



NCDOL

N.C. Department of Labor

Josh Dobson, Commissioner

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LEDGER

2023 N.C. Association of Agricultural Fairs Returns to Cary

By John Mallow, Public Information Officer

The North Carolina Association of Agricultural Fairs (NCAOAF) annual convention was held Friday, Jan. 6 at the Embassy Suites by Hilton in Cary. For those not familiar with the bureaus that comprise the N.C. Department of Labor (NCDOL), a key piece of the operation is our Elevator and Amusement Device Bureau. They ensure the safe operation of all of the attractions and rides that are featured at each agricultural fair throughout North Carolina.

In attendance and representing the NCDOL at this year's convention were Labor Commissioner Josh Dobson; Deputy Commissioner of Standards and Inspections, Phil Hooper; Elevator and Amusement Device Bureau Chief, Tommy Petty; Deputy Bureau Chief, Joey Hazelrigg; and supervisors Wesley Tart and Brandon Carter.

"The agricultural industry is one of the most important industries in our state, and the agricultural fairs that are held each year serve to highlight and honor that tradition," Commissioner Dobson said.

"It's an honor to be here and to be a part of something that is so integral to the fabric of North Carolina and its people. Without folks like y'all we wouldn't be here right now, and we certainly wouldn't get to experience the fun, exciting and educational opportunities provided by the numerous agricultural fairs held each year."



Marla Calico, president and CEO of the International Association of Fairs and Expositions.

"The State Fair attendance was very good, with close to 1 million people attending. Powers Great American Midway and Wade Show provided the rides, and all were inspected before the opening of the fair."

Statistical data for fiscal year 2022 show that NCDOL's Elevator and Amusement Device Bureau completed 22,889 routine elevator inspections, 1,015 new elevator inspections and 1,728 alteration or repair inspections. Along with elevator inspections, the bureau's staff also inspected 5,858 amusement devices at more than 900 different locations.

The county fair season will kick off in August and runs through early November.

The NCAOAF works to promote agricultural and community fairs around the state. The annual convention consists of a trade show, fair workshops, talent showcase, round table discussions, a silent auction, a closing banquet and networking opportunities for all of those involved in our state's agricultural fairs. Attendees range from law enforcement, ride operators, NCDOL staff, regional fair representatives and vendors, among many others.

Not only does fair season promote and celebrate the agricultural traditions of North Carolina, with it also comes the thrills and excitement of the numerous rides and attractions that are a staple of fairs across our state. Making sure things go off without a hitch, inspectors from the Elevator and Amusement Device Bureau are responsible for not only ensuring the many fairgoers have fun, but they are able to do so safely.

"The Elevator and Amusement Device Bureau inspectors inspect all rides that operate in the state, and all rides are inspected each time they are set up before they can operate," Bureau Chief Petty said.



Magician providing entertainment to the attendees.



Among the featured speakers at the 2023 NCAOAF Annual Convention were (left to right): Josh Dobson, labor commissioner; Allen Faircloth, former president of the NCAOAF and John Cooper, Connect C LLC.



From Labor Commissioner Josh Dobson

2023 is off to a busy start and it is hard to believe I have already reached the halfway point of my term as Labor Commissioner. This issue of the Labor Ledger provides a lot of important information and interesting stories.

In January, our department released the Occupational Fatality Inspection Review (OFIR) figures for calendar year 2022. This report is compiled by our Planning, Statistics and Information Management Bureau and includes only those fatalities that fall within the Occupational Safety and Health (OSH) Division's jurisdictional authority. These numbers are important to the department because they help the OSH Division recognize certain trends in workplace accidents and allow us to target our resources to particularly hazardous industries and activities.

As you will see in the story on page 3, the OSH Division inspected 63 non COVID-19 work-related fatalities and three cases reported as deaths related to COVID-19. I am glad to see a major decline in deaths related to COVID-19. Fatalities in the construction industry saw an increase and our department will continue to work to reduce these fatalities. Please visit our website to get information on NCDOL's consultative services and education and training programs. Our goal is to help businesses implement measures that will help prevent these accidents before they happen and for workers to be able to go home to their families.

Our Safety Awards Program is currently accepting applications for this year's banquet season. The application deadline is Feb. 15. See the Safety Awards story on page 4 for more information about the program, including contact information.

I hope everyone has a safe, healthy and blessed February!

Josh Dobson



Nova Development

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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**.

Building Star *Recertification

Clayco Inc.

Carolina Star *Recertification

Berry Global Inc.*

General Electric Aviation – Durham Engine Facility*

General Electric Hitachi Nuclear Energy Americas LLC*

The Sherwin-Williams Co.*

Public Sector Star *Recertification

Burlington Fire Department*

N.C. Department of Agriculture Consumer Services - Metrology Laboratory*

Rising Star *Recertification

Leggett & Platt Inc. 0N64*

SHARP *Recertification

SANS Technical Fibers, Stoneville*

Amarr Co., Mocksville*

Arbor Acres United Methodist Retirement Community, Winston Salem*

Haynes International dba Haynes Wire Co., Hendersonville*

Berkshire Corp., Whitsett*

Cape Fear Public Utility Authority, Wilmington*

Hood Container, Burgaw*

Cape Hatteras Electric Cooperative, Buxton*

Sonoco Recycling Inc., Charlotte*

Roanoke Cement Co. LLC, Winston Salem*

Edwards Wood Products Inc., Marshville*

Mohawk Laminated and Wood Flooring Plant, Garner*

Town of Pineville Public Works, Pineville*

City of Mount Holly Police Department, Mount Holly*

Town of Mooresville Parks and Recreation, Mooresville*



N.C. Department of Labor

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NCDOL Releases Workplace Fatality Count for 2022

By: Erin Wilson, Director of Communications

Struck-by incidents and falls from elevation caused the largest number of non COVID-19 work-related deaths last year in the Tar Heel state, based on preliminary information released today by the N.C. Department of Labor (NCDOL). The department's Occupational Safety and Health (OSH) Division inspected 63 non COVID-19 work-related fatalities that occurred in 2022. The division also inspected three cases reported as deaths related to COVID-19.

"Workplace fatalities weigh heavily on my mind and are the most difficult part of my job as Labor Commissioner," Labor Commissioner Josh Dobson said. "I am notified about every workplace fatality in North Carolina that falls within our department's jurisdiction. Our department is constantly working to provide education, training and compliance resources on high hazard industries and promoting the importance of putting safety and health at the forefront of what we do."

The OSH Division tracks work-related deaths that fall within its jurisdictional authority so it can pinpoint where fatalities are occurring and place special emphasis on counties or regions where deaths on the job are happening. By tracking fatalities in real time, the department can also notify industries of any concerning patterns or trends identified and issue hazard alerts.

"Each of these fatalities represents a person who was not able to go home to their family at the end of the day," Deputy Commissioner of the Occupational Safety and Health Division Jennifer Haigwood said. "Nearly all workplace fatalities are avoidable, and our mission at the OSH Division is to work with employers and employees to ensure that these tragedies are prevented in the future. The OSH Division offers a host of educational and training resources for businesses and workers in all industries. I strongly encourage employers and employees to contact the Division to learn more about these resources, all of which are free of charge. Our goal is to help North Carolina's workforce continue to thrive, and a safe and healthful work environment is a critical component toward achieving that goal."

The OSH Division partners with businesses and organizations that represent some of the most hazardous industries through partnerships and alliances to heighten industry awareness and assist with education and training.

The construction industry suffered the most work-related fatalities with 21 in 2022, six more than in 2021. Most of the construction industry deaths were due to falls from elevation. The services industry had the second highest number of work-related deaths with 11, a decrease of 15 from the previous year. Manufacturing had the third highest number of work-related deaths with 10. In addition, agriculture, forestry and fishing had nine fatalities in 2022, four more than in 2021. There were seven fatalities in government, a decrease from 10 in 2021. Retail trade experienced four fatalities in 2022. There were also two work-related fatalities in wholesale trade, a decrease from three in 2021. Finance, insurance and real estate experienced one workplace fatality. The transportation and public utilities industry also experienced one workplace fatality.

There were no work-related fatalities in 60 of North Carolina's 100 counties. Durham county led with six workplace fatalities, followed by Wake and Johnston with five workplace fatalities each. Guilford and Mecklenburg experienced three workplace fatalities each. There were nine counties that experienced two workplace fatalities each. Twenty-six counties experienced one workplace fatality each.

Whites accounted for 34 of the 63 non COVID-19 work-related fatalities. Hispanics accounted for 20, Blacks for eight and Native Americans for one. Men accounted for 54 deaths and women accounted for nine non COVID-19 workplace deaths.

The state figures exclude certain fatalities that fall outside its jurisdictional authority. These include traffic accidents, which account for nearly half of all work-related deaths, as well as some homicides and suicides that are investigated by law enforcement agencies. The count also excludes fatalities investigated by federal OSHA and other exemptions in which the department does not have the authority to investigate, such as on farms with 10 or fewer employees.

Federal figures compiled by the U.S. Bureau of Labor Statistics, with cooperation of NCDOL, include all work-related fatalities. The federal figures for 2021, the latest figures available, can be found on the BLS website. Data for 2022 will be available in December.

Businesses may call 1-800-NC-LABOR to learn more about free safety training opportunities provided by NCDOL or visit our [website](#).

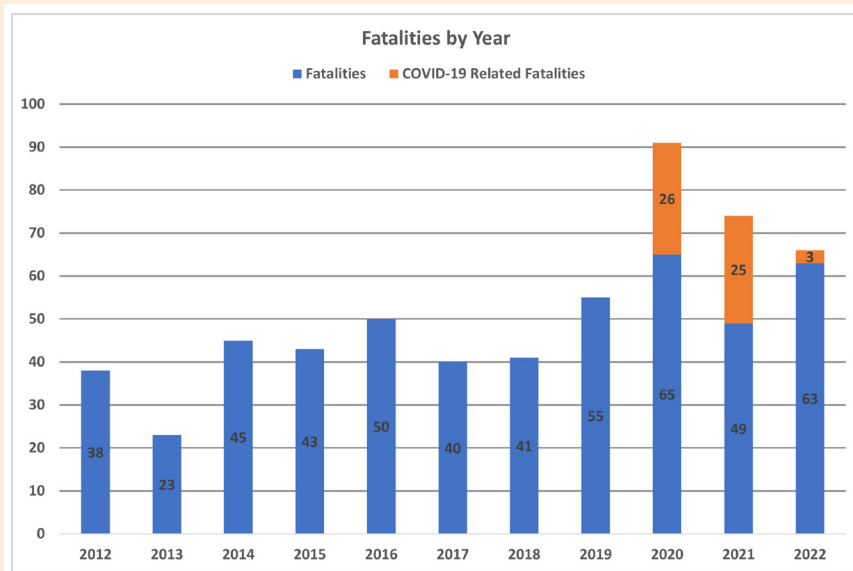


Figure 1: Work-Related Fatalities in North Carolina, 2012-2022

Source: Occupational Fatality Inspection Review (OFIR)

Courtesy of NCDOL's Planning, Statistics and Information Management Bureau

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Tar Heel State's Workplace Injury and Illness Rate Remains at Historic Low

By: Erin Wilson, Director of Communications

New figures released by the U.S. Bureau of Labor Statistics (BLS), an agency of the U.S. Department of Labor, show the nonfatal workplace injury and illness rate for North Carolina's private industry remains at a historic low for 2021 with a rate of 2.2 cases per 100 full-time workers. This is significantly lower than the national rate of 2.7.

These data are estimates from the Survey of Occupational Injuries and Illnesses (SOII) compiled by the BLS. The rate accounts for growth and contraction in total hours worked in industry, which is an important factor in a state like North Carolina that has experienced significant growth.

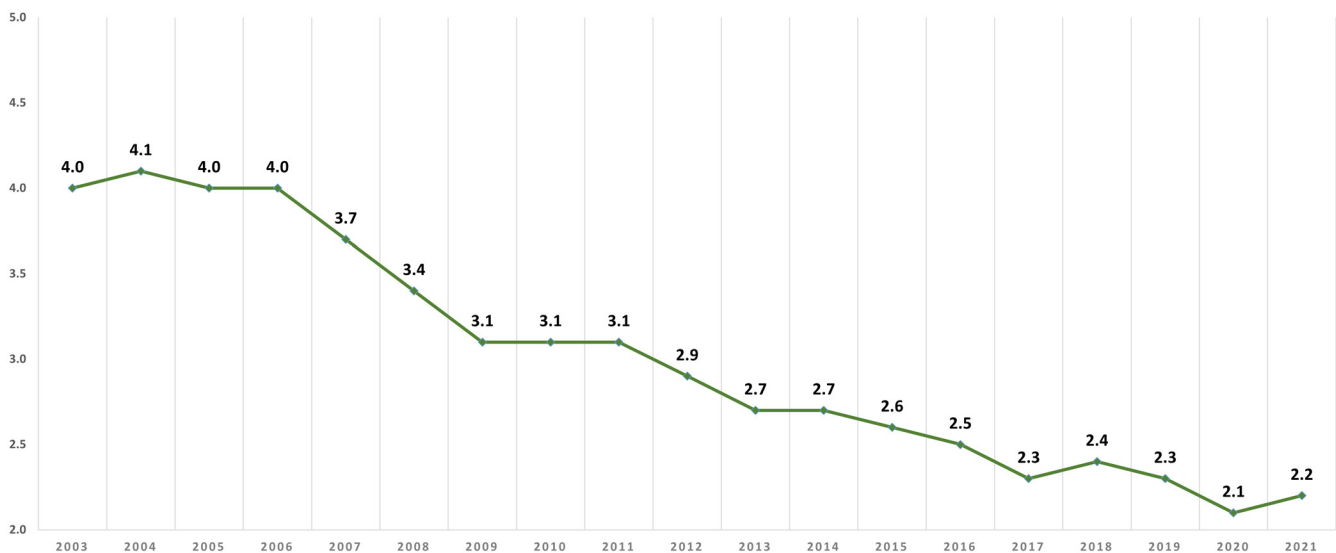
"I am proud to see the state of North Carolina's injury and illness rate is significantly lower than the national rate," Labor Commissioner Josh Dobson said. "As we have made our way through this pandemic, I want to commend the employers and employees for their hard work and dedication to workplace safety and health. I will continue to do everything I can as Labor Commissioner to push the importance of safety and health in the workplace and get these injury and illness rates lowered."

The 2021 rate for North Carolina's local government sector increased from 3.5 cases per 100 full-time employees to 3.9. In North Carolina, the rate for private industry construction did not significantly change between 2020 and 2021. The rate for private industry manufacturing increased from 2.5 cases per 100 full-time employees to 2.8. The rate for private sector skilled nursing facilities significantly declined in 2021 to 8.0 cases per 100 full-time employees. This represents a significant decline from the 2020 rate of 14.7 cases per 100 full-time employees.

As a State-Plan state, North Carolina's Occupational Safety and Health Division will continue its focus on hazardous industries, such as construction and manufacturing, through its special emphasis programs, by providing free safety training and education, conducting free safety and health consultative visits and establishing partnerships and alliances with industries.

OCCUPATIONAL INJURY AND ILLNESS RATE PER 100 FULL-TIME WORKERS NORTH CAROLINA, PRIVATE SECTOR, CALENDAR YEARS 2003 THROUGH 2021

Source: U.S. Bureau of Labor Statistics



We are now on LinkedIn!
Find and follow us on LinkedIn
at *N.C. Department of Labor (NCDOL)*
to stay up to date on our recent job listings
and the latest happenings at the department.

Safety Award Applications Now Open

By Kiley Willard, Safety Awards Coordinator

The N.C. Department of Labor is now accepting applications from businesses that qualify for a workplace safety award. Safety awards are presented to companies throughout the year that have demonstrated above-average worker safety and health programs.

“When a business or organization is a safety award winner, that is a major accomplishment for not only that business or organization but also for their community. I look forward to getting back out there this season and meeting more of North Carolina’s stellar workforce,” Labor Commissioner Josh Dobson said.

After one season completely virtual in 2020, a hybrid schedule in 2021 and a return to in-person banquets in 2022, we are very hopeful and plan to continue having all banquets in 2023 in-person. We will continue our normal spring schedule this year as well.

Businesses that qualify for the award must meet two requirements: they must be free of fatalities at the site for which they are applying and the site’s injury and illness rate must be at least 50% below that of their industry’s average rate.

Award recipients will be honored in their communities throughout the state at safety awards banquets co-sponsored by the N.C. Department of Labor, local chambers of commerce, the Safety and Health Council of North Carolina and other organizations.

This is Labor Commissioner Dobson’s third safety award season and he is highly encouraging everyone to apply who is not already a part of the program.

For more information on the Safety Awards Program or to download an application, visit the NCDOL website. The deadline for submissions is Wednesday, Feb. 15, 2023.



Inside NC Labor

Be sure to check out NCDOL’s podcast, *Inside NC Labor*. Episode 58 features special guests Jennifer Haigwood, Deputy Commissioner of the Occupational Safety and Health (OSH) Division and Jessica Foster, DPR Construction (OSH Advisory Council Member) as they discuss the role of OSHA and working in a safety profession.

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 trucking business and I have three drivers who work for me. I own the trucks, but I let each driver park the truck at their house and drive to and from work in it. I text each one the night before a job so they know where they are driving and what load they are carrying. If one turns down the run, I text another driver. With only three drivers, however, I need and expect them to be available as needed unless there is a good reason. Since they can decline a run, I consider each one an independent contractor and not an employee. One of them recently objected to that, saying that she is an employee and wants me to withhold taxes. She argued that since she must be available for my work, she cannot take on any other work for anyone else. We argued about it and she said that she was going to call the N.C. Department of Labor (NCDOL) and ask them. A few days after we had this conversation, she declined an important run, knowing the other two drivers were not available. I let her go because she wouldn’t take the run and it really affected my business. She filed a Retaliatory Employment Discrimination Act (REDA) complaint saying that I terminated her because she called the NCDOL. Is she an employee or an independent contractor? How does this affect her REDA complaint?

A: This is a complicated situation for employers. The U.S. Department of Labor, the NCDOL and the Internal Revenue Service take the classification of workers very seriously. Saying a worker is an independent contractor does not make it so, nor does paying a worker on a 1099 mean that the worker is **NOT** an employee. REDA protects *employees* from retaliation for engaging in protected activity. The protected activity here was calling the NCDOL. The adverse action was you let her go. REDA will only protect her if she was an employee and not an independent contractor under the law. This determination depends on a number of factors related to the amount of control the employer has over the work of the worker versus what level of autonomy the worker has. Some relevant questions are: What equipment, tools and supplies necessary to perform the work were provided by the employer? The worker? Was the type of work supplied by the worker integral to the business? Did the worker provide services to other businesses? Was the worker subject to the supervision of the employer? Were there policies and procedures that the worker was expected to follow? Could the worker decline work without consequence? In this situation, there are not enough facts to conclude whether the worker was an employee or independent contractor. The NCDOL Retaliatory Employment Discrimination Bureau (REDB) will determine the relevant facts and determine if this worker is an employee and therefore covered by REDA. It is important for the REDB to gather all the information before making an informed decision-- Each case is decided on a case-by-case basis.

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DEADLY

Mistakes



By Judyth Forte, State Plan Coordinator

Fatal Event: On Sept. 10, 2019, a 55-year-old male died of multiple blunt force injuries when he was pinned between a forklift carrying a wooden pallet of fabric and a wall of fabrics that had already been loaded and stacked in the back of a tractor trailer.

Investigative Findings: The employee worked at a warehouse that housed rolls of textiles sent from their manufacturing plant in Turkey and were being loaded and transported by tractor trailer to wholesale and retail customers in the U.S. The rolls of fabric were wrapped around a stiff cardboard core to provide rigidity. Each roll of fabric was approximately 5 feet long and weighed approximately 80 lbs. The fabric rolls were stored on pallets in the warehouse. The forklift would pick up and transport the pallet of fabric to the appropriate trailer. The forklift was driven into the back of the trailer where two employees were waiting to lift the rolls off the pallet and stack them in the trailer. The trailer's interior dimensions were 40 feet long, 8 feet wide and 9.5 feet tall.

At the time of the incident, there was already a 7 feet high and 8 feet wide stack of fabric rolls packed tightly in the back of the trailer. The forklift was driven into the trailer where two employees had positioned themselves between the 150 rolls of stacked fabric and the forklift holding the pallet of fabrics. The operator was raising the forks of the truck so the employees could access the three remaining rolls, when his hand slipped off the steering wheel causing him to lose balance and take his foot off the brake pedal. The forklift truck moved forward hitting and pinning the employees between the pallet and the solid mass of fabric. Both employees received serious injuries but one of the employees died from multiple blunt force crushing injuries. This was only the third trailer that the forklift operator had loaded.

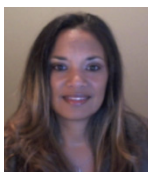
Discussion: The employer did not provide specific instructions to the employees on the procedures to safely load the trailers. The employer relied on the employees to use their own judgement. Driving the industrial truck with a loaded pallet of fabric into the container with employees between the wall of stored rolls of fabric and the

forklift created a struck-by hazard and is a violation of the industrial truck standard, 29 CFR 1910.178. The standard specifically prohibits forklifts from being driven up to employees standing in front of a fixed object. A supervisor had walked by to check on the employees' work progress frequently but did not stop and correct the unsafe procedures he observed. The inspection also revealed that the employer did not provide training or an evaluation of the industrial truck operator. In lieu of that training, the employer had a policy to hire only experienced and "certified" operators. Hiring employees with previous training or a current certification card does not absolve a new employer of all forklift training responsibilities. Employers must still conduct a hands-on evaluation of the effectiveness of that previous training to ensure the operator has the knowledge and skills needed to safely operate the new industrial truck in the new environment. Loading a trailer with rolls of fabric around other pedestrian employees is a very specific job requiring particular skills and knowledge.

Recommendations

- ✖ Forklift training must consist of a combination of formal instruction, practical training on the type of forklift to be used and evaluation of the operator's performance in the workplace.
- ✖ Onsite training and an evaluation must be performed after a new job task has been assigned. The training and evaluation should be job-specific and site-specific.
- ✖ The employer must have a written certification that each operator has been trained and evaluated as required by 29 CFR 1910.178(l)(6) to include the name of the operator, the date of the training, the date of the evaluation and the identity of the person(s) performing the training or evaluation.
- ✖ A job hazard analysis of the workspace and work task should be conducted to determine what safety hazards are present and what safety systems could be put into place to ensure a safe work environment for employees.
- ✖ Forklift trucks cannot be driven up to persons standing in front of a bench or other fixed object, as it exposes them to potentially fatal struck-by and caught-between hazards.
- ✖ All employees operating or working around forklifts must understand the use and dangers of the forklift as required by code.
- ✖ Supervisors must ensure that employees are following safe practices and should intervene and reeducate when the procedures are not being followed.

WORKPLACE WORRIES



By Kisha Holmes, Administrator, Wage and Hour Bureau

Q: As an employee, do I have to disclose to my potential employer that I previously had a conviction expunged?

A: No, you do not have to disclose to a potential employer of any conviction that has been expunged. An applicant is not required to disclose information concerning a criminal conviction that has been expunged. In addition, the employer shall not knowingly and willingly inquire about any conviction that they know to be expunged as long as you are not applying to state or local law enforcement agencies authorized to obtain confidential information for employment purposes.



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Bulletin Board

Mine and Quarry Training

MSHA New Miner Training

Feb. 21-23, Castle Hayne

MSHA Annual Refresher Training

Feb. 24, Castle Hayne

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

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 register with the Library to access streaming safety/health videos and/or borrow materials.

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Have a ❤️ for Safety

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.

