

# LABOR LAWS

NC

**Since 1953** 

**EMPLOYEE RIGHTS UNDER THE** 

FAIR LABOR STANDARDS ACT

WAGE AND HOUR DIVISION

DEPARTMENT OF LABOR

UNITED STATES

# **FEDERAL**

**POSTER COMPLIANCE DATE 12/2021** 

**Revised 12/2020** 

# **NORTH CAROLINA**

## FED

### FEDERAL 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 1<sup>1</sup>/<sub>2</sub> 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 to work in non-farm jobs 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.

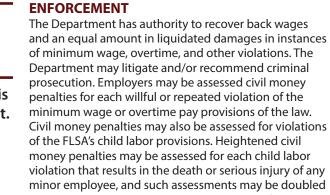
#### **TIP CREDIT**

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 the employee to express breast milk for her nursing child for one year after the child's birth each 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.

WHD



minor employee, and such assessments may be doubled when the violations are determined to be willful or repeated. The law also prohibits retaliating against or discharging workers who file a complaint or participate in any proceeding under the FLSA.

#### **ADDITIONAL INFORMATION**

Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions.

Special provisions apply to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.

Some state laws provide greater employee protections; employers must comply with both. Some employers incorrectly classify workers as "independent contractors" when they are actually employees under the FLSA. It is important to know the difference between the two because employees (unless exempt) are entitled to the FLSA's minimum wage and overtime pay protections and correctly classified independent contractors are not

Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

WH1088

REV. 07/2016

#### **Certificate of Coverage** and Notice to Workers as to Benefit Rights

Employers covered by the Employment Security Law of North Carolina (Chapter 96 of the North Carolina General Statutes) contribute to a special fund set aside for the payment of unemployment insurance benefits. No money is withheld from workers' checks for unemployment insurance purposes.

If your work hours are substantially reduced or your job is eliminated due to lack of work you may qualify for unemployment insurance benefits. If you work less than the equivalent of (3) customary scheduled full time days, during any payroll week because work was not available, you may be eligible for unemployment insurance benefits. An employer may file claims for employees through the use of automation in case of partial unemployment. An employer may file an attached claim for an employee only once during a benefit year, and the period of partial unemployment for which the claim is filed may not exceed six consecutive weeks. You must notify the employer of any wages earned from all sources during the payroll week. Unemployment insurance benefit payments are processed in Raleigh, North Carolina. Please be sure that your employer has your correct mailing address.

If you lose your job with this employer, you may contact the Department of Commerce, Division of Workforce Solutions (DWS) at www.nccommerce.com/workforce to assist you in securing suitable work. DWS provides a wide variety of services free of charge. If suitable work is not readily available you may file a claim for unemployment insurance benefits with the Division of Employment Security at des.nc.gov, or by phone at 877-841-9617.

By law, workers who become unemployed for other reasons or who refuse suitable work may be denied unemployment insurance benefits.

If you have any questions about unemployment insurance benefits or need more information, contact the Division of Employment Security at the address shown on the bottom of this poster.

#### During Labor Disputes [Section 96-14.7(b)]

An individual is disqualified for benefits if the Division determines the individual's total or partial unemployment is caused by a labor dispute at your place of employment or any location owned by the employer within the state of North Carolina. Once the labor dispute has ended, such workers shall continue to be ineligible for unemployment insurance benefits for the period of time that is reasonably necessary to resume operations in the workers' place of employment

#### **Instructions for Employers**

- Post this notice on your premises in such a place that all employees may see it. Additional copies may be obtained online at des.nc.gov.
- You must notify affected workers of a vacation period within a reasonable period of time before it begins.
- Benefit claims for attached workers may be filed online at des.nc.gov. For More Information, Contact:

Safety and Health

an inspection.

has passed.

employee's death.

to avoid further action.

**N.C.** Department of Labor Responsibilities

Labor, Occupational Safety and Health (OSH) Division.

The state of North Carolina has a federally approved program

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

**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

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

A penalty of up to \$70,000 may be issued for each willful or

mandated OSHA standards verbatim or can rewrite them to

meet state conditions, as long as the new version is at least

A copy of any specific standard adopted by the OSH Division

is available free of charge. The entire "General Industry"

Criminal penalties of up to \$10,000 may apply against

any standard, rule or regulation that has resulted in an

employers who are found guilty of willfully violating

**OSHA Standards**—The division adopts all federally

repeat violation of an OSHA standard.

as strict as the federal standard.

to administer the Occupational Safety and Health Act in North

Carolina. This program is administered by the N.C. Department of

NORTH CAROLINA DEPARTMENT OF COMMERCE **DIVISION OF EMPLOYMENT SECURITY** P.O. Box 25903 RALEIGH, N.C. 27611 TELEPHONE: (919) 707-1237 des.nc.gov

#### **FORM 17**

## N.C. WORKERS' COMPENSATION NOTICE TO INJURED WORKERS AND EMPLOYERS

All employees of this business, except specifically excluded executive officers, suffering work-related injuries may be entitled to Workers' Compensation benefits from the employer or its insurance carrier.

### IF YOU HAVE A WORK-RELATED INJURY OR AN OCCUPATIONAL DISEASE

#### The Employee Should:

- Report the injury or occupational disease to the Employer immediately.
- Give written notice to the Employer within 30 days.
- File a claim with the Industrial Commission on a Form 18 immediately, but no later than 2 years from injury date or occupational disease. Give a copy to the Employer.
- If medical treatment and wage loss compensation are not promptly provided, call the insurance carrier/administrator or request a hearing before the Industrial Commission using a Form 33 Request for Hearing. Commission forms are available at website www.ic.nc.gov or by calling the Help Line.
- Your employer's workers' compensation insurance carrier is\_\_\_\_\_
- The insurance policy number is\_\_\_\_\_
- until Your employer's workers' compensation insurance policy is valid from

#### For assistance: Call the Industrial Commission HELP LINE—(800) 688-8349.

#### The Employer Should:

- Provide all necessary medical services to the Employee.
- Report the injury to the carrier/administrator and file a Form 19 Report of Injury within 5 days with the Industrial Commission, if the Employee misses more than 1 day from work or if cumulative medical costs exceed \$4,000.00.
- Give a copy of your completed Form 19 to the Employee along with a copy of a blank Form 18 Notice of Accident. Ensure that compensation is promptly paid as required under the Workers' Compensation Act.

NORTH CAROLINA INDUSTRIAL COMMISSION



NORTH CAROLINA INDUSTRIAL COMMISSION **1235 MAIL SERVICE CENTER** RALEIGH, NORTH CAROLINA 27699-1235

Website: <u>www.ic.nc.aov</u>

TO EMPLOYER: THIS FORM MUST BE PROMINENTLY POSTED IF YOU HAVE WORKERS' COMPENSATION INSURANCE OR QUALIFY AS SELF-INSURED. (N.C. Gen. Stat. §97-93).

Department of Labor Wage and Hour Notice to Employees

**Complaints** 

1-866-487-9243

TTY: 1-877-889-5627

www.dol.gov/whd

NCDOL N.C. Department of Labor

DEPARTMENT

UNITED STATES

OF LABOR

OF AMERICA

NC

Wage and Hour Notice to Employees and OSH Notice to Employees must be posted together.

**OSH Notice to Employees** 



Equal Employment Opportunity is THE LAW

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN Executive Order 11246, as ame prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

#### 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 lowest 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 specifically 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 YEC, 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, nonagricultural 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 list of prohibited jobs, please visit our website at www.labor.nc.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 can be performed: Retail businesses, food service establishments, service stations and offices of other businesses. Work is not permitted in manufacturing, mining or construction, or with power-driven machinery, or on the premises of a business holding an ABC permit for the onpremises sale or consumption of alcoholic beverages; except that youths at least 14 years of age can work on the outside grounds of the premises with written consent from a parent or guardian as long as the youth is not involved with the preparation, serving, dispensing or sale of alcoholic beverages. Maximum hours per day: Three on school days; eight if a nonschool day.

Maximum hours per week: 18 when school is in session; 40 when school is not 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 any period of five consecutive hours of work.

Additional rules for youths under 14 years old are: Work is generally not permitted except when working for the youth's parents; in newspaper distribution to consumers; modeling; or acting in movie, television, radio or theater production. 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 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,

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

complaints and may collect back wages plus interest if they are

The department's Wage and Hour Bureau investigates

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. 95-25.2(4)), 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. 97-2(2)), or the N.C. Revenue Act (N.C. Gen. Stat. 105-163.1(4)) 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 **1233 MAIL SERVICE CENTER** RALEIGH, NC 27699-4333 **EMAIL: emp.classification@ic.nc.gov** 

PHONE: 919-807-2582 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 other fees of any kind to a labor union. Also, an employer cannot enter into 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 union, to improve their wages and working conditions. Regional office contact:

NI RB-REGION 11 OFFICE **REPUBLIC SOUARE** 4035 UNIVERSITY PARKWAY, SUITE 200 WINSTON-SALEM, NC 27106-3325 336-631-5201

#### **Retaliatory Employment Discrimination**

The department's Retaliatory Employment Discrimination Bureau investigates complaints filed by employees against their employers for alleged violations of the N.C. Retaliatory Employment Discrimination Act (REDA). Under REDA, an employer may not retaliate against an employee for engaging in REDA-protected activities, such as filing a claim or initiating an inquiry, related to certain rights under the following:

- Workers' Compensation Claims
- Wage and Hour Complaints
- Occupational Safety and Health Complaints

N.C. National Guard Service Discrimination

Participation in the Juvenile Justice System

Exercising Rights Under Domestic Violence Laws

Employees who believe they have been retaliated against

statutes, or employers who have questions about the

in their employment because of activities under the above

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

www.labor.nc.gov

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Facebook, Twitter, YouTube, Instagram, Podcast

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

A REDA complaint must be filed with the bureau within 180

Sickle Cell or Hemoglobin C Carriers Discrimination

Mine Safety and Health Complaints

Genetic Testing Discrimination

Pesticide Regulation Complaints

Drug Paraphernalia Complaints

application of REDA, may call:

days of the date of retaliation.

#### Any work-related amputation.

- Any work-related loss of an eye.
- To report an accident, call the OSH Division at 1-800-625-2267 or 919-779-8560.

#### **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.

**Complaints**—An employee has a right to make a complaint regarding workplace conditions he or she believes are unsafe, unhealthy or in violation of OSHA standards. When an OSH inspector is in an employee's workplace, that employee has a right to point out unsafe or unhealthy conditions and to freely answer any questions asked by the inspector. When making a complaint, the employee may request that his or her name be kept confidential. To make a complaint, call 1-800-625-2267 or

919-779-8560. Complaints also can be made online at www.labor.nc.gov.

**Contesting Abatement**—Employees may contest any abatement period set as a result of an OSH inspection at their workplace. An employee has the right to appear before the Review Commission to contest the abatement period and seek judicial review.

#### **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 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 6T50, 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 O**CCUPATIONAL 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

Josh Dobson Commissioner of Labor

#### Unemployment Insurance

NCDOL does not handle matters relating to unemployment insurance. If you would like information about unemployment insurance policies or procedures, please contact the Department of Commerce, Division of Employment Security, P.O. Box 25903, Raleigh, NC 27611-5903, 1-888-737-0259; www.ncesc.com.

#### N.C. Workers' Compensation Notice to Injured Workers and Employers (Form 17)

NCDOL does not handle matters relating to workers' compensation. If you would like information about workers' compensation policies or procedures, please contact the N.C. Industrial Commission at N.C. Industrial Commission, 4340 Mail Service Center, Raleigh, NC 27699-4340; 919-807-2500; www.ic.nc.gov. Form 17 must be prominently posted and must be printed in the same colors and format that appear on the Industrial Commission website. To download and print the current version of Form 17, visit www.ic.nc.gov.

and Labor Organizations Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, **NATIONAL ORIGIN** 

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship

#### DISABILITY

DISABLED, RECENTLY SEPARATED, Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect gualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification referral, and other aspects of employment Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

#### AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

#### SEX (WAGES)

In addition to sex discrimination to women and men performing substantially equal work, in jobs that require equal skill, effort, and

#### GENETICS

RETALIATION

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family

medical history); and requests for or

WHAT TO DO IF YOU BELIEVE

receipt of genetic services by applicants, employees, or their family members. All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an uniawful employment practice.

#### **INDIVIDUALS WITH DISABILITIES**

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

who files a complaint of discrimination,

participates in an OFCCP proceeding, or

otherwise opposes discrimination under

Any person who believes a contractor

has violated its nondiscrimination or

affirmative action obligations under

the authorities above should contact

Compliance Programs (OFCCP), U.S.

Department of Labor, 200 Constitution

The Office of Federal Contract

Avenue, N.W., Washington, D.C.

these Federal laws.

immediately

**OTHER PROTECTED, AND ARMED** FORCES SERVICE MEDAL VETERANS The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized),

and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded). RETALIATION Retaliation is prohibited against a person

prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages responsibility, under similar working conditions, in the same establishment.

20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFĆCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor **Programs or Activities Receiving** Federal Financial Assistance RACE, COLOR, NATIONAL ORIGIN, SEX In addition to the protections of Title VII of

the Civil Rights Act of 1964, as amended. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial

#### 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. The employer has the right to accompany the inspector during the physical inspection.
- **Discrimination**—It is illegal to retaliate in any way against an employee for raising a health or safety concern, filing a complaint, reporting a work-related injury or illness, or assisting an inspector. The department will investigate and may prosecute employers who take such action.
- **Citations**—If an OSH 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.
- Contesting 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

policies on vacation and sick leave, and of commission, bonus and other pay matters. Employers must notify employees 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 those 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, 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 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 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 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 posting, 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 rate.

#### THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY.

Printed 10/21

## 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 (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers

The Act also 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. Examinees 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

Contest") the citation(s) or proposed penalty to the N.C. Occupational Safety and Health Review Commission. The Review Commission is an independent body that hears and decides contestments 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.

Injury and Illness Records—Employers 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.

**YOUR RIGHTS UNDER USERRA** THE UNIFORMED SERVICES EMPLOYMENT AND **REEMPLOYMENT RIGHTS ACT** USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the

FED

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 and:

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 timely manner after conclusion of service; and **ENFORCEMENT** you have not been separated from service with a disqualifying discharge or under other than

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

employment;

If you: are a past or uniformed service: present member or of the uniformed are obligated service; to serve in the

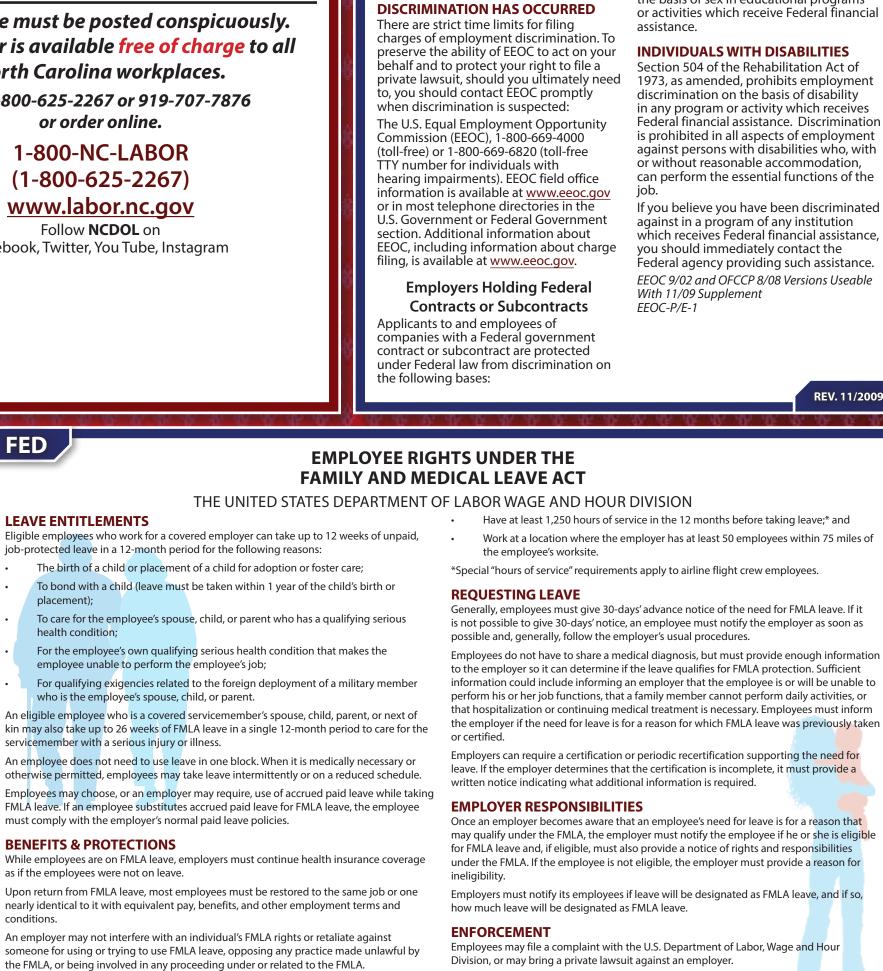
have applied for uniformed service; membership in the then an employer may not deny you: initial employment; • promotion; or any benefit of reemployment; employment retention in

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.

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

Follow NCDOL on Facebook, Twitter, You Tube, Instagram

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The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights

1-866-4-USWAGE (1-866-487-9243) TTY: 1-877-889-5627





#### **INDIVIDUALS WITH DISABILITIES**

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the

against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

REV. 11/2009

- **LEAVE ENTITLEMENTS**

servicemember with a serious injury or illness.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

#### **BENEFITS & PROTECTIONS**

as if the employees were not on leave.

nearly identical to it with equivalent pay, benefits, and other employment terms and conditions

someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

#### **ELIGIBILITY REQUIREMENTS**

DEPARTMENT OF LABOR

UNITED STATES OF AMERICA

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

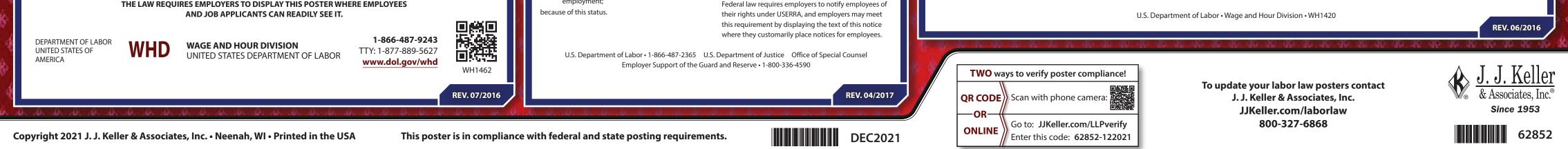
Have worked for the employer for at least 12 months;

WHD

For additional information or to file a complaint:







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:

In addition, an employer may not retaliate against

rights, including testifying or making a statement in

connection with a proceeding under USERRA, even if

**HEALTH INSURANCE PROTECTION** 

If you leave your job to perform military service,

you have the right to elect to continue your

Even if you don't elect to continue coverage

during your military service, you have the right

to be reinstated in your employer's health plan

existing condition exclusions) except for service-

when you are reemployed, generally without

any waiting periods or exclusions (e.g., pre-

The U.S. Department of Labor, Veterans

is authorized to investigate and resolve

For assistance in filing a complaint, or for

any other information on USERRA, contact

at http://www.dol.gov/vets. An interactive

If you file a complaint with VETS and VETS is

unable to resolve it, you may request that your

case be referred to the Department of Justice or

You may also bypass the VETS process and bring

a civil action against an employer for violations

http://www.dol.gov/vets/programs/userra/poster.htm.

the Office of Special Counsel, as applicable, for

online USERRA Advisor can be viewed at

http://www.dol.gov/elaws/userra.htm.

representation

of USERRA.

VETS at 1-866-4-USA-DOL or visit its website

complaints of USERRA violations

Employment and Training Service (VETS)

for you and your dependents for up to 24

existing employer-based health plan coverage

anyone assisting in the enforcement of USERRA

that person has no service connection.

months while in the military.

connected illnesses or injuries.