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 percent. 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 percent of the minimum wage, rounded to the nearest nickel.

Overtime

Time and one-half must be paid after 40 hours of work in any one workweek, except after 45 hours at seasonal recreational and amusement establishments.

The state overtime provisions do not apply to some employers and employees who are exempt.

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. For a complete list of prohibited jobs, please visit our website at www.labor.nc.gov.

Additional rules for 16- and 17-year-olds 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.

- State youth employment provisions do not apply to farms, domestic or government work.

Wages Payment

Wages are due on the regular payday. If requested, final paychecks must be mailed. 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. Additional rules for 14- and 15-year-olds are:

- Work in 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, or on the premises of a business holding an ABC permit for the on-premises sale or consumption of alcoholic beverages; except that youths at least 14 years of age can work on the outside grounds of the premises with written consent from a parent or guardian as long as the youth is not involved with the preparation, serving, dispensing or sale of alcoholic beverages.

- 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, or on the premises of a business holding an ABC permit for the on-premises sale or consumption of alcoholic beverages; except that youths at least 14 years of age can work on the outside grounds of the premises with written consent from a parent or guardian as long as the youth is not involved with the preparation, serving, dispensing or sale of alcoholic beverages.

- 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)

Employment Discrimination

The department’s Employment Discrimination Bureau enforces the Retaliation Employment Discrimination Act (REDA). Employees involved in the following activities are protected from retaliation or discrimination by their employer:

- Workers’ Compensation Claims
- Wage and Hour Complaints
- Occupational Safety and Health Complaints
- Mine Safety and Health Complaints
- Genetic Testing
- Sickle Cell or Hemoglobin Carriers
- N.C. National Guard Service
- The Juvenile Justice System
- Victims of Domestic Violence
- Pesticide Regulation Complaints

Employer who have questions about the application of REDA, or employees who believe they have been discriminated or retaliated against, should call:

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

All complaints must be made within 180 days of the date of retaliation.

www.labor.nc.gov

Follow NCDOL on
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:

- **Employer Rights and Responsibilities**
  - Employers with 11 or more employees 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.
  - **Penalties**—An employer can be fined up to $7,000 for each “serious” violation. Serious violations that involve injury to a person under 18 years of age could result in fines up to $14,000 per violation. An additional maximum $7,000 penalty can be assessed for each day an employer fails to correct or abate a violation after the allotted time to do so has passed.
  - **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 made within 15 working days after the citation is received.

- **Accident and Fatality Reporting**
  - An employer must report any work-related accident or fatality 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.

- **Discrimination**
  - 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.

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

- **Penalties**
  - An employer can be fined up to $70,000 for each willful or repeat violation of an OSHA standard.

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.ncsec.com.

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.nccourts.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.nccourts.gov.

Employee Rights and Responsibilities

Public and private sector employees 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.

- **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 employers must comply with occupational safety and health standards, rules, regulations, and those orders issued under OSHA that relate to their own actions and conduct.

- **Penalties**
  - An employer can be fined up to $7,000 for each “serious” violation. Serious violations that involve injury to a person under 18 years of age could result in fines up to $14,000 per violation. An additional maximum $7,000 penalty can be assessed for each day an employer fails to correct or abate a violation after the allotted time to do so has passed.

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 6750, 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 or 919-807-2796
  Fax: 919-807-2856
  E-mail: askosh@labor.nc.gov
  www.labor.nc.gov

This notice must be posted conspicuously. This poster is available free of charge to all North Carolina workplaces.

Call 1-800-625-2267 or 919-807-2875 or order online.

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

Follow NCDOL on