

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH40275-LR-94 (03/21)

Short Title: Up Minimum Wage/Set Rates/COLA.

(Public)

Sponsors: Representative Cunningham.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE STATE MINIMUM WAGE, TO SET WAGE RATES BASED
3 UPON THE SIZE OF THE EMPLOYER, AND TO PROVIDE FOR AUTOMATIC
4 ADJUSTMENTS TO REFLECT INCREASES IN THE COST OF LIVING.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 95-25.3 reads as rewritten:

7 "**§ 95-25.3. Minimum wage; wage rates; cost-of-living adjustments.**

8 (a) ~~Every~~ Subject to the provisions of subsection (a2) of this section, every employer
9 shall pay to each employee who in any workweek performs any work, wages ~~of at least six~~
10 ~~dollars and fifteen cents (\$6.15) per hour or the minimum wage set forth in paragraph 1 of~~
11 ~~section 6(a) of the Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage may change~~
12 ~~from time to time, whichever is higher, except as otherwise provided in this section at the~~
13 ~~applicable rate set forth in subsection (a1) of this section. For the purposes of this section, the~~
14 ~~following definitions apply:~~

15 (1) Large employer. – An enterprise whose annual gross volume of sales made
16 or business done is not less than five hundred thousand dollars (\$500,000),
17 exclusive of excise taxes at the retail level that are separately stated.

18 (2) Small employer. – An enterprise whose annual gross volume of sales made
19 or business done is less than five hundred thousand dollars (\$500,000),
20 exclusive of excise taxes at the retail level that are separately stated.

21 (a1) Except as otherwise provided by this section:

22 (1) Every large employer shall pay each employee wages at a rate of at least ten
23 dollars and seventy-five cents (\$10.75) per hour, effective January 1, 2018.

24 (2) Every small employer shall pay each employee at a rate of at least seven
25 dollars and seventy-five cents (\$7.75) per hour, effective January 1, 2018.

26 (a2) The minimum wage required by subsection (a1) of this section shall be increased on
27 January 1, 2019, and on January 1 of successive years by the increase in the cost of living. The
28 increase in the cost of living shall be measured by the percentage increase of the Consumer
29 Price Index (all urban consumers, U.S. city average for all items), CPI-U, or its successor
30 index, as calculated by the U.S. Department of Labor for the 12 months preceding the previous
31 September 1. The Commissioner shall calculate the indexed minimum wage rate. The indexed
32 minimum wage rate shall be calculated to the nearest cent.

33 (b) In order to prevent curtailment of opportunities for employment, the wage rate for
34 full-time students, learners, apprentices, and messengers, as defined under the Fair Labor
35 Standards Act, shall be ninety percent (90%) of the rate in effect under subsection (a) above,
36 rounded to the lowest nickel.



1 (c) The Commissioner, in order to prevent curtailment of opportunities for employment,
2 may, by regulation, establish a wage rate less than the wage rate in effect under section (a)
3 which may apply to persons whose earning or productive capacity is impaired by age or
4 physical or mental deficiency or injury, as such persons are defined under the Fair Labor
5 Standards Act.

6 (d) The Commissioner, in order to prevent curtailment of opportunities for employment
7 of the economically disadvantaged and the unemployed, may, by regulation, establish a wage
8 rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect
9 under subsection (a) which shall apply to all persons (i) who have been unemployed for at least
10 15 weeks and who are economically disadvantaged, or (ii) who are, or whose families are,
11 receiving Work First Family Assistance or who are receiving supplemental security benefits
12 under Title XVI of the Social Security Act.

13 Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for
14 such subminimum wage shall be issued by the Division of Employment Security.

15 The regulation issued by the Commissioner shall not permit employment at the
16 subminimum rate for a period in excess of 52 weeks.

17 (e) The Commissioner, in order to prevent curtailment of opportunities for employment,
18 and to not adversely affect the viability of seasonal establishments, may, by regulation,
19 establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage
20 rate in effect under subsection (a) which shall apply to any employee employed by an
21 establishment which is a seasonal amusement or recreational establishment, or a seasonal food
22 service establishment.

23 (f) Tips earned by a tipped employee may be counted as wages only up to the amount
24 permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the tipped
25 employee is notified in advance, is permitted to retain all tips and the employer maintains
26 accurate and complete records of tips received by each employee as such tips are certified by
27 the employee monthly or for each pay period. Even if the employee refuses to certify tips
28 accurately, tips may still be counted as wages when the employer complies with the other
29 requirements of this section and can demonstrate by monitoring tips that the employee
30 regularly receives tips in the amount for which the credit is taken. Tip pooling shall also be
31 permissible among employees who customarily and regularly receive tips; however, no
32 employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling
33 arrangement.

34 (g) Repealed by Session Laws 2006-259, s. 18, effective August 23, 2006."

35 **SECTION 2.** This act is effective when it becomes law.