

# North Carolina State Postings

# NORTH CAROLINA



N.C. Department of Labor

## Wage and Hour Notice to Employees

### Wage and Hour Act

**Minimum Wage: \$7.25 per hour**

(effective 7/2/09)

Employers in North Carolina are required to pay the higher of the minimum wage 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 the higher of the two minimum wages.

As required, employers must pay at least \$7.25 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 portions of a tipped employee's tips are retained more than 10%. The employer must keep records and computations 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 lowest nickel.

### Overtime

Time and one-half must be paid to a employee after 40 hours of work in any one workweek with some exceptions. The state overtime provisions apply to all employees except to certain types of employees and do not apply to employees classified as exempt under the FLSA. Exemptions may be found in NCGS § 95-25.3a.

### Youth Employment

Rules for youths under 18 years old and youth employment restrictions are

relocated to the website: [www.labor.nc.gov](http://www.labor.nc.gov).

**Health and Environmental Dispositional:** State and federal laws have protected youth workers by making it illegal for employers to have 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, canning save, saws, banding, bolting, or similar machinery. They also may not handle or move sharp or pointed objects 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 list of prohibited jobs, please visit our website at [www.labor.nc.gov](http://www.labor.nc.gov).

**Additional rules for youths under 18 years old:** Work between 11 p.m. and 5 a.m. when it is either the law or the exception. Work the employee gets written permission from the employee's parents and/or guardian.

### Additional rules for 14- and 15-year-olds are:

• Where work can be performed: Retail businesses, food service establishments, service stations, restaurants, and other business. Work is not permitted in hazardous conditions or situations, or with persons under 14 years of age.

• 14 years of age cannot work in the presence of a business holding an ABC permit for the on-premises sale or consumption of alcoholic beverages, except that youth 14 years of age can work in the business grounds, provided the youth is not employed in the area where the ABC permit is issued and the person working is not an employee of the business holding the ABC permit.

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• Minimum wage: \$7.25 per hour. Three school days, eight if 18 hours or less in a week; 40 when school is 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 when school is not in session).

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

**Additional rules for youths under 14 years old:** Work is generally not permitted except when working for the youth's parents. In newspaper distribution to consumers, modeling, or acting in motion picture, television, or theater productions. These state youth employment provisions do not apply to farm, domestic, or government work.

### Wage Payment

Wages are to be paid in regular installments if requested in writing. Final installments need be paid by the 25th of each month. When the amount of wages is in dispute, the employee may demand payment of the undischarged portion credit delayed the right of the employee to continue to claim for the rest of the wages.

Employees must be notified in writing of paydays, pay rates, policies on vacation and sick leave, overtime pay, bonuses and other pay rates. Employers may not reduce employees' earnings by taking any reduction in the rate of promised wages at least one pay period prior to such change.

Defective or forged wage slips are liable to those required by law and those agreed to in writing or before payday. If the employee authorizes that the employee signs a document waiving the right to withdraw his/her wages, the employee must be given notice of the actual amount to be paid, 20 written notice of their right to withdraw the authorization, and 30 days given a reasonable opportunity to withdraw the authorization. The written authorization or written notice may be given in an electronic format, provided the employee has been given a copy of the Electronic Transactions Chapter 60, Article 40 of the N.C. General Statutes no. 1.

The withholding or diversion of wages owed for the employee's benefit may not be taken if they reduce wages below the minimum wage. No reductions may be made to wages unless the employee consents in writing.

Defections for cause or inventory shrinkage or loss or damage to an employee's property may not be taken unless the employee receives seven days' advance notice. This seven-day notice does not apply to these defections made at termination. An employer may not use fraud or duress to require employees to pay back protected amounts.

If an employee provides vacation pay to employees, the employer shall give vacation time off or payment in lieu of time off, as required by company policy or practice. Employees should be informed in writing of any company policy or practice that results in a reduction of vacation pay. Employees who are not entitled to vacation pay are not entitled to such or both benefits.

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 may collect back wages plus interest if they are due to the employer. The state of North Carolina may bring civil or criminal action against the employer for violation of the law. The employer may also sue the employer for back wages. The court may award attorney fees, costs, remedial 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 worker who is defined as an employee by the N.C. Wage and Hour Act (N.C. Gen. Stat. 95-25.40), the N.C. Employees Fair Classification Act (N.C. Gen. Stat. 95-100 et seq.), the N.C. Workers' Compensation Act (N.C. Gen. Stat. 97-20) or the N.C. Revenue Act (N.C. Gen. Stat. 105-183.10) 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 request the supervisor to reclassify him or her as an employee.

To file a complaint, call:

Employee Classification Section  
NCDOL, Mail Service Center  
1233 Mail Service Center  
Raleigh, NC 27699-4333  
Email: [er.classification@labor.nc.gov](mailto:er.classification@labor.nc.gov)  
Phone: 919-715-3092  
Fax: 919-715-3092

### Employment at Will

North Carolina is an employment-at-will state. The term "employment-at-will" simply means that unless there is a specific contract or employment agreement providing otherwise, an employer can treat its employees as it sees fit and the employee can discharge an employee at will if the employee is not胜任 or is not available.

### Right-to-Work

North Carolina's "right-to-work" Right-to-Work applies to collective bargaining or labor agreements. 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 chosen not to be a member of any particular labor union. An employer cannot require any person as a condition of employment to join a labor union or to remain a member of a labor union.

WHEN AN EMPLOYER IS SUBJECT TO THE RIGHT-TO-WORK LAW

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