



February 2008

HR BULLETIN

This month's topics:

- Meal Breaks Now Mandated
- New Law Requires You to Protect SS Numbers
- Court Ruling On Earned Vacation Pay

Meal Breaks Now Mandated

A recent federal court decision has mandated 30-minute meal breaks for all employees working shifts of eight or more hours. Previously in Minnesota and Wisconsin the interpretation of the law was a "sufficient time to eat a meal." Employers are now required to guarantee an uninterrupted 30-minute meal break. This could certainly impact small offices with limited staff to cover jobs while the employee takes a lunch break. It is anticipated that this rule will be appealed, but for now you need to meet the 30-minute break requirement.

New Law Requires You to Protect SS Numbers

Minnesota has a new law, the Social Security Number Shield Law ("Shield Law") that requires businesses and employers to take steps to protect against disclosure of an individual's social security number. Social security numbers are often used for purposes of identification in recordkeeping and information retrieval. The legislature has responded to increasing reports of identity theft in the workplace and other uses of social security numbers in the workplace with this law. Fifteen other states have already enacted similar legislation with the objective to protect employee social security numbers. Employers are required to restrict access to social security numbers to ensure that the employees who require the numbers to perform their job duties are the only employees who have access to the information.

Governor Pawlenty signed the SSN Shield Law on May 24, 2007 to become effective July 1, 2007. The law initially contained a clause that would have

allowed entities to continue using social security numbers in a manner inconsistent with the new shield law providing certain conditions were met. As an adjustment for those who may have otherwise relied on the grandfather clause, the legislature extended the effective date of the SSN Shield Law to July 1, 2008. Additional limitations prohibit private employers from:

- intentionally communicating or making available to the general public a person's social security number;
- printing a person's social security number on any card required to access services or products provided by the employer;
- requiring a person to transmit his/her social security number over the internet unless the connection is secure or the number is encrypted, except as provided by federal law;
- requiring a person to use his/her social security number to access an internet website, unless a password or unique personal identification number (PIN) or other authentication device is also required to access the internet website;
- printing a person's social security number on any materials that are mailed to them, unless state or federal law requires the social security number to be on the mailed document;
- assigning or using a number as the primary account identifier that is identical to or incorporates a person's complete social security number; or
- Selling the social security numbers obtained from persons in the course of business.

Despite these prohibitions, social security numbers can still be:

- included in applications and forms sent by mail, including documents sent as part of an employment application or benefit enrollment process;
- used to establish, amend or terminate an account, contract or policy;
- Used to confirm the accuracy of the social security number, as long as the information is not printed on the outside of the mailing.
- Employers may continue to use portions (but not all) of an individual's social security number as employee identification numbers.

The full text of the law can be read at: <http://www.leg.state.mn.us/leg/statutes.asp>

The first section is Current Minnesota Statutes, 2007 edition, click in the box, enter 325E.59 and click on GO.

Court Ruling On Earned Vacation Pay

On November 15th, 2007 the Minnesota Supreme Court ruled employees do not have a statutory right to payment of earned vacation pay. Prior rulings had determined that accrued but unused vacation were wages due and payable in Minnesota. In the recently decided case the employer had a policy that stated "if you do not give acceptable notice (of termination) or if your employment is terminated for misconduct, you will not be eligible for pay in lieu of notice or payment of earned but unused PTO unless required by state law." Basically the

employer had two conditions which must be met. The recent decision affirmed that vacation/PTO benefits are wages but employers may set rules by which employees are eligible for payouts upon termination. Employers desiring to implement or change their policies per this recent decision should update employee handbook provisions accordingly.

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