N.C. Department of Labor

WAGE AND HOUR NOTICE TO EMPLOYEES

Wage and Hour Act

Minimum Wage: $7.25 per hour *(effective 7/24/09)*.

Employers in North Carolina are required to pay the higher of the minimum wage rate established by state or federal laws. The federal minimum wage increased to $7.25 per hour effective July 24, 2009; therefore, employers in North Carolina are required to pay their employees at least $7.25 per hour.

An employer may pay as little as $2.13 per hour to tipped employees so long as each employee receives enough in tips to make up the difference between the wages paid and the minimum wage. Employees must be allowed to keep all tips, except that pooling is permitted if no employee's tips are reduced more than 15%. The employer must keep an accurate and complete record of tips as certified by each employee monthly or for each pay period. Without these records, the employer may not be allowed the tip credit.

Certain full-time students may be paid 90% of the minimum wage, rounded to the lowest nickel.

Overtime

Time and one-half must be paid to all employees after 40 hours of work in any one workweek with some exceptions. The state overtime provisions specifically do not apply to certain types of employees and do not apply to employees classified as exempt under the FLSA. Exemptions may be found in NCGS § 95-25.14.

Youth Employment

Rules for all youths under 18 years old are: Youth employment certificates are required. To obtain a YEC, please visit our website at **www.labor.nc.gov**.

Hazardous or Detrimental Occupations: State and federal labor laws protect youth workers by making it illegal for employers to hire them in dangerous jobs. For example, non-agricultural workers under 18 years of age may not operate a forklift; operate many types of power equipment such as meat slicers, circular saws, band saws, bakery machinery or woodworking machines; work as an electrician or electrician's helper; or work from any height above 10 feet, including the use of ladders and scaffolds. Certain exemptions apply for Supervised Practice Youth Internships. For a complete list of prohibited jobs, please visit our website at **www.labor.nc.gov**.

The wage payment provisions apply to all private-sector employers doing business in North Carolina. The wage payment provisions do not apply to any federal, state or local agency or instrumentality of government.

Complaints

The department's Wage and Hour Bureau investigates complaints and may collect back wages plus interest if they are due to the employee. The state of North Carolina may bring civil or criminal actions against the employer for violations of the law. The employee may also sue the employer for back wages. The court may award attorney's fees, costs, liquidated damages and interest.

Anyone having a question about the Wage and Hour Act may call:

1-800-NC-LABOR (1-800-625-2267)

Employee Classification

Any worker who is defined as an employee by the N.C. Wage and Hour Act (N.C. Gen Stat. 95-25.2(4)), the N.C. Employee Fair Classification Act, the Internal Revenue Code as adopted under N.C. Employment Security laws (N.C. Gen. Stat. 96-1(b)(10)), the N.C. Workers' Compensation Act (N.C. Gen. Stat. 97-2(2)), or the N.C. Revenue Act (N.C. Gen. Stat. 105-163.1(4)) shall be treated as an employee.

Any employee who believes that he or she has been misclassified as an independent contractor by his or her employer may report the suspected misclassification to the N.C. Industrial Commission's Employee Classification Section by phone, email or fax. When filing a complaint, please provide the physical location, mailing address, and if available, the telephone number and email address for the employer suspected of employee misclassification:

Employee Classification Section
N.C. Industrial Commission
1233 Mail Service Center
Raleigh, NC 27699-4333
Email: emp.classification@ic.nc.gov
Phone: 919-807-2582
Fax: 919-715-0282

Employment at Will

North Carolina is an employment-at-will state. The term "employment-atwill" simply means that unless there is a specific law to protect employees or an employment

Additional rules for 16- and 17-year-olds are: No work between 11 p.m. and 5 a.m. when there is school the next day. Exception: When the employer gets written permission from the youth's parents and principal.

Additional rules for 14- and 15-year-olds are:

Where work can be performed: Retail businesses, food service establishments, service stations and offices of other businesses. Work is not permitted in manufacturing, mining or construction, or with power-driven machinery. Youths 14 years of age cannot work on the premises of a business holding an ABC permit for the on-premises sale or consumption of alcoholic beverages, except that youths 14 years of age can work on the outside grounds of the premises with written consent from a parent or guardian if the youth is not involved with the preparation, serving, dispensing or sale of alcoholic beverages. (NOTE: Unless action is taken by the N.C. General Assembly, this rule will apply to youths under 16 years of age effective Jan. 1, 2024.).

Maximum hours per day: Three on school days; eight if a non-school day.

Maximum hours per week: 18 when school is in session; 40 when school is not in session.

Hours of the day: May work only between 7 a.m. and 7 p.m. (9 p.m. from June 1 through Labor Day when school is not in session).

Breaks: 30-minute breaks are required after any period of five consecutive hours of work.

Additional rules for youths under 14 years old are: Work is generally not permitted except when working for the youth's parents; in newspaper distribution to consumers; modeling; or acting in movie, television, radio or theater production.

These state youth employment provisions do not apply to farm, domestic or government work.

Wage Payment

Wages are due on the regular payday. If requested in writing, final paychecks must be sent by trackable mail. When the amount of wages is in dispute, the employer's payment of the undisputed portion cannot restrict the right of the employee to continue a claim for the rest of the wages.

Employees must be notified in writing of paydays, pay rates, policies on vacation and sick leave, and of commission, bonus and other pay matters. Employers must notify employees in writing of any reduction in the rate of promised wages at least one pay period prior to such change.

Deductions from paychecks are limited to those required by law and those agreed to in writing on or before payday. If the written authorization that the employee signs does not specify a dollar amount, the employee must receive prior to payday (1) written notice of the actual amount to

contract providing otherwise, then an employer can treat its employees as it sees fit and the employer can discharge an employee at the will of the employer for any reason or no reason at all.

Right-to-Work Laws

North Carolina is a "right-to-work" state. Right-to-work applies to collective bargaining or labor unions. The right of persons to work cannot be denied or reduced in any way because they are either members of a labor union (including labor organization or labor association) or chose not to be a member of any such labor union. An employer cannot require any person, as a condition of employment or continuation of employment, to pay any dues or other fees of any kind to a labor union. Also, an employer cannot enter into an agreement with a labor union whereby (1) non-union members are denied the right to work for the employer, (2) membership is made a condition of employment or continuation of employment, or (3) the labor union acquires an employment monopoly in any enterprise.

NCDOL has no enforcement authority regarding labor union laws. For employee concerns regarding labor unions, contact the Regional Office of the National Labor Relations Board. The NLRB is an independent federal agency that protects the rights of private sector employees to join together, with or without a union, to improve their wages and working conditions. Regional office contact:

NLRB—Region 11 Office
Republic Square
4035 University Parkway, Suite 200
Winston-Salem, NC 27106-3325
336-631-5201

Retaliatory Employment Discrimination

The department's Retaliatory Employment Discrimination Bureau investigates complaints filed by employees against their employers for alleged violations of the N.C. Retaliatory Employment Discrimination Act (REDA). Under REDA, an employer may not retaliate against an employee for engaging in REDAprotected activities, such as filing a claim or initiating an inquiry, related to certain rights under the following:

- Workers' Compensation Claims
- Wage and Hour Complaints
- Occupational Safety and Health Complaints
- Mine Safety and Health Complaints
- Genetic Testing Discrimination
- Sickle Cell or Hemoglobin C Carriers Discrimination
- N.C. National Guard Service Discrimination
- Participation in the Juvenile Justice System
- Exercising Rights Under Domestic Violence Laws

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be deducted, (2) written notice of their right to withdraw the authorization, and (3) be given a reasonable opportunity to withdraw the authorization. The written authorization or written notice may be given in an electronic format, provided the requirements of the Uniform Electronic Transactions Act (Chapter 66, Article 40 of the N.C. General Statutes) are met.

The withholding or diversion of wages owed for the employer's benefit may not be taken if they reduce wages below the minimum wage. No reductions may be made to overtime wages owed.

Deductions for cash or inventory shortages or for loss or damage to an employer's property may not be taken unless the employee receives seven days' advance notice. This seven-day rule does not apply to these deductions made at termination. An employer may not use fraud or duress to require employees to pay back protected amounts.

If the employer provides vacation pay plans to employees, the employer shall give vacation time off or payment in lieu of time off, as required by company policy or practice. Employees must be notified in writing of any company policy or practice that results in the loss or forfeiture of vacation time or pay. Employees not so notified are not subject to such loss or forfeiture.

- Pesticide Regulation Complaints
- Drug Paraphernalia Complaints

Employees who believe they have been retaliated against in their employment because of activities under the above statutes, or employers who have questions about the application of REDA, may call:

1-800-NC-LABOR (1-800-625-2267)

A REDA complaint must be filed with the bureau within 180 days of the date of retaliation.

www.labor.nc.gov
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www.labor.nc.gov/labor-law-posters

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25,000 copies of this public document were printed at a cost of $7,409.00, or $.30 per copy.

Wage and Hour Notice to Employees and OSH Notice to Employees must be posted together.

OSH Notice to Employees

Safety and Health

N.C. Department of Labor Responsibilities

The state of North Carolina has a federally approved program to administer the Occupational Safety and Health Act in North Carolina. This program is administered by the N.C. Department of Labor, Occupational Safety and Health (OSH) Division.

The OSH Division has the following responsibilities and powers:

- **Inspections**—The OSH Division conducts workplace inspections that can be triggered by complaints, accidents or because the workplace has been randomly selected for an inspection.
- **Citations**—Following an inspection, the employer may be cited for one or more violations of the OSHA standards. The employer will be given a timetable to correct the violation to avoid further action.
- **Penalties**—The Commissioner shall have the authority to assess penalties against any employer who violates

N.C. Department of Labor. Call **1-800-625-2267** or **919-707-7876**.

- **Accident and Fatality Reporting**—An employer must report the following:
  Within eight hours: Any work-related fatality.
  Within 24 hours:
  - Any work-related in-patient hospitalization of one or more employees.
  - Any work-related amputation.
  - Any work-related loss of an eye.

To report an accident, call the OSH Division at **1-800-625-2267** or **919-779-8560**.

Employee Rights and Responsibilities

Public and private sector employees must comply with occupational safety and health standards, rules, regulations, and those orders issued under OSHA that relate to their own actions and conduct.

- **Complaints**—An employee has a right to make a complaint regarding workplace conditions he or she

the requirements of the OSH Act. The Commissioner shall adjust minimum and maximum civil penalties in accordance with the requirements set forth in the U.S. Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor as necessary to comply with federal law. The Commissioner shall have a period of 60 calendar days from the date a final rule is published in the Federal Register to publish the civil penalties in the North Carolina Register under 13 NCAC 07A .0301 or any related or subsequent regulations setting penalty standards in compliance with Part 1903 of Title 29 of the Code of Federal Regulations, and on its website.

- **OSHA Standards—**The division adopts all federally mandated OSHA standards verbatim or can rewrite them to meet state conditions, as long as the new version is at least as strict as the federal standard.

  A copy of any specific standard adopted by the OSH Division is available free of charge. The entire "General Industry" or "Construction Industry" standards are available for a nominal cost by calling **1-800-625-2267** or **919-707-7876**.

Employer Rights and Responsibilities

Public and private sector employers have a "general duty" to provide their employees with workplaces that are free of recognized hazards likely to cause serious injury or death. Employers must comply with the OSHA safety and health standards adopted by the Labor Department.

- **Inspections—**An employer has the legal right to refuse to allow an inspector to enter the workplace without an administrative inspection warrant. If this occurs, the inspector will obtain a warrant to conduct the inspection. The employer has the right to accompany the inspector during the physical inspection.
- **Discrimination—**It is illegal to retaliate in any way against an employee for raising a health or safety concern, filing a complaint, reporting a work-related injury or illness, or assisting an inspector. The department will investigate and may prosecute employers who take such action.
- **Citations—**If an OSH inspection results in one or more citations, the employer is required to promptly and prominently display the citation(s) at or near the place where the violation allegedly occurred. It must remain posted for three working days or until the violation has been corrected or abated, whichever is longer.
- **Contesting Penalties—**Once an employer has been cited, he or she may request an "informal conference" with OSH officials to discuss the penalty, abatement or other issues related to the citation. This request must be

believes are unsafe, unhealthy or in violation of OSHA standards. When an OSH inspector is in an employee's workplace, that employee has a right to point out unsafe or unhealthy conditions and to freely answer any questions asked by the inspector. When making a complaint, the employee may request that his or her name be kept confidential.

To make a complaint, call 1-800-625-2267 or 919-779-8560.
Complaints also can be made online at www.labor.nc.gov.

- **Contesting Abatement—**Employees may contest any abatement period set as a result of an OSH inspection at their workplace. An employee has the right to appear before the Review Commission to contest the abatement period and seek judicial review.

Other OSHA Information

- **Federal Monitoring—**The OSH Division is monitored by the U.S. Department of Labor. Federal authorities ensure that continued state administration is merited. Any person who has a complaint about the state's administration of OSHA may contact the Regional Office of the U.S. Department of Labor, 61 Forsyth St. S.W., Suite 6T50, Atlanta, GA 30303.
- **Additional Information or Questions—**Anyone having a question about any of the above information may write or call:

N.C. Department of Labor
Occupational Safety and Health Division
1101 Mail Service Center
Raleigh, NC 27699-1101
Phone: 1-800-625-2267
Fax: 919-707-7964
E-mail: ask.osh@labor.nc.gov
www.labor.nc.gov



Josh Dobson
Commissioner of Labor

This notice must be posted conspicuously.
This poster is available free of charge to all North Carolina workplaces.
Call 1-800-625-2267 or 919-707-7876 or order online.

1-800-NC-LABOR
(1-800-625-2267)
www.labor.nc.gov

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made within 15 working days after the citation is received.

The employer may formally contest (by filing a "Notice of Contest") the citation(s) or proposed penalty to the N.C. Occupational Safety and Health Review Commission. The Review Commission is an independent body that hears and decides contestments by employers and employees concerning citations, abatement periods and penalties.

Employers wishing to know more about the procedures for filing a "Notice of Contest" should contact the Review Commission. Telephone: **919-733-3589**. Website: **www.oshrb.state.nc.us**.

- **Injury and Illness Records—**Employers with 11 or more employees, unless specifically exempted, are required to maintain updated occupational injury and illness records of their employees. Recordkeeping forms and information concerning these requirements may be obtained from the Education, Training and Technical Assistance Bureau,

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N.C. Workers' Compensation Notice to Injured Workers and Employers (Form 17) NCDOL does not handle matters relating to workers' compensation. If you would like information about workers' compensation policies or procedures, please contact the N.C. Industrial Commission at N.C. Industrial Commission, 4340 Mail Service Center, Raleigh, NC 27699-4340; 919-807-2500; www.ic.nc.gov. Form 17 must be prominently posted and must be printed in the same colors and format that appear on the Industrial Commission website. To download and print the current version of Form 17, visit www.ic.nc.gov.

Unemployment Insurance NCDOL does not handle matters relating to unemployment insurance. If you would like information about unemployment insurance policies or procedures, please contact the Department of Commerce, Division of Employment Security, P.O. Box 25903, Raleigh, NC 27611-5903, 1-888-737-0259; www.ncesc.com.