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 amenity establishments. The state overtime provision does not apply to some employees and employers 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.nclabor.com.

Hazardous or Detrimental Occupations: State and federal labor laws protect youth workers by making it illegal for employers to employ 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 wood-working 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.nclabor.com.

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 all youths under 18 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 movies, 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, 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.

Employees must be notified 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 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 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 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 unless if 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 has been notified in writing or through a posted notice 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.

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 collects 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 employer may be fined and made to pay 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 write or call the EDB:

N.C. Department of Labor
Wage and Hour Bureau
1101 Mail Service Center
Raleigh, NC 27699-1101
Phone: 1-800-625-2267 or 919-807-2796
Fax: 919-807-2786
www.nclabor.com

Employment Discrimination

The department’s Employment Discrimination Bureau (EDB) enforces the Retaliatory 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
• Pest Control Regulation Complaints

Employers who have questions about the application of REDA, or employees who believe they have been discriminated or retaliated against, should contact the EDB information officer:

N.C. Department of Labor
Employment Discrimination Bureau
1101 Mail Service Center
Raleigh, NC 27699-1101
Phone: 1-800-625-2267 or 919-807-2831
Fax: 919-807-2824
www.nclabor.com

All complaints must be made within 180 days of the date of retaliation.
Wage and Hour Notice to Employees and OSH Notice to Employees must be posted together.

OSH Notice to Employees

Safety and Health (OSHA)

N.C. Department of Labor Responsibilities

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

• **OSH 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.

• **OSHA—The 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
  4340 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.nclabor.com

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.

• **Citations**—Any employer who retaliates in any way against an employee for filing a complaint or assisting an inspector is breaking the law. The department will investigate and may prosecute employers who take such action.

• **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.

• **Contesting Penalties**—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.

• **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 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.

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.

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.

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  Fax: 919-807-2856
  E-mail: ask.osh@labor.nc.gov
  www.nclabor.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.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 local Employment Security Office or the N.C. Employment Security Commission, Unemployment Insurance Division, P.O. Box 25903, Raleigh, NC 27611-5903, 1-866-278-3822, www.ncesc.com.

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• **Penalties**—An employer can be fined up to $7,000 for each “serious” 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.

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.

• **OSH 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.

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