

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30548-LRa-161A

Short Title: Fair Minimum Wage Act.

(Public)

Sponsors: Representative Prather.

Referred to:

A BILL TO BE ENTITLED
AN ACT ESTABLISHING STATE MINIMUM WAGES THAT ADJUST UPWARD
AUTOMATICALLY FOR INFLATION, CREATING THE NORTH CAROLINA WAGE
BOARD, ESTABLISHING THE SHORT-TIME COMPENSATION PROGRAM,
REPEALING THE RESTRICTION ON LOCAL MINIMUM WAGES, AND
APPROPRIATING FUNDS FOR IMPLEMENTATION OF THIS ACT.

Whereas, the wages paid to working North Carolinians should be sufficient to better
reflect the rising cost of basic necessities, including housing, food, transportation, and health
care; and

Whereas, indexing the State minimum wage for inflation will help preserve workers'
purchasing power over time and reduce the need for repeated legislative intervention; and

Whereas, allowing local governments to adopt higher minimum wages, where
appropriate, gives communities greater flexibility to respond to local labor market conditions and
cost pressures; and

Whereas, a Wage Board and a short-time compensation program can help the State
promote fair wages, reduce avoidable layoffs, and support workforce stability during economic
downturns; and

Whereas, improving wage standards and employment stability advances the general
welfare of the people of North Carolina; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1.1. G.S. 95-25.3 reads as rewritten:

"§ 95-25.3. Minimum wage.

(a) ~~Every~~ Except as provided by subsection (a1) of this section, every employer shall pay
to each employee who in any workweek performs any work, wages of at least ~~six dollars and~~
~~fifteen cents (\$6.15) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the~~
~~Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage may change from time to time,~~
~~whichever is higher, except as otherwise provided in this section.~~ fifteen dollars (\$15.00) per hour,
which shall be adjusted automatically for inflation annually to reflect increases in the Consumer
Price Index, with the first adjustment occurring effective January 1, 2027. These adjustments
shall be effective January 1 of each year. The adjustments shall be calculated by the
Commissioner as the percentage of change between the October Consumer Price Index in the
year most recently ended, calculated to the nearest tenth of one percent (1/10 of 1%), provided
that this percentage change is positive. For the purposes of this section, the term "Consumer Price
Index" means the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average,
all items, not seasonally adjusted, standard reference base, as published by the Bureau of Labor
Statistics of the U.S. Department of Labor.



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(a1) Notwithstanding the provisions of subsection (a) of this section, an employer whose gross annual receipts for the preceding calendar year were less than four hundred thousand dollars (\$400,000) shall pay to each employee who in any workweek performs any work wages of at least eleven dollars (\$11.00) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is higher, except as otherwise provided in this section. The rate of eleven dollars (\$11.00) per hour is effective January 1, 2027, and shall be adjusted annually thereafter in the same manner and on the same schedule as provided in subsection (a) of this section. An employer that qualifies under this section has the burden of establishing its eligibility by maintaining records sufficient to demonstrate gross annual receipts for the preceding calendar year. The records shall be retained for at least three years and shall be made available to the Commissioner upon request.

(a2) A local government may adopt an ordinance establishing a local minimum wage within its territorial jurisdiction that is higher than the statewide minimum wage; then, in that case, every employer in the jurisdiction shall instead pay the higher local minimum wage.

(a3) The North Carolina Wage Board is established within the Department. Wage Board members shall be appointed by, and serve at the pleasure of, the Commissioner. The Wage Board shall review wages in this State annually and publish a report establishing targets for the State to remain competitive and that allow wage earners to afford housing, health care, and other basic necessities.

(b) In order to prevent curtailment of opportunities for employment, the wage rate for full-time students, learners, apprentices, and messengers, as defined under the Fair Labor Standards Act, shall be ninety percent (90%) of the rate in effect under subsection (a) ~~above, or~~ subsection (a1) of this section rounded to the lowest nickel.

(c) The Commissioner, in order to prevent curtailment of opportunities for employment, may, by regulation, establish a wage rate less than the wage rate in effect under section (a) or subsection (a1) of this section which may apply to persons whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, as such persons are defined under the Fair Labor Standards Act.

(d) The Commissioner, in order to prevent curtailment of opportunities for employment of the economically disadvantaged and the unemployed, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) or subsection (a1) of this section which shall apply to all persons (i) who have been unemployed for at least 15 weeks and who are economically disadvantaged, or (ii) who are, or whose families are, receiving Work First Family Assistance or who are receiving supplemental security benefits under Title XVI of the Social Security Act.

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

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

(e) The Commissioner, in order to prevent curtailment of opportunities for employment, and to not adversely affect the viability of seasonal establishments, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) or subsection (a1) of this section that shall apply to any employee employed by an establishment that is a seasonal food service establishment.

(f) Tips earned by a tipped employee may be counted as wages only up to the amount permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the tipped employee is notified in advance, is permitted to retain all tips and the employer maintains accurate and complete records of tips received by each employee as such tips are certified by the employee monthly or for each pay period. Even if the employee refuses to certify tips accurately, tips may still be counted as wages when the employer complies with the other requirements of

1 this section and can demonstrate by monitoring tips that the employee regularly receives tips in
2 the amount for which the credit is taken. Tip pooling shall also be permissible among employees
3 who customarily and regularly receive tips; however, no employee's tips may be reduced by more
4 than fifteen percent (15%) under a tip pooling arrangement.

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

6 **SECTION 2.1.** G.S. 95-25.1 reads as rewritten:

7 **"§ 95-25.1. Short title and legislative purpose; local governments preempted purpose.**

8 (a) This Article shall be known and may be cited as the "Wage and Hour Act."

9 (b) The public policy of this State is declared as follows: The wage levels of employees,
10 hours of labor, payment of earned wages, and the well-being of minors are subjects of concern
11 requiring legislation to promote the general welfare of the people of the State without
12 jeopardizing the competitive position of North Carolina business and industry. The General
13 Assembly declares that the general welfare of the State requires the enactment of this law under
14 the police power of the State.

15 (c) Repealed by Session Laws 2017-4, s. 1, effective March 30, 2017.

16 ~~(d) The provisions of this Article supersede and preempt any ordinance, regulation,~~
17 ~~resolution, or policy adopted or imposed by a unit of local government or other political~~
18 ~~subdivision of the State that regulates or imposes any requirement upon an employer pertaining~~
19 ~~to compensation of employees, such as the wage levels of employees, hours of labor, payment of~~
20 ~~earned wages, benefits, leave, or well-being of minors in the workforce. This subsection shall not~~
21 ~~apply to any of the following:~~

22 (1) ~~A local government regulating, compensating, or controlling its own~~
23 ~~employees.~~

24 (2) ~~Economic development incentives awarded under Chapter 143B of the~~
25 ~~General Statutes.~~

26 (3) ~~Economic development incentives awarded under Article 1 of Chapter 158 of~~
27 ~~the General Statutes.~~

28 (4) ~~A requirement of federal community development block grants.~~

29 (5) ~~Programs established under G.S. 160D-1311."~~

30 **SECTION 3.1.** Chapter 96 of the General Statutes is amended by adding a new
31 Article to read:

32 "Article 6.

33 "Short-Time Compensation.

34 **"§ 96-45. Short-time compensation.**

35 (a) Definitions. – The following definitions apply in this section:

36 (1) Affected unit. – A specified plant, department, shift, or other definable unit of
37 two or more employees designated by the employer to participate in a
38 short-time compensation plan.

39 (2) Employer-sponsored training. – A training component sponsored by an
40 employer to improve the skills of the employer's workers.

41 (3) Normal weekly hours of work. – The number of hours in a week that an
42 individual would regularly work for the short-time compensation employer,
43 not to exceed 40 hours, excluding overtime.

44 (4) Short-time compensation benefits. – Benefits payable to individuals in an
45 affected unit under an approved short-time compensation plan.

46 (5) Short-time compensation employer. – An employer with a short-time
47 compensation plan in effect.

48 (6) Short-time compensation plan or plan. – An employer's written plan for
49 reducing unemployment under which an affected unit shares the work
50 remaining after its normal weekly hours of work are reduced.

(b) Approval of Plans. – An employer wishing to participate in the short-time compensation program must submit a signed, written, short-time plan to the Division. The Division shall approve the plan if all of the following criteria are met:

- (1) The plan applies to and identifies each specific affected unit.
- (2) The individuals in the affected unit are identified by name and social security number.
- (3) The normal weekly hours of work for individuals in the affected unit are reduced by at least ten percent (10%) and by not more than sixty percent (60%).
- (4) The plan includes a certified statement by the employer that the aggregate reduction in work hours is in lieu of layoffs that would affect at least ten percent (10%) of the employees in the affected unit and that would have resulted in an equivalent reduction in work hours.
- (5) The plan applies to at least ten percent (10%) of the employees in the affected unit.
- (6) The plan is approved in writing by the collective bargaining agent for each collective bargaining agreement covering any individual in the affected unit.
- (7) The plan does not serve as a subsidy to seasonal employers during the off-season or as a subsidy to employers who traditionally use part-time employees.
- (8) The plan certifies that, if the employer provides fringe benefits to any employee whose workweek is reduced under the program, the fringe benefits will continue to be provided to the employee participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program. As used in this subdivision, the term "fringe benefits" includes, but is not limited to, health insurance, retirement benefits under defined benefit pension plans as defined in the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(35), contributions under a defined contribution plan as defined in section 414(i) of the Internal Revenue Code, paid vacation and holidays, and sick leave.
- (9) The plan describes the manner in which the requirements of this subsection will be implemented, including a plan for giving notice, if feasible, to an employee whose workweek is to be reduced, together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation.
- (10) The terms of the employer's written plan and implementation are consistent with employer obligations under applicable federal laws and laws of this State.
- (11) The employer has filed all quarterly reports and other reports required under this Chapter and has paid all obligation assessments, contributions, reimbursements in lieu of contributions, interest, and penalties due through the date of the employer's application.

The Division shall approve or disapprove a short-time compensation plan in writing within 15 days after its receipt. If the plan is denied, the Division shall notify the employer of the reasons for disapproval. The plan takes effect on the date of its approval by the Division and expires at the end of the twelfth full calendar month after its effective date.

(c) Revocation of Approval. – The Division shall periodically monitor the employer's plan compliance and operations. Plan approval may be revoked based on good cause, including the failure to comply with assurances provided in the plan such as that the aggregate reduction in hours is in lieu of layoffs.

(d) Eligibility Requirements for Short-Time Compensation Benefits. – Except as provided in this subsection, an individual is eligible to receive short-time compensation benefits for any week only if the individual complies with this Chapter and the Division finds that (i) the individual is employed as a member of an affected unit in an approved plan that was approved before the week and is in effect for the week, (ii) the individual is able to work and is available for additional hours of work or for full-time work with the short-time employer, and (iii) the normal weekly hours of work of the individual are reduced by at least ten percent (10%) but not by more than sixty percent (60%), with a corresponding reduction in wages.

The Division may not deny short-time compensation benefits to an individual who is otherwise eligible for these benefits for any week by reason of the application of any provision of this Chapter relating to availability for work, active search for work, or refusal to apply for or accept work from other than the short-time compensation employer of that individual. The Division may not deny short-time compensation benefits to an individual who is otherwise eligible for these benefits for any week because such individual is participating in an employer-sponsored training or a training under the Workforce Innovation and Opportunity Act to improve job skills when the training is approved by the Division.

Notwithstanding any other provision of law, an individual is deemed unemployed in any week for which compensation is payable to the individual, as an employee in an affected unit, for less than the individual's normal weekly hours of work in accordance with an approved short-time compensation plan in effect for the week.

(e) Weekly Benefit Amount. – The weekly short-time compensation benefit amount payable to an individual is equal to the product of the individual's weekly benefit amount and the ratio of the number of normal weekly hours of work for which the employer would not compensate the individual to the individual's normal weekly hours of work. The benefit amount, if not a multiple of one dollar (\$1.00), is rounded downward to the next lower multiple of one dollar (\$1.00).

(f) Total Benefit Amount. – An individual may not be paid benefits under this section in an amount that is more than the individual's maximum entitlement, and an individual may not be paid short-time compensation benefits in excess of that maximum.

(g) Effect of Benefit. – The short-time compensation benefits paid to an individual shall be deducted from the total benefit amount established for that individual. An individual who receives all of the short-time compensation or combined reemployment assistance or unemployment compensation and short-time compensation available in a benefit year is considered an exhaustee for purposes of the extended benefits program and, if otherwise eligible under those provisions, is eligible to receive extended benefits. An otherwise eligible individual may not be disqualified from benefits for leaving employment instead of accepting a reduction in hours under an approved plan.

(h) Allocation of Charges. – Except when the result is inconsistent with the other provisions of this Chapter, short-time compensation benefits shall be charged to the employment record of employers.

(i) Seasonal, temporary, or intermittent employees are not eligible for participation in the program. The following definitions apply in this subsection:

(1) Seasonal employment. – Employment with an employer who experiences at least a twenty percent (20%) difference between its highest level of employment during a particular season and its lowest level of employment during the off-season in each of the previous three years as reported to the State agency and/or employees are hired to work on a temporary basis by employers that need extra help during a particular season.

(2) Temporary employment. – Employment where an employee is expected to remain in a position for only a limited period of time and/or is hired by a temporary agency to fill a gap in an employer's workforce.

- 1 (3) Intermittent employment. – Employment that is not continuous but may
2 consist of periodic intervals of weekly work and intervals of no weekly work."
3 **SECTION 4.1.** Effective July 1, 2026, there is appropriated from the General Fund
4 to the Department of Labor the sum of one hundred fifty thousand dollars (\$150,000) in
5 nonrecurring funds for the 2026-2027 fiscal year to implement the provisions of this act.
6 **SECTION 5.1.** Except as otherwise provided, this act is effective when it becomes
7 law.