



NCDOL

N.C. Department of Labor

Josh Dobson, Commissioner

Labor LEDGER

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NCDOL Highlights Heat Illness Prevention Strategies

By Grant Quiller, Health Consultant

During these “dog days of summer,” the heat and humidity of North Carolina is omnipresent. Whether it be harvesting a crop or landscaping, working in this heat is a serious hazard. Employees in North Carolina continue to labor outside while the heat index climbs. It is important to understand the risks associated with these exposures and how employers can keep workers safe through training, monitoring, administrative controls and providing water, rest and shade.

The first step is training workers on the hazards associated with working in the heat. If an employee is dismissing symptoms of their heat-related illness, then their core body temperature may continue to climb to a dangerous level. What may start as a heat rash may progress to serious cramping, lightheadedness and dizziness. A rapid intervention would be required, ensuring the employee’s symptoms do not further progress to a worst-case event like heat stroke. Cool their bodies down by finding a cool environment, resting and hydration. If someone is of an altered mental state with a high body temperature, this is a medical emergency and requires immediate medical attention.

Employers need to also understand the importance of monitoring the weather. The Occupational Safety and Health Administration (OSHA) and National Institute for Occupational Safety and Health collaborated to develop the Heat Safety Tool application available on iOS and Android. This easy-to-use application tells you current weather in your area while considering both temperature and humidity. The human body’s ability to dissipate heat into the environment is dependent on these factors, and a hot day with high humidity will be more hazardous than a hot day with lower humidity. These factors change throughout the day and require continuous monitoring to determine appropriate work activity.

Administrative controls can further reduce the risks of working in the heat. Perform strenuous work during the coolest parts of the day. If a specific task does not require much energy, adjust your work schedule to align with the weather accordingly. If personal protective equipment is required, such as an impervious chemical suit or fire-resistant clothing, account for the impacts it will have on an employee’s ability to stay cool. Monitor employees and consider implementing a buddy system to ensure breaks are being taken as needed. Closely monitor new employees who may not be acclimatized to working in the heat and let them gradually build up to their full workload over time. As the weather gets hotter, consider taking breaks at specified intervals.

The human body can only acclimatize to heat so much. While the standards OSHA enforces are designed to be protective of the general work force, not all workers are heat tolerant. Personal risk factors such as cardiovascular disease, prescribed medication, overall health and hydration levels will impact how a worker handles the heat. Considerations must be taken to protect all workers. Ensure there is adequate water and that it is readily available, have easily accessible shade and encourage its use and take breaks at intervals as needed.

The last thing any employer wants is a workplace fatality, especially when that fatality is 100% preventable. Implementing these guidelines along with an Outdoor Heat Exposure Prevention Plan and emergency response plan may save someone’s life who is just trying to provide for themselves and their family.

Click [here](#) to learn about

HEAT STRESS



1-800-625-2267 ★ www.labor.nc.gov



From Labor Commissioner Josh Dobson

In July, I attended the National Association of Government Labor Officials (NAGLO) Conference in National Harbor, Maryland. NAGLO was formed more than 100 years ago for the purpose of representing and collaborating with state departments of labor. Although no state labor department is identical to another, most states share certain responsibilities such as occupational safety and health, wage and hour enforcement, inspection of elevators and amusement devices, unemployment insurance oversight, etc. At this year's conference, I had the pleasure of meeting the labor commissioners, directors and administrators from a dozen states across the country. We discussed relevant current events and issues in our states and covered topics including newly adopted legislation, lessons learned from the COVID-19 pandemic, funding and staffing concerns, OSHA state-plan coverage and wage and hour policies. Thank you to the Maryland Department of Labor for hosting an informative and worthwhile meeting.

I am pleased that the N.C. General Assembly passed the 2022 Appropriations Act (state budget) with overwhelmingly bipartisan support. The budget, which the governor signed into law on July 11, includes a total salary increase of 3.5% for state employees as well as additional funding for labor market salary adjustments to address staffing issues in hard-to-recruit positions across the N.C. Department of Labor (NCDOL). Our state employees serve in critical functions throughout state government, and I am thankful that the budget recognizes their hard work. The budget conference report also includes policy changes to the Occupational Safety and Health (OSH) Act that were requested by my office. One significant change is to extend the statute of limitations for issuing citations that result from OSH inspections. See the full story on Page 3.

One new feature of the Labor Ledger is a "classified ad" for current job openings with NCDOL. This month's edition includes a brief description and link to a job posting for an Elevator Inspector. If you have experience in the industry, please consider applying for this position. See Page 3 for more information.

On July 31, we will wish Art Britt, long-time Chief of Staff at NCDOL, a bittersweet farewell as he retires with more than 30 years of creditable state service. Art was originally appointed to the role by former Commissioner Cherie Berry, and I asked him to remain in that role when I took office in January 2021. Art is a loyal, dedicated and experienced employee, and we will greatly miss his humor and his wisdom. I welcome Scott Mabry as my new Chief of Staff on Aug. 1.

Enjoy the rest of your summer!

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Recognition Roundup

"Recognition Roundup" identifies businesses that qualify for one of the N.C. Department of Labor's recognition programs. Congratulations to all of the recent award recipients. For a complete list of **Star** and **SHARP** sites, visit the **NCDOL website**.

Carolina Star *Recertification

Shawmut Park Avenue LLC, Burlington*

Public Sector Star *Recertification

City of Mount Airy, Mount Airy*

SHARP *Recertification

Aldersgate UMRC Inc., Charlotte*

Century Furniture LLC, Plant No. 2, Hickory

Clean Harbors Environmental Services Inc., Reidsville*

Edwards Wood Products Alamance Dry Kiln (Liberty Lumber Co.), Liberty*

Friends Homes Inc., Greensboro*

Gaston Skills Inc., Gastonia*

Joseph T. Ryerson & Son Inc., Charlotte*

Metal Recycling Services of Whiteville LLC, Whiteville*

Southland Electrical Supply Inc., Burlington*

The Tarheel Electric Membership Association Inc., Raleigh*

Total Fire Systems Inc., Youngsville*



Nova Development



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NCDOL Legislative Update

By: Julie Ryan, Director of Governmental Affairs and Edgar Starnes, Legislative Liaison

The N.C. General Assembly (NCGA) convened its short session on May 18, 2022, and adjourned on July 1, 2022, to reconvene on July 26, 2022. The largest challenge facing the legislature was how to appropriate the \$4 billion surplus. The N.C. Department of Labor (NCDOL) benefited from this surplus and our budget requests were met with favor, receiving almost everything the department requested. Approved items include \$200,000 in additional money for Consultative Services to cover the cost of two positions under state appropriated funds to provide a more secure funding source. In addition, the department received \$445,881 to fund four labor section attorneys under the Attorney General's (AG's) office. The department also received \$113,359 to restore an additional attorney position under the AG's office that was eliminated in a previous budget. Employee salary enhancement was addressed by increasing salaries by an additional 1% on top of the 2.5% increase, which took effect on July 1, 2022. Finally, the department received \$187,198 for salary enhancements to recruit and retain talented staff with very specialized skillsets.

The department was successful in having two special provisions written into the budget. One provision increased Occupational Safety and Health (OSH) penalties to conform to the requirements of the U.S. Department of Labor. This provision also indexes the penalties to the Consumer Price Index so that the NCDOL does not have to return to the NCGA for penalty increases in the future. The second special provision starts the clock running on the statute of limitations when the OSH Division makes an initial inspection of a violation as opposed to when the violation occurred. The six-month window stays the same.

The following ratified legislation was tracked by the NCDOL:

HB 911, Regulatory Reform Act of 2022 (S.L. 2022-75)

This bill had a provision which created a definition of "waterslide dispatcher." The dispatcher is eligible to work if they are age 16 or older.

HB 619, Weston's Law (S.L. 2022-56)

This bill creates new safety requirements for residential elevators used in rental properties. The Government Affairs team worked with legislators to refine the language and create legislation that provides an additional level of safety for these residential elevators. The new safety protocols under Weston's Law are regulated by the N.C. Department of Insurance.

The following bills were not ratified but continue to be tracked by the NCDOL:

HB 991, ALJ Authority to Void Rules

HB 1022, High School Trade Study

SB 853, Wage/Theft Funds



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Are you looking to elevate your career to the next level?

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Elevator inspectors inspect a variety of passenger-carrying devices to determine safe operating conditions and to detect potential hazards or mechanical failures. Inspectors enforce provisions of state and national safety codes for elevators, escalators, personnel hoists, amusement devices and the like. This position has condemnation authority of unsafe passenger-carrying equipment and conducts investigations of accidents where unsafe equipment or operations were involved.

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Cypress Glen Retirement Community Recertified as SHARP Site

By John Mallow, Public Information Officer

Cypress Glen Retirement Community earned recertification as a participant in the N.C. Department of Labor’s Safety and Health Achievement Recognition Program (SHARP) during a ceremony held at the company’s Greenville facility on Thursday, July 14.

Labor Commissioner Josh Dobson attended the ceremony where he provided keynote remarks and presented the ceremonial SHARP flag to company leadership and employees.

“The past couple of years have been especially challenging to our state’s healthcare workers, but the folks here at Cypress Glen were able to face that challenge head on,” Commissioner Dobson said. “Cypress Glen has maintained participation in SHARP for nearly 20 years and has proven time and time again a strong commitment to the health and safety of its employees.”

SHARP is administered by the labor department’s Consultative Services Bureau under its Occupational Safety and Health Division. The program is designed for small to mid-size employers that have established, implemented and maintained exceptional workplace safety standards.

Cypress Glen, home to more than 325 residents, employs over 260 staff members. Cypress Glen has maintained the SHARP distinction since 2004 and was one of the first companies within the health care industry in North Carolina to receive the award.

Cypress Glen is the only continuing care retirement/life plan community in the Greenville area. Established in 1987, Cypress Glen provides independent living cottages, garden villas and apartments with the security of assisted living, memory care and long-term care/skilled nursing available.



Labor Commissioner Josh Dobson poses with the SHARP flag along with the safety team from Cypress Glen Retirement Community on Thursday, July 14.

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Inside NC Labor

Be sure to check out NCDOL’s podcast, *Inside NC Labor*.

Episode 53 features Beth Rodman, Bureau Chief, Agricultural Safety and Health Bureau; Grant Quiller, Occupational Safety and Health Division; and Roberto Rosales, NCSU Cooperative Extension, as they discuss heat stress hazards and solutions in agriculture.

In addition to NCDOL’s website, *Inside NC Labor* is available on YouTube, Spotify, Apple Podcasts, Anchor and Google Podcasts.

Inside NC Labor is designed to inform and educate North Carolina citizens on the role that the Department of Labor plays in state government.



By Harriet Hopkins, Administrator, Retaliatory Employment Discrimination Bureau

Q: I own a small business with eight employees. Days around major holidays are busy times of the year for us, as we are a retail establishment. I offer each employee five paid vacation days per year. I do not have a written policy, but I tell each employee when I hire them that the vacation days must be approved by me two weeks in advance. The reason for this is that I have to make sure we have sufficient coverage during our busiest times. I recently had an employee who asked me for two days off starting the next day after he asked. I told him no, that he was needed at work, and he didn’t give me enough notice. He threatened to call the Wage and Hour Bureau if I didn’t let him take the time and pay him for it. He also said he was going to take it anyway. I told him that I would consider that insubordination. Is it retaliation under the Retaliatory Employment Discrimination Act (REDA) for me to deny his request for vacation time off? Would it be retaliation if I fired him for taking the time off without permission?

A: No. You are not required to offer vacation days, paid or unpaid, and you are not required to acquiesce to an employee’s request for particular days off. However, the better practice would be to

put your policy in writing and ask employees to sign an acknowledgment that they have read and received a copy of it. Employment in North Carolina is “at will.” If the employee took the time without permission, you would be within your rights to terminate them. However, if you terminate the employee *because* he threatened to call the Wage and Hour Bureau, that would potentially be retaliation under REDA.

Follow NCDOL on:



DEADLY

Mistakes



By Judyth Forte, State Plan Coordinator

Fatal Event: On or about May 17, 2019, a 51-year-old man died after he fell 25 feet from the roof of a four-unit two story town house under construction.

Investigative Findings: The employee had been employed by the roofing company for only three days before he fell from the roof of the town house. The brick masons had finished bricking the walls up to the eaves of the town house, and the employee needed to shingle the top of the left side of the dormer to complete the roofing job. The employee had placed a 32-foot extension ladder that extended from the ground to above the first-floor roof onto the face of the bricked wall and to the side of the dormer. The employee had climbed the ladder and attached a two-inch by four-inch board on the top side of the roof of the dormer. The employee stepped off the ladder laterally onto the board. While applying the shingles, the employee fell approximately 25 feet to the hard dirt below. The employee was not using any type of fall protection once he stepped from the ladder onto the roof of the dormer. When the employer was asked why the employee was not using fall protection, he indicated that he had trained all his employees on fall protection and that the two-inch by four-inch board on the top side of the roof of the dormer was the fall protection.

Discussion: When other contractors on the site were asked if they had seen any of the roofers wearing fall protection, they said no. No fall protection was being used by the employee who fell or the other employees of the roofing company. It was found that no personal fall arrest systems, safety harnesses or any type of fall protection was onsite for the roofing company employees to use. The fact that the employer felt that using the two-inch by four-inch board by itself was a type of fall protection, indicated the employer was not competent enough in fall protection systems to provide adequate training or to ensure that adequate fall protection was being used.

The **Occupational Safety and Health (OSHA) Construction Standard** defines a **competent person** as someone who is: “capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous or dangerous to employees and who has authorization to take prompt corrective measures to eliminate them.”

Therefore, if the employer said he provided training to his employees, it would not meet the standard of the regulation. A training program must be provided for each employee who might be exposed to fall hazards. The employer should have provided his employees with fall protection equipment that met the OSHA requirements because they were working more than 6 feet above a lower level (Construction Industry).

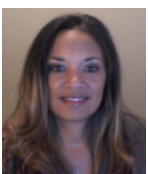
In addition, when the 32-foot ladder that had been used by the employee was inspected, it appeared to be damaged. It had visibly bent rungs. Portable ladders with structural defects, such as, but not limited to, broken or missing rungs, cleats or steps, broken or split rails, corroded components or other faulty or defective components, should either be immediately marked in a manner that readily identifies them as defective, tagged with “Do Not Use” or similar language and be withdrawn from service until repaired.

OSHA standards outline the employer’s responsibilities for initiating and maintaining a safety program that provides for frequent and regular inspections of job sites, materials and equipment.

Recommendations: Proper training and use of fall protection can save lives. A large percentage of fatal falls occur when no fall protection systems are in place. Other falls occur when fall protection systems are used improperly.

- ✘ Fall protection systems are available that can provide roofers the flexibility they need during all types of roof work.
- ✘ The employer must research what system works best for their job situation, such as a guard rail system, safety net system or personal fall arrest system.
- ✘ The employer must provide fall protection to employees working at heights above 6 feet on construction sites.
- ✘ The employer must train employees on the specific fall protection systems and equipment that will be utilized on the job and must ensure employees are using systems and equipment appropriately while on the job site.
- ✘ Employers should be aware of the different types of fall protection technologies that are available and select what fall protection will be used on site. In terms of general falls, the piece of equipment posing the single greatest risk to worker safety is a misused or damaged ladder.
- ✘ Ladders need to be checked daily and must always be kept in good condition or removed from service.
- ✘ The setup and maintenance requirements for ladders, described in 29 CFR 1926.1053, must always be followed.

WORKPLACE WORRIES



By Kisha Holmes, Administrator, Wage and Hour Bureau

Q: *I was hired six months ago as an administrative assistant. My employer pays me as a 1099 employee or, as she says, an independent contractor. I am paid bi-weekly, and I make \$22 per hour. She provided training when I started working, set my work schedule from 8 a.m. to 4:30 p.m. and she only allows me to take my lunch at 1 p.m. No taxes are being deducted from my paycheck. I don't see myself as an actual independent contractor. Is she allowed to do this?*

A: Employers are required to properly classify their employees. Independent contractors are “independent.” They are integral to their business operations, invest in their facilities and equipment, set their own hours, set their own rates, advertise their business and control their ability for profit and loss. If an employer pays you based upon a set schedule, determines your rate of pay, controls your time, trains you on how they want you to do the job and you are a permanent part of the business, you are more likely an employee and not an independent contractor.



Bulletin Board

Mine and Quarry Training

MSHA New Miner Training

Aug. 8-10, Spruce Pine
Aug. 22-24, Virtual

MSHA Annual Refresher Training

Aug. 11, Spruce Pine
Aug 25, Virtual

To register for any of these classes, **go online** or call the Mine and Quarry Bureau at 919-707-7932.

Safe + Sound Campaign

Aug. 15-21, 2022

Click **here** to view event details, resources and training calendar.

Heat Illness Prevention Campaign

Click **here** to view event details and information.

OSH Webinar Courses

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses.

Pre-Recorded Webinars

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses.

Library Update

Click **here** for information on How to Borrow from the Library or Available Resources.

Wage and Hour Presentations

Investigators from the Wage and Hour Bureau offer presentations to employers, employees, high schools and career development organizations. The presentation covers the provisions of the Wage and Hour Act, minimum wage, overtime, record keeping, wage payment and youth employment. The presentation is designed to enhance North Carolina citizens' knowledge on labor laws and to inform employers and employees of their rights and responsibilities in wage and hour matters. Investigators conduct the presentations onsite at schools or local businesses if there is a minimum of 10 attendees.

To schedule a presentation, please email whbinfo@labor.nc.gov with the following information: requesting individual or business, location, desired topics and preferred dates for presentation.



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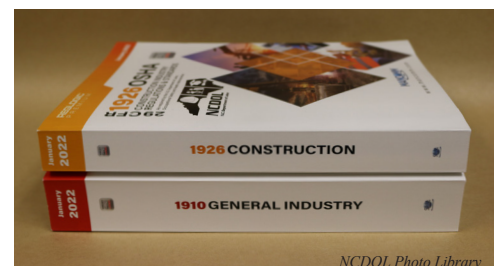


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