



# HR Examiner

*Examining practical HR issues business owners and managers encounter every day*

## Mid Summer Madness

July 2009

### HR Updates

#### New Minimum Wage

On Friday 7/24, the minimum wage increased to \$7.25. This is the third planned increase since 2007. If this applies to you, make sure employee pay has been adjusted.

#### MN COBRA Subsidy

On July 1, Minnesota

### Interesting Call

I'm assuming I'm not the only person having a hard time focusing – preferring to be outside enjoying the sun. But despite the weather, we can't ignore our on-going HR needs. Especially when there are many legal changes happening around us (see column).

I received a call from a client last week. An employee was upset because the following items were not provided to him by his employer. Check your HR legal knowledge to see whether this person had some or any cause for legal concerns:



The company:	Illegal?	Legal?
<ul style="list-style-type: none"> <li>had no handbook</li> </ul>		

introduced a COBRA subsidy in addition to that established by the federal government. In a nutshell, employees who were terminated after 9/1/08 are only required to pay 35% of their COBRA premium rather than the 102% normally paid to continue insurance coverage under a previous employer's plan. MN legislators felt that the 35% of premiums was too much for lower income Minnesotans. Here's a link more details on the program: [MN COBRA Subsidy](#) Employers are required to notify their current COBRA enrollees of this new right. Here's a link to the [Model Notice](#).

### I-9 Forms and Immigration Standards

I still encounter small businesses that are not aware of the requirement by the USCIS that employees must complete an [I-9 form](#)

• had no job descriptions		
• did not conduct performance appraisals		
• did not include holiday pay as hours worked for overtime purposes		
• did not train employees		
• did not educate employees as to their legal rights		
• did not provide details of the employee benefits		
• did not give an annual wage increase		
• did not consistently give holiday pay		

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## Interesting Answers

While we think there are rules and regulations for everything we touch in HR, most aspects of an HR operation are at the employer's discretion – as long as we don't discriminate. Here are some mini-answers to the employee's questions:

- **No handbook: Legal.** There is no requirement that employers create or communicate an employee handbook. However, it's highly recommended in order to consistently apply HR policy and procedures and to prevent discrimination.

within 72 hours of hire. While it's a small minority of organizations who are audited, in July more companies were scheduled for audits than in all of 2008.

### **MN Mandatory Breaks**

It is a fallacy that employers are required to give a 15-minute break in the morning and a 15-minute break in the afternoon to each employee. That's a leftover from more structured, union settings. In MN, only the following is required:

- ▶ adequate time within each 4 consecutive work hours to use the restroom
- ▶ a meal break for employees who work 8 or more consecutive hours, which can be unpaid, and
- ▶ any meal periods of less than 20 minutes must be paid.

- **No job descriptions: Legal.** It's great to have job descriptions so employees understand their accountabilities, but it's not required.
- **No performance appraisals: Legal.**
- **Holiday pay as hours worked for overtime purposes: Legal.** In MN employers can determine by policy whether or not to count holiday pay as hours worked. My preference is not to count holiday pay towards overtime.
- **No employee training: Legal.**
- **Don't explain legal rights: Illegal.** Employers are required to display prominently the Federal and State employment posters informing employees of their rights related to harassment, discrimination, minimum wage, USERRA, etc. I believe that an employee handbook with personalized policies should accompany this. However, merely posting the posters meets State and Federal requirements.
- **No communication of employee benefits: Illegal.** Any employer with insured benefits must provide employees with access to the written plan documents. Most employers distribute plan summaries, but they must provide plan documents upon request. There are lots more requirements in this area – contact your Insurance Broker for more details.
- **No annual wage increase: Legal.** There's no statutory requirement to increase an employee's pay. You can even decrease it any time you want!
- **No holiday pay: Legal.** The government does not legislate paid time off. They do recommend that you write all your time off policies clearly so that you

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[Arlene@ArleneVernon.com](mailto:Arlene@ArleneVernon.com)

They do recommend that you write all your time on policies clearly so that you administer them without discrimination.

That's my update for July! I hope you're enjoying your summer!

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## About Arlene Vernon

Arlene Vernon, PHR, partners with small businesses as their Human Resource Xpert to create their HR systems and solve their HR problems.

If you have gaps in your HR operation, have an employee problem to solve, or want to enhance your managers' skills, call Arlene today. Learn how HRx can save you time and help you avoid costly HR mistakes. HRx, Inc., Eden Prairie, MN 55344, 952-996-0975, [www.HRxcellence.com](http://www.HRxcellence.com). [Arlene@ArleneVernon.com](mailto:Arlene@ArleneVernon.com)

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