

Minnesota Employers Prohibited From Agreeing To Not Contest Unemployment Benefits

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In July 2012, a new statute took effect in Minnesota and, unfortunately, most employers were not aware of this. In particular, Minnesota Statute §268.192 now prohibits Minnesota employers from entering into an agreement with an employee to not contest the employee's application for unemployment benefits or to not provide information in response to the unemployment benefits application in exchange for the employee: (1) quitting; (2) taking a leave of absence; (3) leaving the employment temporarily or permanently; or (4) withdrawing a grievance or appeal of a termination.

This new statute is aimed at stopping employers from entering into private agreements with employees who might otherwise be considered ineligible for unemployment benefits. Previously, Minnesota employers commonly incorporated into severance or separation agreements a provision agreeing to not contest an employee's application for unemployment. Clearly, under this new law such an agreement now is prohibited.

Now, employers will be required to respond to an employee's application for unemployment benefits, which includes explaining why the individual was terminated. The Department of Employment and Economic Development (DEED) will make the initial determination of the individual's eligibility for such

benefits. Such initial determination will include whether the individual was terminated for misconduct, which would bar the employee from receiving unemployment benefits.

Therefore, a Minnesota employer should be prepared to inform a terminated employee that its company cannot enter into any type of an agreement relating to the individual's application for unemployment benefits and that the company is obligated to respond truthfully to this application. Otherwise, criminal and civil penalties could be imposed against that company.