



NORTH CAROLINA DEPARTMENT OF LABOR

WAGE AND HOUR NOTICE TO EMPLOYEES

WAGE AND HOUR ACT

Minimum Wage in North Carolina is currently: **\$7.25 per hour.**

Federal and state law govern the minimum wage an employee must be paid. The U.S. Department of Labor requires that employers pay their nonexempt employees \$7.25 per hour, which is the same rate established by the State of North Carolina. The \$7.25 minimum wage went into effect on July 24, 2009.

Tipped employees in North Carolina may be paid under a tip credit system where a wage of no less than \$2.13 per hour may be paid by the Employer so long as tips are credited to the Employee in sufficient amount that the employee is making no less than \$7.25 per hour. Employers may utilize a “tip pool” at their business, but Employees must be allowed to keep no less than 85% of their earned tips. Employers must account for all tips earned by each employee. Failure to keep accurate tip records on a monthly or per pay period basis may lead to the Employer not being able to utilize the tip credit system described above.

Some full-time students may be paid a wage of not less than 90% of the current minimum wage.

Youth Employment Rules

Anyone under the age of 18 working in North Carolina must have a Youth Employment Certificate (YEC). Applications for YECs may be made at www.labor.nc.gov under “Workplace Rights” and “Youth Employment Rules.”

Dangerous Occupations for Youths: North Carolina prohibits youth workers from engaging in 17 hazardous and 9 detrimental occupations, listings of which can be found at www.labor.nc.gov under “Workplace Rights” and “Youth Employment Rules”. Dangerous occupations include, but are not limited to, manufacturing explosives, logging, operating power driven paper product machines, excavation operations, welding, work as an electrician or electrician’s helper and exposure to radioactive substances. The U.S. Department of Labor also maintains a list of prohibited occupations for youth at www.dol.gov/agencies/whd/child-labor.

Rules for 16- and 17-year-olds:

During school, youths in grades 12 or lower may not work between 11:00 p.m. and 5:00 a.m. when there is school for the youth the next day, unless the employer gets written permission from the youth’s parents and the youth’s school principal.

Rules for 14- and 15-year-olds:

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.

Limitation on the number of hours per day: No more than 3 on school days and 8 when school is not in session.

Limitation of the number of hours per week: No more than 18 hours may be worked when school is in session and 40 when school is not in session.

Permitted work time: Only between the hours of 7 a.m. and 7 p.m., except for the period of June 1st through Labor Day (when school is not in session) when the work day is extended to 9 p.m.

Mandatory Breaks: A 30-minute break is required after any period where 5 consecutive hours of work are completed.

Rules for youths under 14 years old:

Unless the youth is working for the youth’s parents, work is generally not permitted. However, a youth under 14 may in the business of newspaper distribution to consumers, modeling, acting.

Overtime Minimum Wage

For all hours worked in excess of 40 hours in a workweek, Employers must pay their Employees at a rate of time and one-half, unless the Employee is exempt. Certain Employees of seasonal recreational and amusement establishments may not be entitled to time and one-half unless they have worked in excess of 45 hours in a workweek.

Payment of Wages

Wages must be paid on the regular payday established by the employer. A final paycheck must be mailed if requested by an employee. If a dispute arises with respect to the amount of wages to be paid, the payment of the undisputed portion by the employer does not prohibit the employee from pursuing a claim for the rest of the wages.

Employers must notify its employees concerning its paydays, pay rates (including bonuses and commissions), policies on vacation and sick leave. An employer may change its wage and benefit structure with an employee at any time, but it must provide at least 24 hours’ notice prior to any reduction in wages or benefits and such changes may not be retroactive.

Withholding and deductions from an employee’s wages are permitted for those items required by state and federal law and those agreed to in writing in advance of any payday. If the written authorization that the employee signs does not specify a dollar amount, the employee must receive prior to the employer making the deduction (1) written notice of the actual amount to be withheld, (2) written notice of the employee’s right to withdraw the authorization, and (3) a reasonable opportunity for the employee to withdraw the authorization.

Withholding of wages for the employer’s benefit may not be made if the withheld amount reduces the employee’s wages below the minimum wage. No deductions can be made to the time and one-half overtime wages.

To withhold or divert an employee’s wages for cash or inventory shortages or for loss or damage to an employer’s property an employee must receive 7 days’ advance notice, unless the withholding or diversion of such amount is made at the same time the employee’s employment is terminated.

If the employer provides promised benefits, including vacation pay to employees, the employer shall provide the promised vacation time off or payment in lieu thereof, all in accordance with company policy or practice. Employers must provide written notice of any company policy or practice regarding the forfeiture of vacation time or pay. Without notice, employees may not be subject to such loss or forfeiture.

The above provisions only apply to private-sector employers doing business in North Carolina. They do apply to any federal, state or local government agency.

Complaints

The North Carolina Department of Labor’s Wage and Hour Bureau investigates complaints and may collect wages and other benefits due an employee. Violations of the law may result in civil or criminal actions against the employer. However, employees may also sue the employer and may be awarded attorney’s fees, costs, liquidated damages and interest under certain circumstances.

If you have a complaint against an employer or have any other questions or inquiries, please contact the Wage and Hour Bureau:

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: 888-733-9389
www.labor.nc.gov

Employment at Will — Right-to-Work Laws

North Carolina is an “employment-at-will” state, which means that unless there is an employment contract between the employer and employee or a specific law protecting the employee, the employer can treat its employees as it sees fit and discharge an employee at its discretion for any reason or no reason whatsoever.

North Carolina is a “right-to-work” state. The right to live includes the right to work and the right of a person to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization or association. No employer shall require any person, as a condition or employment or continuation of employment, to pay any dues, fees or other charges of any kind to a labor union or labor organization. Also, an employer cannot enter into an agreement with a labor union or labor organization 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 by such employer, or (3) the labor union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

In addition, in *CWA v. Beck*, 487 U.S. 735 (1988), the U.S. Supreme Court stated that if a collective bargaining agreement between an employer and a labor union requires employees to pay uniform periodic dues and initiation fees, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration and grievance adjustment. Thus, if you believe that you have been required to pay dues or fees used in part to support activities not directly related to the duties of collective bargaining, you may be entitled to a refund and to an appropriate reduction in future payments.

NCDOL does not have any enforcement authority of these laws, but if you have any questions, contact the Regional Office of the National Labor Relations Board (NLRB) at the following address and phone number:

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

Farm work is exempt from the provisions of the North Carolina Wage and Hour Act.

DISCRIMINATION

The Retaliatory Employment Discrimination Bureau (REDB) is responsible for enforcing the 1992 Retaliatory Employment Discrimination Act (REDA). REDA protects employees involved from retaliation or discrimination by their employer in “protected activities”, including the following:

- Wage and hour issues
- Workplace safety
- Mine safety and health

- Sickle cell and hemoglobin C carriers
- National Guard Service
- The Juvenile Justice System

- Domestic Violence
- Pesticide exposure
- Reporting of employers under the Paraphernalia Control Act

Employers and employees with questions regarding REDA and any violation of REDA should contact:

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.

NOTICE TO WORKERS FOR UNEMPLOYMENT BENEFITS

Most Employers in North Carolina are required to contribute money to a fund for the purpose of paying unemployment insurance benefits to some employees who become unemployed. Employees do not contribute to this fund, only employers do.

If you become unemployed or your work hours are substantially reduced you may qualify for unemployment insurance benefits in certain cases. You should file a claim for unemployment benefits if you have become unemployed through no fault of your own and you are actively seeking work and would accept such work if it was offered or if sufficient work is not available at your employer, resulting in you working less than full-time (i.e. a week of less than 3 customarily scheduled full-time days). In cases of partial unemployment, employers may file claims for employees through the use of automation. Employers may file a claim for an employee only once during a benefit year, with the period of partial unemployment not exceeding six consecutive weeks. Employers are entitled to notice in connection with any wages you earn, regardless of the source, during a payroll week. Please notify your employer of any such wages earned.

If you become unemployed, you are encouraged to contact the Department of Commerce, Division of Workforce Solutions (DWS) at www.nccommerce.com/workforce to for assistance in locating additional opportunities of employment and there is no charge for this service. However, if work is not readily available you may file a claim for unemployment insurance benefits with the Division of Employment Security (DES) at www.ncesc.com, or by phone at 877-841-9617.

Please be aware that workers who become unemployed for reasons other than those mentioned above or who refuse suitable work may be denied unemployment insurance benefits.

Please contact DES at 877-841-9617 or the address at the bottom of this poster with any questions you may have.

During Labor Disputes

[Section 96-14.7(b)]

Under Chapter 6 of the North Carolina General Statutes, an individual may be disqualified for unemployment insurance benefits if the reason for the individual’s unemployment is a labor dispute at any of your Employer’s places of business in the North Carolina. Even if the dispute has ceased, you may be ineligible for unemployment insurance benefits until such time as your Employer’s operations restart.

For Employers

This poster should be posted at your place of business in a conspicuous place.

1. Claims your employees may be filed on-line at www.ncesc.com.

For all inquiries and questions, please contact DES:

North Carolina Department of Commerce Division of
Employment Security
P.O. Box 25903
Raleigh, N.C. 27611
Telephone: (919) 707-1237