

## Allocation Application

### Minnesota Film Production Tax Credit Program

#### Application procedures and program overview

The State of Minnesota provides a tax credit of up to 25% to attract and expand film production in the state. A film production company (applicant) may receive an assignable Tax Credit Certificate for up to 25% of eligible production costs for a project that expends at least \$1,000,000.00 in such costs in a consecutive 12-month period.

For a project to become eligible, an applicant applies for a credit allocation certificate from Explore Minnesota Film at least 30 but no more than 180 days prior to principal photography. Upon completion of the project, the applicant commissions a Cost Verification Report to be prepared by an independent certified public accountant (CPA) licensed in Minnesota; the CPA will verify the amount of eligible production costs related to the project. The applicant then provides the report to Explore Minnesota Film to determine the final credit amount, and a Tax Credit Certificate is issued. The recipient of a Tax Credit Certificate may use it or may assign the credit to another taxpayer.

- Step 1: Applicant participates in a pre-application consultation. To schedule an appointment email [jill.johansen@state.mn.us](mailto:jill.johansen@state.mn.us)
- Step 2: Applicant submits a Film Production Tax Credit Application and supporting documentation by email to [MNfilmtaxcredit.emn@state.mn.us](mailto:MNfilmtaxcredit.emn@state.mn.us)
- Step 3: Explore Minnesota Film reviews the application and determines if the proposed project meets the program's minimum requirements
- Step 4: Upon satisfactory review, Explore Minnesota issues the applicant a Credit Allocation Letter and schedules an implementation meeting with approved applicant
- Step 5: On the day principal photography begins in Minnesota, the applicant submits a Project Start Certification and call sheets by email to [MNfilmtaxcredit.emn@state.mn.us](mailto:MNfilmtaxcredit.emn@state.mn.us)
- Step 6: Within 30 days of project completion the applicant commissions the Cost Verification Report
- Step 7: Applicant provides Cost Verification Report and Final Production and Economic Impact Report to Explore Minnesota Film within 30 days of the report completion date. Explore Minnesota Film reviews the report, requests additional documentation, and issues a Tax Credit Certificate.
- Step 8: Applicant files for the credit on its Minnesota tax return filed with the Minnesota Department of Revenue (MDOR). In the event the Tax Credit Certificate holder elects to assign the certificate another taxpayer, the assignee must notify MDOR within 30 days of assignment.

#### Section I. Business name and identifying information

Production company legal name ("Applicant"): \_\_\_\_\_

DBA/Trade name/Previous name (if any): \_\_\_\_\_

Federal Tax ID number: \_\_\_\_\_

Minnesota Tax ID number: \_\_\_\_\_

Applicant's street address line 1: \_\_\_\_\_

Applicant's street address line 2: \_\_\_\_\_

City, State, Zip code: \_\_\_\_\_

Applicant's phone number: \_\_\_\_\_

Website: \_\_\_\_\_

Business type (check one):

☐ C Corp

☐ S Corp

☐ LLC

☐ Partnership

☐ Other: \_\_\_\_\_

State of organization/incorporation: \_\_\_\_\_

Year entity was formed: \_\_\_\_\_

## **Section II. Applicant's authorized representative(s)**

Primary:

First name: \_\_\_\_\_ Last name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email address: \_\_\_\_\_

Secondary:

First name: \_\_\_\_\_ Last name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email address: \_\_\_\_\_

### Section III. Project overview

Title of project: \_\_\_\_\_

Type of project (check one):

Feature Film

Documentary

National Television/Internet

TV/Internet Pilot

TV/Internet Commercial

Music video

Post-production only

Provide a detailed description on the project (log line):

What are the distribution plans?

Is a distribution deal under contract?

No      Yes (if yes, attach a copy)

Where in Minnesota will principal photography take place (list specific key locations)?

How many days of principal photography will be shot in Minnesota? \_\_\_\_\_

How many days of principal photography will be shot **outside** of Minnesota? \_\_\_\_\_

#### Section IV. Budget overview

Complete Budget Overview. This information will be collected twice:

- At the time of application, detailed budget (top sheet and complete line item detail) with Minnesota expenses denoted. The budget **MUST** have a column added to the layout denoting MN qualified expenses as "MQE."
- After the project has been completed, actual dollar amounts will be submitted along with the Cost Verification report.

Complete the table below with the projected amount of spend by source that will occur in this application's tax year for this project. Multiply the Minnesota qualified spend by 25%, round to the nearest dollar, and enter the amount in the amount of tax credit allocation requested.

| Projected spend by source                      | Spend amount | Allowable percentage | Amount of tax credit allocation requested |
|------------------------------------------------|--------------|----------------------|-------------------------------------------|
| Total above-the-line <b>MN resident</b> spend  |              | 25%                  |                                           |
| Total above-the-line <b>non-resident</b> spend |              | 25%                  |                                           |
| Total below-the-line <b>MN resident</b> spend  |              | 25%                  |                                           |
| Total below-the-line <b>non-resident</b> spend |              | 20%                  |                                           |
| Total related party spend                      |              | 25%                  |                                           |
| Total Minnesota qualified spend                |              | 25%                  |                                           |

Can the applicant provide proof of funding (in the form of a signed bank letter and statement, completion bond, valid contract, or equivalent) that it has secured at least 50% of the total project budget at the time of this application?

True      False (project may be deemed ineligible for a Tax Credit Allocation Certificate)

#### **Section V. Project timeline**

Will pre-production occur in Minnesota?

No      Yes (if yes, on what date will it begin? \_\_\_\_\_)

Principal photography is anticipated to begin in Minnesota on: \_\_\_\_\_

Principal photography is estimated to end on: \_\_\_\_\_

Will post-production occur in Minnesota?

No      Yes (if yes, on what date is it anticipated to end? \_\_\_\_\_)

#### **Section VI. Disclosures**

Does the business have any outstanding local, state, or federal tax liabilities?

No      Yes (if yes, attach a statement)

Are there any current or unsatisfied judgments or injunctions against the business owners?

No      Yes (if yes, attach a statement)

Is there current or pending litigation involving the business?

No      Yes (if yes, attach summary)

Within the past five years, has there been any violation(s), citation(s), or complaint(s) of discrimination filed against the company in a state or federal court or before any state, federal, or local government agency?

No      Yes (if yes, attach a copy of the violation(s), citation(s), or complaint(s) and the disposition of each)

#### **Section VII. Key personnel**

List key personnel associated with this production including: producer(s), director(s), line producer(s), or unit production manager(s). You may attach additional sheets if needed.

Title: \_\_\_\_\_

Does this individual claim Minnesota residency?

No

Yes

First name:\_\_\_\_\_ Last name:\_\_\_\_\_

Phone:\_\_\_\_\_ Email address:\_\_\_\_\_

Title: \_\_\_\_\_

Does this individual claim Minnesota residency?

No

Yes

First name:\_\_\_\_\_ Last name:\_\_\_\_\_

Phone:\_\_\_\_\_ Email address:\_\_\_\_\_

Title: \_\_\_\_\_

Does this individual claim Minnesota residency?

No

Yes

First name:\_\_\_\_\_ Last name:\_\_\_\_\_

Phone:\_\_\_\_\_ Email address:\_\_\_\_\_

Title: \_\_\_\_\_

Does this individual claim Minnesota residency?

No

Yes

First name:\_\_\_\_\_ Last name:\_\_\_\_\_

Phone:\_\_\_\_\_ Email address:\_\_\_\_\_

## Section VIII. Required attachments

The Minnesota Film Production Tax Credit Program application requires that the following supporting documentation be included at the time of application.

Applications are not considered complete until all required information has been provided to Explore Minnesota Film. Incomplete applications will not be date/time recorded until the time of completion not initial submission. Expenses incurred and payments made before receipt of a Credit Allocation Certificate are not eligible for credit.

[Certificate of Good Standing in Minnesota](#)

[Completed W9](#)

Detailed budget (top sheet and complete line item detail) with Minnesota expenses denoted. The budget MUST have a column added to the layout denoting MN-qualified expense as "MQE."

Proof that 50% of the total project budget is available in verified funds. Acceptable proof includes a signed bank letter (with contact email/phone) and a statement from a verified financial institution, valid contract, completion bond, or equivalent.

Tax clearance letter from the Minnesota Department of Revenue issued within 90 days of the application date (contact [businessincome.tax@state.mn.us](mailto:businessincome.tax@state.mn.us) or call 651-282-5225 to obtain this statement).

Script/storyboard/synopsis or treatment

Distribution agreement or distribution plan (if applicable)

Signed acknowledgements:

**Code of Conduct**

**Child Labor**

**Electrical Inspection**

**Photo Release**

**Weapons and Safety**

**Worker Classification and Wage Theft**

For questions regarding the application or application process, please contact:

[jill.johansen@state.mn.us](mailto:jill.johansen@state.mn.us)

Send the completed application and required documentation to:

[MNfilmcreditcredit.emn@state.mn.us](mailto:MNfilmcreditcredit.emn@state.mn.us)

## **Section IX. Business Acknowledgement and Certification**

**Tennessee Warning Notice:** We are requesting data from you to determine if you are eligible for an award under the Film Production Tax Credit Program. You are not required to provide the requested information, but your failure to do so may result in Explore Minnesota Film's inability to evaluate your eligibility for an award pursuant to the criteria developed under the program's enabling legislation and rules. The data you provide to us is classified as private or nonpublic data and cannot be shared without your permission, except as specified by statute or court order.

**Data Privacy Notice:** Certain data required by this application is classified as private or nonpublic data under Minn. Stat. § 13.591, subd. 1. Some other data that we collect in this application is classified as private data under Minn. Stat. § 116J.401, subd. 3.

**Agreement to Provide Data to Explore Minnesota Film:** After a Tax Credit Allocation Certificate is issued, you agree to provide daily call sheets, crew lists, vendor lists, and the name and contact information for production press contact for local media calls to Explore Minnesota Film. The applicant acknowledges that a press release may be published. All information and materials submitted to Explore Minnesota Film are public information and may be disclosed to third parties. You hereby waive and release Explore Minnesota Film from any claim or obligation relating to the confidentiality or alleged trade secret nature of any materials or information you submit to Explore Minnesota Film. After a Tax Credit Certificate is issued, you agree to provide a copy of final film poster and three to five production photos cleared for use by Explore Minnesota Film. By signing below, you authorize the exchange and use of data submitted in the application and Final Production and Economic Impact Report.

**Information Sharing Authorization:** To administer the Film Production Tax Credit Program, DEED and Explore Minnesota Film must obtain information about you from the Minnesota Department of Revenue. By signing below, you authorize the exchange of private and/or nonpublic data between the two agencies. This authorization expires upon the conclusion of the subsidy.

**Data Privacy Acknowledgement:**

I acknowledge and agree to the following:

- Agreement to Provide Data and materials to Explore Minnesota Film
- Information Sharing Authorization between the Minnesota Department of Revenue, and Explore Minnesota Film.
- I acknowledge that as a condition of receiving a business subsidy a static or animated logo approved by Explore Minnesota Film will be displayed in the end credits for the life of the project. Television commercials are exempt from logo requirements.
- I have read the above statements and I agree to supply the information requested to Explore Minnesota Film with full knowledge of the information provided herein.
- I certify that all information provided herein is true and accurate, to the best of my knowledge.
- I affirm that, as an officer or authorized agent of the business, I have authority to sign this form on behalf of the company.

Printed name and title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

## Child Labor Laws

### Minnesota Film Production Tax Credit Program

**Federal and state child labor laws apply to the employment of minors on set.**

Details of [Minnesota's youth labor laws](#).

The information below is excerpted from the current Minnesota Child Labor Standards Act.

More information can be found at the [Minnesota Department of Labor and Industry](#).

A minor under age 14 may not be employed, except as:

- a newspaper carrier (at least 11 years of age)
- in agriculture (at least 12 years of age and with parental/guardian consent)
- an actor, actress or model
- a youth athletic program referee (at least 11 years of age and with parental/guardian consent)

#### **Age and hours of work**

A minor less than 16 years of age may not work:

- before 7 a.m. or after 9 p.m.\* with the exception of a newspaper carrier;
- for more than 40 hours a week or more than eight hours per 24-hour period\*, except in agriculture;
- on school days during school hours, without an employment certificate issued by the school district superintendent ([Minnesota Statutes 181A.05](#)).

\*During the school year, federal law restricts hours to no later than 7 p.m., no more than three hours a day and not more than 18 hours a week.

A minor age 16 or 17 years old:

- By state law, 16- and 17-year-old high school students may not work after 11 p.m. on evenings before school days or before 5 a.m. on school days.
- With written permission from a parent or guardian, these hours may be expanded to 11:30 p.m. and 4:30 a.m. No other limit is set for 16- and 17-year-olds.

**Contact:** Minnesota Department of Labor Standards

**Phone:** 651.284.5075 or 800.342.5354

**Email:** [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us)

For additional information on employment of minors, contact [SAG AFTRA](#).

I acknowledge that I have read, understand and will adhere to the guidelines provided regarding Child Labor Laws.

---

Printed Name

---

Signature

---

Date

# Code of Conduct and Best Practices

## Minnesota Film Production Tax Credit Program

### Filmmaker Code of Conduct

Explore Minnesota Film is a member of the Association of Film Commissioners International (AFCI). The association's Filmmaker Code of Conduct was developed and adopted by its members to encourage best practices in our industry.

#### Proper Location Identification

When filming in a neighborhood or business district, proper notification is to be provided to each merchant or neighbor who is directly affected by the company (this includes parking, base camps, and meal areas). The filming notice should include the following:

- Name of company
- Name of the production
- Kind of production (e.g. feature film, television movie, TV pilot, commercial, etc.)
- Type of activity and duration (i.e., times, dates & number of days, including prep and strike).
- Company contact (first AD, Unit Production Manager, or Location Manager, and phone number)
- Include any required notification from the municipality
- Include contact at Explore Minnesota Film:

Contact: Sarah Gebeke, Film & TV Production Liaison

Phone: 612.803.0053

Email: [sarah.gebeke@state.mn.us](mailto:sarah.gebeke@state.mn.us)

#### Production Vehicles

- Shall not enter the area before the time stipulated in the permit
- Park one by one
- Turn off engines as soon as possible
- Shall observe designated parking areas
- Shall not park production vehicles in or block driveways without the express permission of the driveway owner
- Shall leave at the designated time

#### Vehicles/Towing

- Moving or towing of the public's vehicles is prohibited without the express permission of the municipal jurisdiction or the owner of the vehicle

#### Cast & Crew Meals

- Meals shall be confined to the area designated in the location agreement or permit

- All trash must be disposed of properly upon completion of the meal
- Remember to use the proper receptacles for disposal of all napkins, plates, and coffee cups that you may use in the general course of the working day

**Boundaries**

- Do not trespass onto other neighbors' or merchants' property
- Remain within the boundaries of the property that has been permitted for filming

**Vegetation**

- Removing, trimming and/or cutting of vegetation or trees is prohibited unless approved by the permit authority or property owner

**Signage**

- All signs erected or removed for filming purposes will be removed or replaced upon completion of the use of that location unless otherwise stipulated by the location agreement or permit
- Please remove all signs posted to direct the company to the location

**Noise**

- Every member of the cast and crew shall keep noise levels as low as possible and will refrain from the use of lewd or improper language within earshot of the general public

**Identification**

- Every member of the crew shall wear a production pass (badge) when issued
- Do not wear clothing that lacks common sense and good taste. Shoes and shirts must be worn at all times unless otherwise directed

**Posters**

- Crew members shall not display signs, posters, or pictures on vehicles that do not reflect common sense or good taste (e.g. pin-up posters)

**Set Visits**

- The cast and crew shall not bring guests or pets to the location unless expressly authorized in advance by the Company

**Trash**

- All catering, craft service, construction, strike, and personal trash must be removed from the location

**Smoking**

- Observe designated smoking areas and always extinguish cigarettes in butt cans

**Time Provisions**

- The Company will comply at all times with the provisions of the filming permit

Producers and productions that receive a Minnesota Film Production Tax Credit Program Allocation Letter are expected to act with integrity, treat everyone with dignity and respect, and abstain from any form of harassment, violence, and discrimination.

☐ I acknowledge that I have read, understand and will adhere to the guidelines provided regarding the Code of Conduct and Best Practices.

---

Printed Name

---

Signature

---

Date

## ELECTRICAL INSPECTION

### Minnesota Film Production Tax Credit Program

Minnesota requires electrical inspection of film shoots and production.

All electrical wiring and equipment for on-location filming, filmmaking productions, and similar projects requires inspection. Portable and vehicle-mounted generators and portable electrical distribution systems are required to be inspected. Additions or alterations to premises wiring systems, permanent electrical infrastructure, or other fixed wiring systems are also required to be separately inspected.

Equipment shall be inspected and be in compliance before it is energized and put into use.

Contact: Dean Hunter, Assistant Chief Electrical Inspections  
MN Department of Labor and Industry  
443 Lafayette Road North  
Saint Paul, MN 55155  
Phone: 218.770.1263  
Email: [dean.hunter@state.mn.us](mailto:dean.hunter@state.mn.us)

☐ I acknowledge that I have read, understand and will adhere to the guidelines provided regarding Electrical Inspections of this Tax Credit Program production.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

# Filming in Minnesota

## An outline of electrical safety requirements

This document contains important information regarding electrical licensing, electrical inspection, and the requirements of the National Electrical Code (NEC) for filmmaking and similar projects that employ portable, vehicle-mounted, or temporary electrical power distribution.

### Frequently Asked Questions

1. What is the responsibility of the Department of Labor and Industry?

In accordance with Minnesota law and rules, the department has the responsibility for inspection of all electrical wiring and equipment for on-location filming, filmmaking productions and similar projects. Portable and vehicle-mounted generators and portable or temporary electrical distribution systems are required to be inspected. Additions or alterations to premises wiring systems, permanent electrical infrastructure or other fixed wiring systems are also required to be separately inspected. Equipment must be inspected and be in compliance before it is energized and put into use.

2. What is the responsibility of the film production company or its authorized representative?

The film production company or its authorized representative is responsible for notifying the department sufficiently in advance to permit completion of all required electrical inspections, the correction of code violations and the required reinspections.

3. Is inspection of equipment necessary before the electrical system can be energized or used?

Electrical equipment must not be energized until it has been inspected and approved.

4. Does the Department of Labor and Industry perform electrical inspections in all areas of the state?

The department's inspectors make electrical inspections statewide, except in cities that have made provisions for electrical inspections within their respective local jurisdictions. A list of all state and local electrical inspectors is available on the department's website at <http://www.dli.mn.gov/business/electrical-contractors/electrical-inspector-directories>. Upon request and to promote consistency, the department will provide consultation to local or municipal electrical inspectors for filmmaking productions.

5. How do I request and schedule an electrical inspection?

The Request for Electrical Inspection (REI) form will be completed and the appropriate inspection fee will be collected at the time of the electrical inspection. The Department of Labor and Industry does not accept cash as payment for inspections. Accepted methods of payment are checks or money orders. Electrical inspections can be scheduled by contacting the department at [dli.electricity@state.mn.us](mailto:dli.electricity@state.mn.us) or by calling the Chief Electrical Inspector, Dean Hunter, at 651-284-5314.

6. Is an electrical inspection required at each different location where filming will take place?

An initial comprehensive electrical inspection is required at the first filming location. In cooperation with the film production company, random electrical inspections at no additional cost will be made at subsequent filming locations to ensure electrical safety.

7. What if there are code violations at the time of the initial electrical inspection?

Identified code violations are documented on an inspection report form and a copy is provided to the user of the equipment. A reasonable period of time will be allowed to bring the equipment into compliance. Equipment must be in compliance before it is energized and put into use.

8. Are there restrictions in Minnesota as to who can perform electrical work?

Minnesota has strict electrical licensing and electrical inspection requirements. Persons other than licensed employees of licensed electrical contractors are only allowed to connect or inter-connect multi-conductor cords and single-conductor cables that are equipped with approved separable multi-pole or single-pole connectors. Licensed employees of licensed electrical contractors are required to connect or terminate cords and cables that have bare ends, clamps, clips or other types of connections other than approved separable connectors.

Licensed employees of licensed electrical contractors are required to perform all electrical work on interior or exterior premises wiring systems or any other permanent or fixed electrical infrastructure, regardless if it will be dismantled, abandoned or removed at the conclusion of filming. Electrical inspections associated with premises wiring systems or other permanent or fixed electrical infrastructure are conducted separately (the licensed electrical contractor will file a separate Request for Electrical Inspection form and inspection fee).

9. How is the electrical equipment marked to indicate that it has passed inspection?

In addition to public copies of electrical permits, inspection reports or other documentation, an electrical inspection sticker is typically affixed to the generator enclosure or other equipment enclosures, as applicable. However, for rented or leased equipment on which an inspection sticker would not be acceptable or allowed by the equipment owner, alternative documentation will be provided.

## 10. How much does an electrical inspection cost?

In accordance with Minnesota Statute 326B.37, Subd. 10, an electrical inspection for a filmmaking project will be considered as a “Special Inspection”. The inspection fee is \$80 per hour, including travel time, plus the standard mileage rate. The time necessary to make a comprehensive initial electrical inspection will be different for each filming project. However, based on past experience, most initial electrical inspections can be made in one to three hours. Every effort is made to provide a timely, thorough and professional inspection and to keep inspection costs at very reasonable levels.

## Electrical Code Requirements

Minnesota adopts the most recent edition of the National Electrical Code (NEC). The scope and scale of electrical inspections for any filmmaking production will vary greatly depending on many variables associated with the production. Electrical inspections could include, but not be limited to, the following:

- Electrical services, generators, feeders and branch circuits
- Electrical system grounding, electrical equipment grounding, and generating equipment
- Flexible cords, flexible stage and lighting power cables, and other permanent or temporary wiring
- Ampacity ratings and overcurrent protection for cords, cables, wiring and equipment
- Portable power switchboards, power distribution boxes, scatter boxes, etc.
- Lighting equipment
- Receptacles and ground-fault circuit interrupter protection (GFCI) (if required)
- Audio signal processing, amplification and reproduction equipment
- Portable or permanent stage or set wiring
- Other electrical system wiring, equipment or components as necessary



## Photo Release

### Minnesota Film Production Tax Credit Program

Recipients of a Film Production Tax Credit are required to provide the following to Explore Minnesota Film:

3-5 production and promotional photos (with identification and credit) cleared for use by Explore Minnesota (website, socials, etc.) in perpetuity.

- Film Production Tax Credit recipient grants Explore Minnesota and its partners unlimited editorial and commercial use in perpetuity of all assets provided under this agreement, including but not limited to websites, emails and print publications.
- Film Production Tax Credit recipient grants Explore Minnesota the right to edit submitted materials to fit size, space and other requirements of different mediums, as determined by Explore Minnesota.
- Film Production Tax Credit recipient shall retain copyright and self-promotional rights.
- Film Production Tax Credit recipient retains the right to reproduce, in whole or in part, in every manner or form, and circulate, publish, distribute, show, play or otherwise display the assets provided under this Agreement.
- Explore Minnesota may use Contractor's name and likeness in any of the above.

I acknowledge that I have read, understand and agree to the above regarding the clearance of production and promotional photos for use by Explore Minnesota in perpetuity.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

## WEAPONS and SAFETY

### Minnesota Film Production Tax Credit Program

Live weapons are strongly discouraged and industry recommended gun safety protocols must be followed.

Production must notify the local police department of public brandishing of weapons in advance of the scene being filmed.

☐ Firearms, Blanks, and Dummy Rounds will NOT be used in this Tax Credit Program production.

☐ I acknowledge that I have read, understand, and will adhere to the guidelines provided regarding the Recommendations for the Use of Firearms, Blanks, and Dummy Rounds in this Tax Credit Program production.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

[Additional safety recommendations and resources may be found here.](#)

# INDUSTRY WIDE LABOR-MANAGEMENT SAFETY COMMITTEE

## SAFETY BULLETIN #1

### RECOMMENDATIONS FOR THE USE OF FIREARMS, BLANKS, AND DUMMY ROUNDS

**Live ammunition (“ammunition”) is never to be used on set nor brought onto any work location, including any studio lot, stage, or location** unless it meets the specific exceptions as described in *Safety Bulletin #2 - Prohibitions And Special Restrictions On The Use Of Live Ammunition*. Refer to Safety Bulletin #2 for guidance on the handling of ammunition.

Please see the Glossary at the end of this document that defines certain key terms.

# # #

These guidelines are intended to give recommendations on the safe handling, use, and storage of firearms. Firearms include shotguns, pistols, machine guns, rifles, and muzzleloaders.

These guidelines also cover firearms loaded with blank rounds (“blanks”) and dummy inert rounds (“dummy rounds”). Dummy rounds do not have an explosive component and are recommended to have an audible “BB.” Dummy rounds are often used by performers to simulate the loading of a firearm.

All use, handling, storage, and transportation of firearms, blanks, and dummy rounds shall be in compliance with all applicable federal, state, and local laws and regulations.

The Property Master, Assistant Property Master, or the Armorer (**collectively, the “Property Master”**) will be the individuals acting in the interest of the Production for obtaining, maintaining, and handling all firearms. Firearms in the film industry are considered props and are the responsibility of the Property Master. The Property Master will work in conjunction with the Production to ensure adherence to these guidelines.

The Production, in consultation with the Property Master, should consider the use of rubber guns, non-guns, non-functioning replicas, and replicas with recoil simulators (“prop firearms”). Though these devices are not firearms, standard firearms safety practices should still be observed while using these devices. This Safety Bulletin should be distributed with the call sheet each day that firearms and prop firearms will be used.

### Production Responsibilities

1. Check what specific licenses or permits are required by the Authority Having

- Jurisdiction (“AHJ”) at the applicable local, state, federal, and/or international level.
2. The Studio Safety and Security Departments may need to be notified prior to a production’s use of firearms on studio property. Local law enforcement, or an applicable AHJ, may also need to be notified prior to any firearm use.
  3. Ensure the Property Master’s qualifications are adequate for working with the type of firearm(s) being used. Their qualifications include their knowledge of the handling, use, safekeeping, and familiarity with the type of blanks or dummy rounds to be utilized.
  4. If the Property Master is not familiar with the firearm(s) to be used, they should consult an expert who is familiar with the firearm(s).
  5. Ensure that the Property Master knows who the appropriate Production representative is to communicate any safety-related concerns.
  6. Authorize the Property Master to safely perform all assigned duties and responsibilities. In order to accomplish this, the Property Master should be adequately staffed, taking into consideration, in part, the number of firearms required for a particular scene or sequence.
  7. Ensure that a sufficient amount of time has been allotted for training, safety meetings, and rehearsal.
  8. Establish safety protocols for all firearm-related production events, including those that may occur with less frequency, such as reenactments (e.g., historical battle sequences with reenactment groups), documentaries, and custom firing sequences.

### Property Master Responsibilities

1. Being present whenever a firearm is being used or handled.
2. Knowing the standards, rules, and regulations for the firearms, blanks, and dummy rounds used in the production, and the practices for the safe handling, use, and storage of the firearms, blanks, and dummy rounds that are used in the motion picture industry.
3. Ensuring that all firearms remain in the possession of the Property Master until such time that they are transferred to and from the cast member(s). The Property Master and authorized cast members are the only individuals who should ever handle a firearm on set.
4. Ensuring the custody and control of all firearms at all times.

5. Designating and supervising additional qualified persons working under the Property Master to assist as necessary.
6. Confirming that the correct firearms permits have been obtained for the possession and use of production firearms, blanks, and dummy rounds.
7. Securely storing firearms separately from blanks or dummy rounds in accordance with federal, state, and local laws.
8. Knowing and adhering to manufacturer's warnings, expiration dates, storage instructions, and handling procedures for firearms, blanks, and dummy rounds.
9. Loading firearms with blanks or dummy rounds immediately before they are used in a scene.
10. Allowing cast and crew who are required to stand near the firing sequence to witness the loading of the firearm.
11. Using the appropriate load of blanks and a blank-fire adapter, if applicable, required for the scene.

## Training

The Property Master shall be knowledgeable about the rules, regulations, and practices for the firearms, blanks, and dummy rounds used in the motion picture industry. This knowledge could come from many sources, for instance, it can come from industry-specific training and experience.

No one shall be issued a firearm unless they have been trained in the safe handling, use, proper firing procedures, and proper use of all mechanical safety devices for each type of firearm. If there is any uncertainty as to the qualifications of the person who will use the firearm, the Production, in consultation with the Property Master, shall determine if additional training is required and shall ensure adequate time is provided for such training.

All cast and crew who are in proximity to working firearms should be trained about safe zones and about the proper conduct of personnel who will be present near firearms. This training can be accomplished through the safety meeting or by other means as determined by Production Management.

## Safety Meeting

Before any firearm is used, the Production will conduct a safety meeting with all involved personnel to review relevant safety issues. This safety meeting shall include an "on-site walk-through" and/or "dry run" with the Property Master, designated Production

representative, and anyone who will be using and/or handling a firearm.

If at any time a significant change occurs to a firearm sequence, the First Assistant Director will conduct an additional meeting so that everyone understands the change(s). The Property Master is to attend all safety meetings and rehearsals.

In the safety meeting, the following items should be discussed:

1. It is important to treat all firearms and prop firearms, whether they are real, rubber guns, non-guns, non-functioning replicas, or replicas with recoil simulators, as if they are working, loaded firearms.
2. The types of firearms that will be used, their safety features, and what to expect when they are used.
3. The type of blanks and dummy rounds that will be used and how these blanks and dummy rounds can be distinguished from each other.
4. The firearms sequence, including intended action, possible deviations, plans to abort, emergency procedures, and the chain of command.
5. Aiming points and muzzle positions relative to the cast and crew who may be in close proximity to the line of fire.
6. Additional safety measures that have been implemented (e.g., Personal Protective Equipment ("PPE"), camera lens protection, and lock-offs).
7. The firearms custody and control process.
8. Introduce the medic and other appropriate emergency personnel.
9. Instruct all cast and crew who are not required for the firearms sequence to clear the area after the safety meeting has concluded and to not return until an "all clear" signal has been given.
10. The establishment and use of effective communication channels and methods (e.g., voice commands, walkie-talkie communication, and hand signals).
11. Answer any cast or crew questions concerning the firearms sequence.

## Rehearsal

A rehearsal is to be conducted before the use of a firearm so that the performer knows the intended range of action and appropriate minimum safe distance. The minimum safe distance is to be determined by the Property Master. This rehearsal also will establish the

proper filming angles and safe areas for the cast and crew.

## Safety Protocols

1. No person is to be coaxed, coerced, or otherwise forced into handling a firearm.
2. Nonessential personnel will be excluded from the set when firearms are used to enhance the safety of the cast and crew.
3. Protective shields, eye and hearing protection, and other applicable PPE will be made available and should be utilized by all personnel involved in the firearm sequence.
4. The cast and crew, including the Sound Department, will be notified of the types and loads of blanks or dummy rounds that will be used.
5. All personnel should remain at a pre-determined safe distance whenever a firearm is loaded, handled, or fired.
6. The Property Master should inspect the firearm and barrel before every firing sequence.
7. Only a qualified person (either licensed or experienced) should load the firearm with blanks or dummy rounds. Follow the manufacturer's recommendations for the handling, storage, and disposal of blanks or dummy rounds.
8. Only the required number of blanks or dummy rounds for the take should be loaded into the firearm.
9. Whenever the Property Master gives a firearm to a performer, the Property Master shall advise the performer of the type of blank or dummy round being used and afford the performer, cast, and crew the supervised opportunity to verify the same.
10. Utilize all safety devices until the firearm is ready to be used.
11. Anyone handling the firearm will refrain from pointing a firearm at any person, including themselves. If it is necessary to aim a firearm at another person on camera, the Property Master will be consulted to determine available options. Remember: a firearm, including one loaded with blanks, can inflict severe damage to anything/anyone at which/at whom the firearm is pointed.
12. The performer is to never place their finger on the trigger until the performer is ready to fire.
13. There should be no horseplay with firearms or prop firearms.

14. The firearm is not to be discharged when the barrel is obstructed by anything other than a blank-fire adapter that a qualified individual has properly installed.

### After Each Firearm Sequence

1. No one should be allowed to step onto the set until the Property Master clears all firearms and announces to the cast and crew that the firearms are clear, and it is now safe to move around the set. This typically occurs by announcing "all clear."
2. Never leave a firearm or prop firearm unattended.
3. Blank-firing firearms will be immediately unloaded after the scene by a qualified person.
4. All malfunctions must be reported immediately to the Property Master. Malfunctioning or jammed firearms should be corrected by a qualified person or taken out of service until the problem is corrected.
5. The Property Master should inspect the firearm and barrel after every firing sequence.

### Upon Completion of The Use of Firearms

1. All firearms must be returned to the Property Master, who shall ensure that they are cleaned, checked, and inventoried at the end of each day. Production must allow time in its filming schedule for this procedure.
2. There should be a sweep of the area for spent casings at the end of each day. The spent casings should be disposed of properly.
3. Ensure the safe storage of firearms, prop firearms, blanks, and dummy rounds. If these items are kept on location overnight, they must be secured.

## Glossary

**AMMUNITION a.k.a. LIVE AMMUNITION:** One or more loaded cartridges or shotgun shells consisting of a primer cap, a shell case, a quantity of gunpowder, and a projectile.

For the purpose of this Safety Bulletin, ammunition does not include:

- a) blank rounds and dummy rounds;
- b) projectiles (regardless of the material or manufacturer) that are intended solely to create bullet-hit type special effects, such as projectiles fired from Air Rifles, Air Pistols, Air and/or Gas-operated Capsule Guns, Paintball Guns, Blow Guns, Squib-fired Trunnion Guns, Crossbows or Crossbow-type devices, Slingshots, or any other special-effects device designed to propel a projectile and create a bullet-hit type special effect; and
- c) any propelled projectile required to be photographed in flight. See Safety Bulletin No. 30, *Recommended Guidelines for Safely Working with Edged, Piercing, and Projectile Props*.

All such non-ammunition projectiles are to be supervised and operated under the direction of the licensed Special Effects Technician in charge.

**ARMORER:** This is the professional, skilled, and properly licensed technician who is hired by the Production, works under the direction and supervision of the Property Master, and maintains control of the firearms on set.

**BLANK-FIRE ADAPTER a.k.a. PLUG:** A device installed into the barrel of the firearm by a qualified individual to facilitate functionality with blanks.

**BLANK ROUND a.k.a. BLANK:** A cartridge consisting of a primer cap, a shell case, and a quantity of gunpowder, but that does not have a projectile. Blank rounds are produced by a licensed manufacturer using specialized, automated, or manual loading equipment.

**CUSTODY AND CONTROL:** This is the process to establish dominion and control of the firearm. It specifies who removes the firearm from a secure lockup, who checks in with the First Assistant Director or their designee, who gives the firearm to the performer, and who places the firearm back into a secure lock-up. Once a chain of custody is established, any intended deviation from this should first be addressed at a safety meeting.

**DUMMY INERT ROUNDS a.k.a. DUMMY ROUNDS:** Inert cartridges consisting of a simulated primer (usually a machined, solid metal disk), a cartridge case, and a projectile. Ideally, dummy rounds will include a “BB” inside to give an audible indication that it is inert.

**MUZZLELOADER:** A firearm loaded through the barrel's front opening.

**NON-GUN:** A firearm replica designed to accept and discharge small explosive charges by an electric impulse to create a simulated muzzle flash and noise. Non-guns are to be treated with the same safety precautions as an actual firearm.

**PROP FIREARMS:** Including but not limited to rubber guns, non-guns, non-functioning replicas, and replicas with recoil simulators.

**PROPERTY MASTER:** This is the member of the cast and crew responsible for acquiring appropriate props, organizing them, and overseeing the usage of props on set. Firearms are considered props in the film industry and are the responsibility of the Property Master or someone designated by the Property Master (i.e., the Armorer). The Property Master must maintain all necessary, firearms/ammunition/blanks-related licenses, permits, and documentation for the jurisdiction in which work is being performed.

## Worker Classification and Wage Theft

### Minnesota Film Production Tax Credit Program

Workers should be classified per [federal guidelines](#). In May 2019, the Minnesota Legislature passed a new Wage Theft Prevention Act to create additional protections for workers, including adding criminal penalties for employers that commit wage theft, which occurs when employers do not pay their workers what is owed them for the work they have performed.

**Contact:** Minnesota Department of Labor Standards

**Phone:** 651.284.5075 or 800.342.5354

**Email:** [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us)

☐ I acknowledge that I have read, understand and will adhere to the guidelines provided regarding Worker Classification and Wage Theft.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## IRS Tax Publications

If you are not sure whether you are an employee or an independent contractor, get Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding. Publication 15-A, Employer's Supplemental Tax Guide, provides additional information on independent contractor status.

## IRS Electronic Services

You can download and print IRS publications, forms, and other tax information materials on the Internet at [www.irs.gov](http://www.irs.gov). You can also call the IRS at 1-800-829-3676 (1-800-TAX-FORM) to order free tax publications and forms.

Call 1-800-829-4933, the Business and Specialty Tax Line, if you have questions related to employment tax issues.



INDEPENDENT  
CONTRACTOR

OR



EMPLOYEE

# Independent Contractor *or* Employee

## Which are you?

For federal tax purposes, this is an important distinction. Worker classification affects how you pay your federal income tax, social security and Medicare taxes, and how you file your tax return. Classification affects your eligibility for social security and Medicare benefits, employer provided benefits and your tax responsibilities. If you aren't sure of your work status, you should find out now. This brochure can help you.

The courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These relevant facts fall into three main categories: behavioral control; financial control; and relationship of the parties. In each case, it is very important to consider all the facts – no single fact provides the answer. Carefully review the following definitions.

### Behavioral Control

These facts show whether there is a right to direct or control how the worker does the work. A worker is an employee when the business has the right to direct and control the worker. The business does not have to actually direct or control the way the work is done – as long as the employer has the right to direct and control the work. For example:

**Instructions** – if you receive extensive instructions on how work is to be done, this suggests that you are an employee. Instructions can cover a wide range of topics, for example:

- how, when, or where to do the work
- what tools or equipment to use
- what assistants to hire to help with the work
- where to purchase supplies and services

If you receive less extensive instructions about what should be done, but not how it should be done, you may be an independent contractor. For instance, instructions about time and place may be less important than directions on how the work is performed.

**Training** – if the business provides you with training about required procedures and methods, this indicates that the business wants the work done in a certain way, and this suggests that you may be an employee.

### Financial Control

These facts show whether there is a right to direct or control the business part of the work. For example:

**Significant Investment** – if you have a significant investment in your work, you may be an independent contractor. While there is no precise dollar test, the investment must have substance. However, a significant investment is not necessary to be an independent contractor.

**Expenses** – if you are not reimbursed for some or all business expenses, then you may be an independent contractor, especially if your unreimbursed business expenses are high.

**Opportunity for Profit or Loss** – if you can realize a profit or incur a loss, this suggests that you are in business for yourself and that you may be an independent contractor.

### Relationship of the Parties

These are facts that illustrate how the business and the worker perceive their relationship. For example:

**Employee Benefits** – if you receive benefits, such as insurance, pension, or paid leave, this is an indication that you may be an employee. If you do not receive benefits, however, you could be either an employee or an independent contractor.

**Written Contracts** – a written contract may show what both you and the business intend. This may be very significant if it is difficult, if not impossible, to determine status based on other facts.

## When You Are an Employee...

- Your employer must withhold income tax and your portion of social security and Medicare taxes. Also, your employer is responsible for paying social security, Medicare, and unemployment (FUTA) taxes on your wages. Your employer must give you a Form W-2, Wage and Tax Statement, showing the amount of taxes withheld from your pay.

## When You Are an Independent Contractor...

- The business may be required to give you Form 1099-MISC, Miscellaneous Income, to report what it has paid to you.
- You are responsible for paying your own income tax and self-employment tax (Self-Employment Contributions Act – SECA). The business does not withhold taxes from your pay. You may need to make estimated tax payments during the year to cover your tax liabilities.
- You may deduct business expenses on Schedule C of your income tax return.



## Guidance for employers on Minnesota's new wage theft law

The Minnesota Legislature passed and the governor has signed a new Minnesota Wage Theft Law. The new law amends existing state labor laws and provides for new wage and hour requirements, protections and sanctions. This guidance highlights provisions of the new law that will require employers to review their current policies and practices and take necessary steps to bring those policies and practices into compliance with the requirements of the new law's provisions.

All provisions of the new law go into effect **July 1, 2019**, except for the provisions of the new law that amend Minnesota Statutes § 609.52 (criminal wage theft and sanctions). The provisions of the new law providing for criminal wage theft and sanctions go into effect **Aug. 1, 2019**.

A full summary of the new Wage Theft Law is online at [www.dli.mn.gov/sites/default/files/pdf/wage\\_theft\\_law\\_summary.pdf](http://www.dli.mn.gov/sites/default/files/pdf/wage_theft_law_summary.pdf).

Questions and answers about the new Wage Theft Law are online at [www.dli.mn.gov/business/employment-practices/wage-theft-ga](http://www.dli.mn.gov/business/employment-practices/wage-theft-ga).

The complete text of the new law is online at [www.revisor.mn.gov/laws/2019/1/Session+Law/Chapter/7/](http://www.revisor.mn.gov/laws/2019/1/Session+Law/Chapter/7/).

### New responsibilities for employers

#### **Additional information employers are required to provide to employees when they start work (amendments to Minn. Stat. § 181.032)**

Providing written notice to employees about their employment status and terms of employment, including wages, hours and benefits, is not only a good business practice, it is also required by Minnesota law.

**The new Wage Theft Law requires all employers to provide each employee with a written notice at the start of their employment. The notice must contain the following specific information about an employee's employment status and terms of employment (New).**

Below is the specific information employers must provide in the notice to employees when they start employment.<sup>1, 2, 3</sup>

- **Employee's employment status and whether an employee is exempt from minimum wage, overtime and other state wage and hour laws, and on what basis (New).**
- **Number of days in the employee's pay period and the regularly scheduled payday (New).**
- **Date the employee will receive the first payment of wages earned (New).**
- **Employee's rate or rates of pay and the basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission or other method and the specific application of any additional rates (New).**
- **Allowances, if any, that may be claimed for permitted meals and lodging (New).**
- **Provision of paid vacation, sick time or other paid time off (PTO), how the paid time off will accrue and terms for its use (New).**
- **A list of deductions that may be made from the employee's pay (New).**
- **Employer's legal name and the operating name, if different (New).**
- **Physical address of employer's main office or principal place of business and a mailing address, if different (New).**
- **Employer's telephone number (New).**

Employers are required to keep a copy of the notice signed by each employee (New). All employers must provide the notice to employees in English. The notice must include a statement, in multiple languages, that informs employees they may request the notice be provided to them in another language (New). The employer must provide the notice in another language if requested by the employee (New). The Department of Labor and Industry (DLI) is preparing and will make available to employers the statement in multiple languages that must be included with the notice. Employers are also required to provide employees in writing any changes to the information in the notice before the date the changes take effect (New).

An employee notice example is online at [www.dli.mn.gov/sites/default/files/doc/employee\\_notice\\_form.docx](http://www.dli.mn.gov/sites/default/files/doc/employee_notice_form.docx). Employers may use the example notice or create their own.

## **Additional information employers are required to provide employees on earnings statements (amendments to Minn. Stat. § 181.032)**

Earnings statements (or paystubs) are important payroll records for employers and employees that document information about wages paid, hours worked, deductions made and benefits accrued by an employee. Existing state law requires earning statements be provided to employees in writing or by electronic means at the end of

---

<sup>1</sup>When recruiting migrant workers, employers must also comply with the notice, recordkeeping, and wage and hour requirements of Minn. Stat. §§ 181.85-181.91.

<sup>2</sup>Employers in the meatpacking industry must also comply with the notice requirements of Minn. Stat. § 179.86.

<sup>3</sup>Employers employing 10 or more employees, who are not farm laborers or casual employees employed temporarily, must also comply with the written agreement requirements of Minn. Stat. § 181.55-181.57.

each pay period and specific information be included on the earnings statement. The new law requires the following additional information be included on the earnings statements provided to employees each pay period:

- Name of the employee.
- Total hours worked by the employee in the pay period.
- **Employee's rate or rates of pay and basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission or other method (New).**
- **Allowances claimed for permitted meals and lodging (New).**
- Total amount of gross pay earned by employee in the pay period.
- Net amount of pay after all deductions are made.
- List of deductions made from the employee's pay.
- Date pay period ended.
- Employer's legal and operating name.
- **Employer's telephone contact (New).**
- **Physical address of employer's main office or principal place of business and a mailing address, if different (New).**

### **Additional records employers are required to maintain (amendments to Minn. Stat. § 177.30)**

Under existing law, employers are required to keep various records for three years. It is in the employer's interest to maintain complete and accurate records that can be used to demonstrate an employer's compliance with state wage and hour laws. The new law requires the following additional records be kept by an employer:

- Each employee's name, address and occupation.
- Each employee's rate of pay and the amount paid each pay period.
- Each employee's hours worked each day and each workweek, **including, for all employees paid at piece rate, the number of pieces completed at each piece rate (New).**
- **A list of personnel policies with brief descriptions of each policy that were provided to each employee, including the date the policies were given to the employee (New).**
- **A copy of the new notice that is required to be provided to and signed by each employee at the start of employment and a copy of any written changes to the notice that were provided to each employee (New).**
- For each employer subject to Minn. Stat. §§ 177.41 to 177.44 (Minnesota Prevailing Wage Act), and while performing work on public works projects funded in whole or in part with state funds, the employer shall furnish under oath signed by an owner or officer of an employer to the contracting authority and the project owner every two weeks, a certified payroll report with respect to the wages and benefits paid each employee during the preceding weeks specifying for each employee: name; identifying number; prevailing-wage master job classification; hours worked each day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension and other benefit programs.
- Other information the commissioner finds necessary and appropriate to enforce Minn. Stat. §§ 177.21 to 177.435.

These and other records that are required to be kept by an employer must be available for inspection by the commissioner upon demand. **The records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply with the commissioner's demand within 72 hours (New).**

If records maintained by the employer do not provide sufficient information to determine the exact amount of back wages due, the commissioner may make a determination of wages due based on available evidence **(New).**

### **Clarifications and requirements for what wages and commissions an employer must pay and when employers must pay wages and commissions to employees (amendments to Minn. Stat. § 181.101)**

Employers must pay all wages, **including salary, earnings and gratuities (New)** earned by an employee at least once every 31 days and **all commissions earned by an employee at least once every three months (New)** on a regular payday.

The new Wage Theft Law further clarifies that Minn. Stat. § 181.101 **provides a substantive right to the payment of commissions and wages, at the employee's rate or rates of pay or the rate or rates required by law, whichever is greater, as well as the right to be paid wages and commissions earned on a regular payday (New).**

### **New: Employers must not retaliate against employees for asserting rights or remedies under Minnesota's wage and hour laws (amendments to Minn. Stat. § 181.03)**

An employer is prohibited from retaliating against an employee for asserting rights or remedies under the Minnesota Fair Labor Standards Act, the Minnesota Prevailing Wage Act and certain provisions of Minn. Stat., Chapter 181, Payment of Wages Act, including filing a complaint with DLI or telling the employer of the employee's intention to file a complaint. In addition to any other remedies provided by law, an employer that violates this subdivision is liable for a civil penalty of \$700 to \$3,000 for each violation.

### **Requirements for employers under the Responsible Contractor Law (amendments to Minn. Stat. § 16C.285)**

The "responsible contractor" requirements have been amended to include **Minn. Stat. §§ 181.03 (prohibited wage practices and retaliation), 181.101 (payment of wages) and 609.52, subd. 2 (19) (criminal wage theft) (New)**, in the list of laws that contractors must verify they are in compliance with and have not violated during the past three years, to be considered eligible to bid on public contracts.

## New enforcement authority and penalties

### **New:** DLI has additional enforcement and penalty authority for violations of the law (amendments to Minn. Stat. §§ 175.20, 177.27, 177.30 and 181.101)

The application of remedies under existing law was clarified and penalty amounts were increased for repeated violations of the recordkeeping laws. The commissioner's enforcement authority was also clarified and expanded.

#### **Commissioner enforcement authority**

- Enter and inspect places of employment without unreasonable delay to carry out purposes of Minn. Stat., Chapters 177, 181, 181A and 184.
- Apply for an inspection order in district court in the county where the place of employment is located to require employer to permit entry of the commissioner or an authorized representative if the entry has been denied.
- Interview non-management employees in private regarding an investigation.

#### **Clarification of application of remedies and increase in penalties for repeated violations**

- For the failure to pay wages or commissions as required under Minn. Stat. § 181.101, the new law clarifies the commissioner may order the employer to:
  1. Pay wages or commissions owed to an employee.
  2. Pay an amount equal to the wages or commissions owed as liquidated damages.
  3. Pay compensatory damages incurred by an employee.
  4. Cease and desist in the violative practice.
  5. Pay a civil penalty for repeated or willful violations.

The commissioner may also now order an employer to pay a penalty equal to either the employee's average daily wages earned or an amount equal to 1/15 of the commissions earned for each day payment is not made in accordance with the commissioner's order.

- Penalize an employer up to \$5,000 for each repeated failure to submit or deliver records to the commissioner as required by law.
- Penalize an employer up to \$5,000 for each repeated failure to keep and maintain records as required by law.

### **New:** Commissioner required to share enforcement action information (amendments to Minn. Stat. § 177.27)

DLI, its commissioner or its authorized representative shall provide a copy of an order to comply issued to an employer and the disposition of the order or the data set out in the order to comply and its disposition to the following entities:

- A licensing or regulatory authority of one or more state agencies or agencies of political subdivision to which the employer is subject.

- A public contracting authority with which the employer is party to a public contract.
- The employees whose interests are affected by the order.

### **New: Attorney General enforcement authority (new Minn. Stat. §§ 177.45 and 181.1721)**

The Minnesota Attorney General's Office, in addition to the Department of Labor and Industry, has the authority to enforce Minn. Stat., Chapters 177 (Minnesota Fair Labor Standards Act and Prevailing Wage Act) and 181 (Payment of Wages) under Minn. Stat. § 8.31.

### **Misdemeanor violations (amendments to Minn. Stat. § 177.32)**

Under existing law, an employer found to have hindered or delayed the commissioner in the performance of duties required under the Minnesota Fair Labor Standards Act or the Prevailing Wage Act was guilty of a misdemeanor. **The new Wage Theft Law adds that any employer hindering or delaying the commissioner in the performance of duties required under Minn. Stat. §§ 181.01 to 181.723 or 181.79 is also guilty of a misdemeanor (New).**

### **New: Crime of “wage theft” and criminal sanctions for committing “wage theft” (amendments to Minn. Stat. § 609.52)**

The crime of “wage theft” occurs when an employer, with intent to defraud:

- Fails to pay an employee all wages, salary, gratuities, earnings or commissions at the employee's rate or rates of pay or at the rate or rates required by law, whichever is greater.
- Directly or indirectly causes any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered.
- Directly or indirectly demands or receives from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer.
- Makes or attempts to make it appear in any manner the wages paid to any employee were greater than the amount actually paid to the employee.

“Employer” is defined as “any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.”

“Employee” is defined as “any individual employed by an employer.”

“Wage theft” has been added to the criminal definition of theft under Minn. Stat. § 609.52, subd. 2(19), and sanctions for committing wage theft are as follows:

- Imprisonment for not more than 20 years, payment of a fine of not more than \$100,000 or both if the value of the wages stolen is more than \$35,000.
- Imprisonment for not more than 10 years, payment of a fine of not more than \$20,000 or both if the value of the wages stolen exceeds \$5,000.

- Imprisonment for not more than five years, payment of a fine of not more than \$10,000 or both if the value of wages stolen is more than \$1,000 but not more than \$5,000.
- Imprisonment for not more than one year, payment of a fine of not more than \$3,000 or both if the value of the property or services stolen is more than \$500 but not more than \$1,000.

When determining the value of the wages stolen, the law allows for the amount of employee wages that were stolen through wage theft to be aggregated within any six-month period.