

FED

EMPLOYEE RIGHTS UNDER THE
FAIR LABOR STANDARDS ACTFEDERAL MINIMUM WAGE
\$7.25 PER HOUR
BEGINNING JULY 24, 2009

The law requires employers to display this poster where employees can readily see it.

OVERTIME PAY

At least 1½ times the regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR

An employee must be at least 16 years old to work in most non-farm jobs and at least 18 years old to work in farms declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work hours restrictions. Different rules apply in agricultural employment.

TIP CREDIT

Employers of tipped employees who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employers must pay tipped employees a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference.

NURSING MOTHERS

The FLSA requires employers to provide reasonable break time for a nursing mother employee who is subject to the FLSA's overtime requirements in order for her to express breast milk for nursing child for one year after the child's birth. In time such employee has a need to express breast milk, employers are also required to provide a place other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

DEPARTMENT OF LABOR
UNITED STATES OF AMERICAWHD WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd

REV. 07/2016

Department of Labor
Wage and Hour Notice to Employees

Complaints

The department's Wage and Hour Bureau investigates complaints and may collect back wages plus interest if they are due to the employee. The state of North Carolina 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 call:

1-800-NC-LABOR (1-800-623-2267)

Employee Classification

Any worker who is defined as an employee by the N.C. Wage and Hour Act (N.C. Gen. Stat. 95-25.24(d)), the N.C. Employee Fair Classification Act, the Internal Revenue Code as adopted under N.C. Employment Security laws (N.C. Gen. Stat. 96-1(b)(10)), the N.C. Workers' Compensation Act (N.C. Gen. Stat. 97-22), or the N.C. Revenue Act (N.C. Gen. Stat. 105-163.14(a)) shall be treated as an employee.

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

Employee Classification Section

N.C. INDUSTRIAL COMMISSION
1235 MAIL SERVICE CENTER
RALEIGH, NC 27699-4333
EMAIL: emp.classification@ic.nc.gov
PHONE: 919-807-2552
FAX: 919-715-0282

Employment at Will

North Carolina is an "employment-at-will" state. The term "employment-at-will" means that there is no specific law to protect employees or an employer from a contract providing otherwise; thus, an employer can fire 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.

OSH Notice to Employees

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 association) or choose 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 dues or other fees of any kind to a labor union. Also, an employer cannot require any person to sign 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.

NCDOL has no enforcement authority regarding labor union laws. For employee concerns regarding labor unions, contact the Regional Office of the National Labor Relations Board. The NLRB is an independent federal agency that protects the rights of private sector employees to join together, with or without a labor union, to improve their wages and working conditions.

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 association) or choose 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 dues or other fees of any kind to a labor union. Also,

an employer cannot require any person to sign 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.

OSH 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 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 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.

Penalties

An employer can be fined up to \$7,000 for each "serious" violation. Serious violations that involve injury to a person under 18 years of age could result in fines up to \$14,000 per 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 violating any standard, rule or regulation that has resulted in an employee's death.

OSH 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. 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:

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

A REDA complaint must be filed with the bureau within 180 days of the date of retaliation.

www.labor.nc.gov

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To find out more information about this poster and to download all of the required state and federal posters, please visit our website at:

www.labor.nc.gov/labor-law-posters

Printed 1/21

Hours of the Day: May work between 7 a.m. and 7 p.m. (9 p.m. from June 1 through Labor Day when school is not in session.)

Breaks: 30-minute breaks are required after any period of five consecutive hours of work.

Additional rules for youths under 18 years old are: Youth employment certificates are required. To obtain a YEC, please visit our website at www.labordnc.gov.

Hazardous or Occupational Occupations: State and federal labor laws protect youth workers by making it illegal for employers to hire them in dangerous jobs. For example, non-agriculture workers under 18 years old are prohibited from operating 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. For a complete list of prohibited jobs, please visit our website at www.labordnc.gov.

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 causes performance difficulties, food poisoning, foodborne illnesses, foodborne diseases, foodborne service stations and other areas of other businesses. Work is not permitted in manufacturing, mining or construction, or with power-driven 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. For a complete list of prohibited jobs, please visit our website at www.labordnc.gov.

Additional rules for youths under 14 years old are: Youth employment certificates are required. To obtain a YEC, please visit our website at www.labordnc.gov.

Health and Safety: Rules and regulations for youth workers are designed to protect them from potential health hazards.

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 is in dispute, the employer's payment of the undeposited portion cannot restrict the right of the employee to continue a claim for the rest of the wages.

Employees must be notified of paydays, pay rates, policies on vacation and sick leave, terms of commission, bonus and other pay incentives. Employers must make sure employees in writing or through posted notice maintained in a place accessible to its employees of any reduction in the rate 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 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 copy of the state's wage and hour law.

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. No reductions may be made to overtime wages.

Deductions for cash or inventory shortages or for loss or damage to an employer's property may not be taken unless the employee receives several days advance notice. This section does not apply to wages due to termination or 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 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 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.

NOTICE: This state has its own minimum wage law. Employers are also required to display the federal Employee Rights Under the Fair Labor Standards Act, which indicates the federal minimum wage. Where federal and state rates both apply to an employee, the U.S. Department of Labor dictates that the employee is entitled to the higher minimum wage.

THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY.

FED
EMPLOYEE RIGHTS
EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

PROHIBITIONS

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

EXEMPTIONS

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

EXAMINEE RIGHTS

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examiners have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test results disclosed to unauthorized persons.

ENFORCEMENT

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties against violators. Employees or job applicants may also bring their own court actions.

THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER WHERE EMPLOYEES AND JOB APPLICANTS CAN READILY SEE IT.

DEPARTMENT OF LABOR
UNITED STATES OF AMERICA

WHD WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR1-866-487-9243
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www.dol.gov/whd

REV. 07/2016

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NC

YOUR RIGHTS UNDER USERRA
THE UNIFORMED SERVICES EMPLOYMENT AND
REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who have been called to active duty in the uniformed services. It also protects individuals who have been separated from the uniformed services and applicants to the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service.

you ensure that your employer receives advance written or verbal notice of your service;

you have five years or less of cumulative service in the uniformed services while with that particular employer;

you return to work or apply for reemployment in a uniformed service after conclusion of service; and

you have not been discharged from service with a disqualifying discharge or under other honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- are a past or present member of the uniformed service;
- have applied to serve in the uniformed service;
- have been called to active duty;
- or
- have been separated from service;

then an employer may not discriminate against you on the circumstances of the notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily post notices for employees.

ENFORCEMENT

The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.

For more information on USERRA, contact VETS at 1-866-4-US-DOL or visit its website at <http://www.dol.gov/vets/>. An interactive online program allows employers to file a complaint with VETS and VETS will be unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for resolution.

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily post notices for employees.

BENEFITS & PROTECTIONS

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, or oppose any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

ELIGIBILITY REQUIREMENTS

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;