OSHA Notice to Employees

Safety and Health

N.C. Department of Labor Responsibilities

The state of North Carolina has a federally approved program to administer the Occupational Safety and Health Act 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—The Commissioner shall have the authority to assess penalties against any employer who violates the requirements of the OSHA Act. The Commissioner shall adjust minimum and maximum civil penalties in accordance with the requirements set forth in the U.S. Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor as necessary to comply with federal law. The Commissioner shall have a period of 60 calendar days from the date a final rule is published in the Federal Register to publish the civil penalties in the North Carolina Register under 13 NCAC 07A .0301 or any related or subsequent regulations setting penalty standards in compliance with Part 1903 of Title 29 of the Code of Federal Regulations, and on its website.

• 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 919-707-7876.

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 that 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.

• Discrimination—It is illegal to retaliate in any way against an employer for making a complaint, filing a complaint, or assisting an inspector. The department will investigate and may prosecute employers who take such action.

• Citations—If an OSHA 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 working days or until the violation has been corrected or abated, whichever is longer.

• Criminal 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 OSHA Division is an independent body that hears and decides contest ions 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.

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.

• Injury and Illness Records—Employees 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 Education, Training and Technical Assistance Bureau, N.C. Department of Labor. Call 1-800-625-2267 or 919-707-7876.

• Accident and Fatality Reporting—An employer must report the following:

  Within eight hours: Any work-related fatality.
  Within 24 hours:
  • Any work-related in-patient hospitalization of one or more employees.
  • Any work-related amputation.
  • Any work-related loss of an eye.

To report an accident, call the OSHA Division at 1-800-625-2267 or 919-779-8560.

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 question 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 6750, 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
  1101 Mail Service Center
  Raleigh, NC 27699-1101
  Phone: 1-800-625-2267
  Fax: 919-707-7964
  E-mail: ask.osh@labor.nc.gov
  www.labor.nc.gov

This notice must be posted conspicuously. This poster is available free of charge to all North Carolina workplaces.

Call 1-800-625-2267 or 919-707-7876 or order online.

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Wage and Hour Notice to Employees and OSH Notice to Employees must be posted together.
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%. 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% of the minimum wage, rounded to the nearest nickel.

Overtime

Time and one-half must be paid to all employees after 40 hours of work in any one workweek with some exceptions. The state overtime provisions specified here do not apply to certain types of employees and do not apply to employees classified as exempt under the FLSA. Exemptions may be found in NCGS § 95-25.14.

Youth Employment

Rules for all youths under 18 years old are:

Youth employment certificates are required to obtain a VEC, please visit our website at www.labor.nc.gov.

Hazardous or Detrimental Occupations: State and federal labor laws protect youth workers by making it illegal for employers to hire 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 woodworking machines; work as an electrician or electrician’s helper; or work from any height above 10 feet, including the use of ladders and scaffolds. Certain exemptions apply for Supervised Practice Youth Internships. For a 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% of the minimum wage, rounded to the nearest nickel.

Wage Payment

Wages are due on the regular payday. If requested in writing, final paychecks must be sent by trackable mail. 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 in writing of paydays, pay rates, policies on vacation and sick leave, and of commission, bonus and other pay matters. Employees must notify employers in writing of any reduction in the rate of promised wages at least one pay period prior to such change.

Deductions from paychecks are limited to those required by law and 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, in accordance with 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. 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 amounts.

If the employer provides vacation pay to employees, the employer shall give vacation time off or pay in lieu of time off, as required by company policy or practice. Employees must be notified in writing of any company policy or practice that results in the loss or forfeiture of vacation time or pay.

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 makes investigations on its own initiative if there is a reasonable basis for a complaint.

The state of North Carolina may bring civil or criminal actions against the employer for violations of the law. The employer 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 call:

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

Employee Classification


Any employee who believes that he or she has been misclassified as an independent contractor by his or her employer may request the suspended misclassification to the N.C. Industrial Commission’s Employee Classification Section by phone, email or fax. If filing a complaint, please provide the physical location, mailing address and phone number and email address for the employer suspected of employee misclassification:

Employee Classification Section

N.C. Industrial Commission

1235 Mail Service Center

Raleigh, NC 27696-4175

Email: emp.classification@nc.gov

Phone: 919-707-2352

Fax: 919-715-0282

Employment at Will

North Carolina is an employment-at-will state. The term “employment-at-will” simply means that unless there is a specific law to protect employees or an employment contract providing otherwise, then an employer can treat its employees as it sees fit and the employer can discharge an employee at the will of the employer for any reason or no reason at all.

Right-to-Work Laws

North Carolina is a “right-to-work” state. Right-to-work applies to collective bargaining or labor unions. The right of persons to work cannot be denied or reduced in any way because they are either members of a labor union (including labor organization or labor association) or chose not to be a member of any such labor union. An employer cannot require any person, as a condition of employment or continuation of employment, to pay any dues or assessments of any kind to a labor organization.

Under employment at will, employees may resign at any time or be dismissed at the employer’s discretion. Employees can also be terminated for cause. Under the right-to-work laws, employees cannot be required to pay union dues as a condition of employment.

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North Carolina is a “right-to-work” state. Right-to-work applies to collective bargaining or labor unions. The right of persons to work cannot be denied or reduced in any way because they are either members of a labor union (including labor organization or labor association) or chose not to be a member of any such labor union. An employer cannot require any person, as a condition of employment or continuation of employment, to pay any dues or assessments of any kind to a labor organization.

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Under right-to-work, employees may resign at any time or be dismissed at the employer’s discretion. Employees can also be terminated for cause.

Redeem complaints must be filed with the bureau within 180 days of the date of retaliation.