or a sole proprietor as
27.32 that term is defined in paragraph (h), except the term does not include an individual.

(c) "Commissioner" means the commissioner of labor and industry or a duly designated representative of the commissioner who is either an employee of the Department of Labor and Industry or person working under contract with the Department of Labor and Industry.

(d) "Day" means calendar day unless otherwise provided.

(e) "Department" means the Department of Labor and Industry.

(f) "Document" or "documents" includes papers; books; records; memoranda; data; contracts; drawings; graphs; charts; photographs; digital, video, and audio recordings; records; accounts; files; statements; letters; emails; invoices; bills; notes; and calendars maintained in any form or manner.

(g) "Individual" means a human being.

(h) "Person" means any individual, sole proprietor, limited liability company, limited liability partnership, corporation, partnership, incorporated or unincorporated association, joint stock company, or any other legal or commercial entity.

Subd. 2. Applicability; registration requirement. ~~(a) Persons who perform public or private sector commercial or residential building construction or improvement services as described in subdivision 2 must register with the commissioner as provided in this section. The purpose of registration is to assist the Department of Labor and Industry, the Department of Employment and Economic Development, and the Department of Revenue to enforce laws related to misclassification of employees.~~

~~(b)~~ (a) Except as provided in paragraph (e) (b), any person who provides or performs building construction or improvement services in the state on or after September 15, 2012, of Minnesota must register with the commissioner as provided in this section before providing or performing building construction or improvement services for another person. The requirements for registration under this section are not a substitute for, and do not relieve a person from complying with, any other law requiring that the person be licensed, registered, or certified.

~~(e)~~ (b) The registration requirements in this section do not apply to:

(1) a person who, at the time the person is providing or performing the building construction or improvement services, holds a current license, certificate, or registration under chapter 299M or 326B;

~~(2) a person who holds a current independent contractor exemption certificate issued under this section that is in effect on September 15, 2012, except that the person must register~~

29.1 ~~under this section no later than the date the exemption certificate expires, is revoked, or is~~
29.2 ~~canceled;~~

29.3 ~~(3)~~ (2) a person who has given a bond to the state under section 326B.197 or 326B.46;

29.4 ~~(4)~~ (3) an employee of the person providing or performing the building construction or
29.5 improvement services, if the person was in compliance with laws related to employment of
29.6 the individual at the time the construction services were performed;

29.7 ~~(5)~~ (4) an architect or professional engineer engaging in professional practice as defined
29.8 in section 326.02, subdivisions 2 and 3;

29.9 ~~(6)~~ (5) a school district or technical college governed under chapter 136F;

29.10 ~~(7)~~ (6) a person providing or performing building construction or improvement services
29.11 on a volunteer basis, including but not limited to Habitat for Humanity and Builders Outreach
29.12 Foundation, and their individual volunteers when engaged in activities on their behalf; or

29.13 ~~(8)~~ (7) a person exempt from licensing under section 326B.805, subdivision 6, clause
29.14 ~~(5)~~ (4).

29.15 Subd. 3. **Registration application.** (a) Persons required to register under this section
29.16 must submit electronically, in the manner prescribed by the commissioner, a complete
29.17 application according to ~~paragraphs (b) to (d)~~ this subdivision.

29.18 (b) A complete application must include all of the following information and
29.19 documentation about any individual who is registering as an individual or a sole proprietor,
29.20 or who owns 25 percent or more of a business entity being registered the person who is
29.21 applying for a registration:

29.22 (1) ~~the individual's full~~ person's legal name ~~and title at the applicant's business;~~

29.23 (2) the person's assumed names filed with the secretary of state, if applicable;

29.24 ~~(2)~~ (3) ~~the individual's business address and~~ person's telephone number;

29.25 ~~(3) the percentage of the applicant's business owned by the individual; and~~

29.26 ~~(4) the individual's Social Security number.~~

29.27 ~~(c) A complete application must also include the following information:~~

29.28 ~~(1) the applicant's legal name; assumed name filed with the secretary of state, if any;~~
29.29 ~~designated business address; physical address; telephone number; and email address;~~

29.30 ~~(2) the applicant's Minnesota tax identification number, if one is required or has been~~
29.31 ~~issued;~~

30.1 ~~(3) the applicant's federal employer identification number, if one is required or has been~~
30.2 ~~issued;~~

30.3 ~~(4) evidence of the active status of the applicant's business filings with the secretary of~~
30.4 ~~state, if one is required or has been issued;~~

30.5 ~~(5) whether the applicant has any employees at the time the application is filed;~~

30.6 ~~(6) the names of all other persons with an ownership interest in the business entity who~~
30.7 ~~are not identified in paragraph (b), and the percentage of the interest owned by each person,~~
30.8 ~~except that the names of shareholders with less than ten percent ownership in a publicly~~
30.9 ~~traded corporation need not be provided;~~

30.10 ~~(7) information documenting compliance with workers' compensation and unemployment~~
30.11 ~~insurance laws;~~

30.12 (4) the person's email address;

30.13 (5) the person's business address;

30.14 (6) the person's physical address, if different from the business address;

30.15 (7) the legal name, telephone number, and email address of the person's registered agent,
30.16 if applicable, and the registered agent's business address and physical address, if different
30.17 from the business address;

30.18 (8) the jurisdiction in which the person is organized, if that jurisdiction is not in
30.19 Minnesota, as applicable;

30.20 (9) the legal name of the person in the jurisdiction in which it is organized, if the legal
30.21 name is different than the legal name provided in clause (1), as applicable;

30.22 (10) all of the following identification numbers, if all of these identification numbers
30.23 have been issued to the person. A complete application must include at least one of the
30.24 following identification numbers:

30.25 (i) the person's Social Security number;

30.26 (ii) the person's Minnesota tax identification number; or

30.27 (iii) the person's federal employer identification number;

30.28 (11) evidence of the active status of the person's business filings with the secretary of
30.29 state, if applicable;

30.30 (12) whether the person has any employees at the time the application is filed, and if so,
30.31 how many employees the person employs;

(13) the legal names of all persons with an ownership interest in the business entity, if applicable, and the percentage of the interest owned by each person, except that the names of shareholders with less than ten percent ownership in a publicly traded corporation need not be provided;

(14) information documenting the person's compliance with workers' compensation and unemployment insurance laws for the person's employees, if applicable;

(15) whether the person or any persons with an ownership interest in the business entity as disclosed under clause (13) have been issued a notice of violation, administrative order, licensing order, or order to comply by the Department of Labor and Industry in the last ten years;

~~(8)~~ (16) a certification that the ~~person~~ individual signing the application has: reviewed it; ~~determined~~ asserts that the information and documentation provided is true and accurate; and ~~determined~~ that the ~~person signing~~ individual is authorized to sign and file the application as an agent or authorized representative of the ~~applicant~~ person. The name of the ~~person~~ individual signing, entered on an electronic application, shall constitute a valid signature of the agent or authorized representative on behalf of the ~~applicant~~ person; and

~~(9)~~ (17) a signed authorization for the Department of Labor and Industry to verify the information and documentation provided on or with the application.

~~(d)~~ (c) A registered person must notify the commissioner within 15 days after there is a change in any of the information on the application as approved. This notification must be provided electronically in the manner prescribed by the commissioner. However, if the ~~business entity~~ structure or legal form of the business entity has changed, the person must submit a new registration application ~~and registration fee, if any, for the new business entity.~~

~~(e) The registered~~ (d) A person must remain registered maintain a current and up-to-date registration while providing or performing building construction or improvement services for another person. The provisions of sections 326B.091, 326B.094, 326B.095, and 326B.097 apply to this section. ~~A person with an expired registration shall not provide construction services for another person if registration is required under this section.~~ Registration application and expiration time frames are as follows:

~~(1) all registrations issued on or before December 31, 2015, expire on December 31, 2015;~~

~~(2)~~ (1) all registrations issued after December 31, 2015, expire on the following December 31 of each odd-numbered year; and

(3) (2) a person may submit a ~~registration or~~ renewal application starting October 1 of the year the registration expires. If a renewal application is submitted later than December 1 of the expiration year, the registration may expire before the department has issued or denied the ~~registration~~ renewal.

Subd. 4. **Website.** (a) The commissioner shall develop and maintain a website on which ~~applicants for registration~~ persons can submit a ~~registration or renewal~~ application. The website shall be designed to receive and process ~~registration~~ applications and promptly issue registration certificates electronically to successful applicants.

(b) The commissioner shall maintain ~~the certificates of registration on the department's official public website, which shall include~~ the following information on the department's official public website:

(1) the registered person's legal ~~business~~ name, including any assumed name, ~~as filed~~ with the secretary of state;

(2) the legal names of the persons with an ownership interest in the business entity;

~~(2) (3)~~ (3) the registered person's business address designated and physical address, if different from the business address, provided on the application; and

~~(3) (4)~~ (4) the effective date of the registration and the expiration date.

Subd. 5. **Prohibited activities related to registration.** (a) The prohibited activities in this subdivision are in addition to those prohibited in ~~sections 326B.081 to 326B.085~~ section 326B.082, subdivision 11.

(b) A person who provides or performs building construction or improvement services ~~in the course of the person's trade, business, occupation, or profession~~ shall not:

(1) ~~contract with~~ provide or perform building construction or improvement services for ~~another person~~ without first being registered, if required by to be registered under this section;

(2) require an individual who is the person's employee to register; or

~~(2) contract with or pay~~ (3) engage another person to provide or perform building construction or improvement services if the other person is required to be registered under this section and is not registered if required by subdivision 2. All payments to an unregistered person for construction services on a single project site shall be considered a single violation.

It is not a violation of this clause:

(i) for a person to ~~contract with or pay~~ have engaged an unregistered person if the unregistered person ~~was registered at the time the contract for construction services was entered into~~ held a current registration on the date they began providing or performing the building construction or improvement services; or

(ii) for a homeowner or business to ~~contract with or pay~~ engage an unregistered person if the homeowner or business is not in the trade, business, profession, or occupation of performing building construction or improvement services; ~~or.~~

~~(3) be penalized for violations of this subdivision that are committed by another person. This clause applies only to violations of this paragraph.~~

(c) Each day a person who is required to be registered provides or performs building construction or improvement services while unregistered shall be considered a separate violation.

Subd. 6. **Investigation and enforcement; remedies; and penalties.** ~~(a) Notwithstanding the maximum penalty amount in section 326B.082, subdivisions 7 and 12, the maximum penalty for failure to register is \$2,000, but the commissioner shall forgive the penalty if the person registers within 30 days of the date of the penalty order.~~

~~(b) The penalty for contracting with or paying an unregistered person to perform construction services in violation of subdivision 5, paragraph (b), clause (2), shall be as provided in section 326B.082, subdivisions 7 and 12, but the commissioner shall forgive the penalty for the first violation.~~

The commissioner may investigate and enforce this section under the authority in chapters 177 and 326B.

Subd. 7. **Notice requirement.** ~~Notice of a penalty order for failure to register must include a statement that the penalty shall be forgiven if the person registers within 30 days of the date of the penalty order.~~

Subd. 8. **Data classified.** Data in applications and any required documentation submitted to the commissioner under this section are private data on individuals or nonpublic data as defined in section 13.02. ~~Data in registration certificates issued by the commissioner are public data; except that for the registration information published on the department's website may be accessed for registration verification purposes only.~~ Data that document a suspension, revocation, or cancellation of a certificate registration are public data. ~~Upon request of~~ Notwithstanding its classification as private data on individuals or nonpublic data, data in applications and any required documentation submitted to the commissioner under this

34.1 section may be used by the commissioner to investigate and take enforcement action related
34.2 to laws for which the commissioner has enforcement responsibility and the commissioner
34.3 may share data and documentation with the Department of Revenue, the Department of
34.4 Commerce, the Department of Human Rights, or the Department of Employment and
34.5 Economic Development; The commissioner may release to the ~~requesting department~~
34.6 departments data classified as private or nonpublic under this subdivision or investigative
34.7 data that are not public under section 13.39 that relate to ~~the issuance or denial of applications~~
34.8 ~~or revocations of certificates~~ prohibited activities under this section and section 181.723.