

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL DRH50091-LR-71C

Short Title: Up Minimum Wage/Set Rates/COLA. (Public)

Sponsors: Representatives Cunningham, Clark, Harris, and Black (Primary Sponsors).

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 at the applicable
10 rate set forth in subsection (a1) of this section. For the purposes of this section, the following
11 definitions apply:

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

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

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

19 (1) Every large employer shall pay each employee wages at a rate of at least
20 twelve dollars (\$12.00) per hour, effective January 1, 2020.

21 (2) Every small employer shall pay each employee wages at a rate of at least nine
22 dollars (\$9.00) per hour, effective January 1, 2020.

23 (a2) The minimum wage required by subsection (a1) of this section shall be increased on
24 January 1, 2021, and on January 1 of successive years by the increase in the cost of living. The
25 increase in the cost of living shall be measured by the percentage increase of the Consumer Price
26 Index (all urban consumers, U.S. city average for all items), CPI-U, or its successor index, as
27 calculated by the U.S. Department of Labor for the 12 months preceding the previous September
28 1. The Commissioner shall calculate the indexed minimum wage rate. The indexed minimum
29 wage rate shall be calculated to the nearest cent.

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

34 (c) The Commissioner, in order to prevent curtailment of opportunities for employment,
35 may, by regulation, establish a wage rate less than the wage rate in effect under section (a) which



1 may apply to persons whose earning or productive capacity is impaired by age or physical or
2 mental deficiency or injury, as such persons are defined under the Fair Labor Standards Act.

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

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

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

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

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

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

30 **SECTION 2.** This act becomes effective January 1, 2020.