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 by 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 able to tip credit.

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

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

Wage 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.

Employers must notify employees of paydays, pay rates, policies on vacation and sick leave, and of commission, bonus and other pay matters. Employers must notify employees in writing or through a posted notice maintained in a place accessible to its employees of any reduction in the rate of promised wages at least 24 hours prior to such cut.

Deductions from paychecks are limited to those required by law and those agreed to in writing or on 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 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 46 of the N.C. General Statutes) are met.

The withholding or diversion of wages owed for the employer’s benefit may not be used by the employer to pay back protected amounts.

Right-to-Work Laws

North Carolina is a “right-to-work” state. The term “employment-at-will” simply means that unless there is a specific law to protect employees or an employment contract providing otherwise, 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.

Wage and Hour Notice to Employees

Complaints

The department’s Wage and Hour Bureau investigates complaints and may call per employee’s wages preference for wages and work performance. 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 employee who believes that he or she has been improperly classified as an independent contractor by his or her employer may report the improper classification to the N.C. Industrial Commission’s Employee Classification Section by phone, email or fax. If 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
Fax: 919-715-0282

Employment at Will

North Carolina is an employment-at-will state. The term “employment-at-will” simply means that unless there is a specific law to protect employees or an employment contract providing otherwise, 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 of work cannot be denied 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 any labor union. Also, no worker shall be required to 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 continued 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 NRLB is an independent federal agency that protects the rights of private sector employers to work in a union-free environment. Regional office contact:
NLRB—Region 1 Office
Republic Square
4035 University Parkway, Suite 200
Winston-Salem, NC 27106-3235
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 REDA-protected 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
• 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)

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

N.C. Department of Labor

Wage and Hour Notice to Employees

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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)

AREDA complaint must be filed with the bureau within 180 days of the date of retaliation.
Wage and Hour Notice to Employees and OSH Notice to Employees must be posted together.

**OSHA 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**—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.

**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.

**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.des.nc.gov.

**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: ask.osh@labor.nc.gov

  www.labor.nc.gov

**Employer 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. All employers are required to promptly and prominently display the citation(s) at or near the place where the violation allegedly occurred. 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.

**Civil Penalties**—An employer can be fined for each violation, to be assessed for each day an employer fails to correct or abate a violation after the allotted time to do so has passed.

**Injury and Illness Records**—Employees 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, N.C. Department of Labor. Call 1-800-625-2267 or 919-807-2875.

**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. All employees are entitled to receive and review citations at or near the place where the violation allegedly occurred.

**OSHA Standards**—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.

- **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 prosecute employers who take such action.
- **Penalties**—Any OSHA 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 OSHA 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.

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.

**Penalties**—An employer who is found guilty of willfully violating any standard, rule or regulation that has resulted in an employee’s death.

A penalty of up to $70,000 may be issued for each willful or repeat violation of an OSHA standard.

Criminal penalties of up to $10,000 may apply against employers who are found guilty of willfully violating any standard, rule or regulation that has resulted in an employee’s death.

**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 919-807-2875.

**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**

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.des.nc.gov.

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