



North Carolina Workplace Laws



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 (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. 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

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**—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.

- **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 contests by employers and employees concerning citations, abatement periods and penalties.

Police at (919) 733-4646.

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 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) 807-2796. Complaints also can be made online at www.nclabor.com.

- **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.

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**.

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

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

• **Records and Reports**—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 Bureau of Education, Training and Technical Assistance, N.C. Department of Labor, 1101 Mail Service Center, Raleigh, NC 27699-1101. Call **1-800-625-2267** or **(919) 807-2875**.

• **Reporting Accidents**—Any on-the-job accident or illness requiring three or more employees to be hospitalized or that causes a fatality must be reported to the OSH Division within eight hours after it occurs or the employer can be fined up to \$7,000. To report an accident, call the OSH Division at **1-800-625-2267** or **(919) 807-2796** during normal working hours. After hours, call the State Capitol

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
Division of Occupational Safety and Health
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@nclabor.com
www.nclabor.com

Wage and Hour Act

Minimum Wage: \$6.55 per hour (effective 7/24/08).
Minimum Wage: \$7.25 per hour (effective 7/24/09).
Employers in North Carolina are required to pay the higher of the state or federal minimum wages. The federal minimum wage increased to \$6.55 per hour on July 24, 2008, and is scheduled to increase to \$7.25 per hour effective July 24, 2009. Therefore, employers in North Carolina are required to pay their employees at least \$6.55 per hour until July 24, 2009, when the rate will increase to \$7.25 per hour. (Note: Employers in North Carolina were required to pay at least \$6.15 per hour from Jan. 1, 2007, until the \$6.55 per hour rate became effective on July 24, 2008.)

An employer may pay as little as \$2.13 per hour to tipped employees so long as each employee receives

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).

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.

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

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 lowest 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 provision does not apply to some employers and employees who are exempt.

Youth Employment

Rules for all youths under 18 years old are: Youth employment certificates (YEC) are required. To obtain a YEC, please visit our Web site at www.nclabor.com. Work in hazardous, detrimental or prohibited jobs is not permitted.

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, 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.

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

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 are in dispute, the employer's payment of the undisputed portion cannot restrict the right of the employee to continue his or her 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 amount 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 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 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 amounts. 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 sums.

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 or

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 write or call:

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
E-Mail: ask.wageandhour@nclabor.com
www.nclabor.com

Right-to-Work Laws

North Carolina is a "right-to-work" state, which means that the right of a person to work cannot be denied or abridged because that person belongs—or does not belong—to a labor union. In addition, an employer cannot require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges 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.

NC DOL does not have any enforcement authority of these laws, but if you have any questions you may 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

Unemployment Insurance

NCDDOL 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 at:
N.C. Employment Security Commission,
Unemployment Insurance Division, P.O. Box 25903,
Raleigh, NC 27611-5903, 1-866-278-3822;
www.nccsc.com.

Employment Discrimination

The N.C. Department of Labor 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
- Sick Cell or Hemoglobin Carriers
- N.C. National Guard Service
- The Juvenile Justice System
- Victims of Domestic Violence

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
E-mail: ask.edb@nclabor.com
www.nclabor.com

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

Workers' Compensation Notice and Instructions to Employers and Employees (Form 17)

All employees of this business suffering work-related injuries or illnesses may be entitled to workers' compensation benefits from the employer or its insurance carrier, except specifically excluded executive officers.

In Case of Illness or Injury:

The Employee Should:

- Immediately give the employer notice in writing of injury or occupational disease. Failure to inform the employer within 30 days after an injury or the development of most occupational diseases, or the refusal to accept medical services provided by the employer, may deprive the employee of the right to compensation.

- File claim with the Industrial Commission within two years of the accidental injury or two years after the death, disability or disablement caused by an occupational disease (The Commission's Form 18 may be used to give notice to employer and to file a claim). In case of fatal injury, claim must be filed by one or more dependents or next of kin of the deceased employee within two years after such death.

- If no agreement is reached with the employer with regard to payment of compensation for injury or occupational disease, or if a disagreement develops over compensation due, the employee should promptly request the Industrial Commission to hold a hearing to decide

the issues. Benefits may be denied if the request is made more than two years after the date of injury or last payment of cash compensation.


The Employer Should:

- Provide all necessary medical, surgical, hospital and rehabilitation services reasonably required to effect a cure, give relief and lessen the period of the employee's disability (N.C.G.S. §97-25). Keep a record and report to insurance carrier/compensation administrator ALL injuries suffered by its employees on the Commission's Form 19. The employer, or the carrier/ administrator on its behalf, must mail a Form 19 report to the Industrial Commission within five days of the occurrence or report of an injury causing more than one day's absence from work or \$2,000 or more in medical treatment, other than treatment provided at the workplace (N.C.G.S. §97-92).
 - Pay compensation in accordance with the provisions of the Workers' Compensation Act for disability.
- Agreements between employer and employee to pay compensation must be submitted to the Industrial Commission for approval.

N.C. INDUSTRIAL COMMISSION
4340 Mail Service Center
Raleigh, NC 27699-4340
(919) 807-2500

**THIS NOTICE MUST BE
POSTED CONSPICUOUSLY.**

CALL 1-800-625-2267 or (919) 807-2796


Cherie K. Berry
Commissioner of Labor

N.C. Department of Labor Internet Address:
www.nclabor.com

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