



HR Examiner

Examining practical HR issues business owners and managers encounter every day

No KID-ding Around

May 2010

MN Voting Law Change

On April 1, 2010, Minnesota Statute H.F. 3108 was signed into law addressing a variety of election administration requirements.

According to employment attorney Mary Rice of Fafinski, Mark and Johnson, this legislation

Child Labor

One of my clients wants to hire his 12-year old son to work in his business. He asked me to research the child labor laws surrounding such employment. Since this isn't a typical question and I hadn't researched the employment of minors in a while, I thought I would share some of the information and resources I discovered.

First of all, it's important to remember that when State and Federal employment laws contradict each other, you always go with the stricter interpretation for employers.

The State of MN Child Labor Standards Act is primarily under sections [181A.01](#) to [181A.12](#). These statutes detail the types of work environments and job responsibilities minors can perform as well as specific work hour restrictions both during and outside of the school year. The statutes also include the fines for



included a change in an employee's rights to vote on election day.

Previously, employees were allowed to vote the morning of elections and receive full pay.

This new legislation now allows employees to vote any time during election day at full pay and states:

“Every employee who is eligible to vote in an election has the right to be absent from work for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee.”

violating these requirements.

The State also has different rules for employees who are over 16 than those who are under 16.

As you probably know, there are also differences in rules for Agricultural and Non-Agricultural settings, so when you research this further, make sure you're looking in the category that applies to you.

The State requires that you have proof of the minor employee's age, whether it's their birth certificate, driver's license, school certificate or I-9 form. Make sure you don't omit this potential risk of a \$250 fine.

If you are a solo business owner and wish to hire your children, then you are exempt from the rules. That worked for me!

Here's a couple of resources from the Federal Government: [DOL Youth Employment Rules](#) summarizes the federal provisions for hiring minors. The [Youth Self-Assessment](#) is an interactive tool that guides you through your requirements in an interactive way for Non-Agriculture, restaurant and grocery employees.

Since summer is approaching and youth are seeking summer employment, now may be the right time to make sure you're complying with these requirements.

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New Internship Legislation

Whether you're obligated to pay interns has been a long-standing question for employers. This month I learned that the DOL set new standards regarding whether FOR-PROFIT employers are required to pay interns. Here's the [DOL](#)

So, double check your employee handbook and make the appropriate changes to reflect the new law.

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[Intern Fact Sheet](#) with more details.

The core of the message is that the only way an intern can work on an UNPAID basis is if the experience more closely mirrors a training program than an employment experience. If the internship experience benefits the employee but not the employer, then it's more likely to qualify as an unpaid internship. But if the internship looks more like a job, then payment must accompany the experience and that pay must follow State and Federal pay rules, such as FLSA.

Here are the DOL's six factors that would define an **unpaid** internship:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

These factors do not apply to non-profit organizations. However, it's expected that guidance regarding interns at non-profits and in the public sector will follow.

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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.

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