2026 Annual Report for the Employee Classification Section Pursuant to G.S. 143-788(b)

NORTH CAROLINA
INDUSTRIAL COMMISSION

About the Employee Classification Section

Employee misclassification is defined in G.S. 143-786(a)(5) as avoiding tax liabilities and other obligations imposed by Chapters 95, 96, 97, 105, or 143 of the North Carolina General Statues by misclassifying an employee as an independent contractor. Pursuant to Session Law 2017-203, the Employee Classification Section was established within the Industrial Commission under the Employee Fair Classification Act. The Employee Classification Section's statutory mandate includes, among other duties, receiving and investigating reports of employee misclassification; coordinating with and assisting all relevant State agencies in recovering any back taxes, wages, benefits, penalties, or other monies owed as a result of an employer engaging in employee misclassification; coordinating with relevant State agencies and district attorneys' offices in the prosecution of employers and individuals who fail to pay civil assessments or penalties assessed as a result of an employer's or individual's involvement in employee misclassification; and providing all relevant information pertaining to each instance of reported employee misclassification to the North Carolina Department of Labor, North Carolina Division of Employment Security, North Carolina Department of Revenue, and North Carolina Industrial Commission to facilitate investigation of potential violations of Chapters 95, 96, 97, 105, or 143 of the North Carolina General Statutes.

The Employee Classification Section collaborates with the Criminal Investigations and Compliance Divisions of the Industrial Commission, as well as with other State agencies, and utilizes the Employee Classification Application (ECA) to identify and investigate potential employee misclassification. The ECA was developed in collaboration with SAS, Inc., the Government Data Analytics Center (GDAC), and other State agencies.

Employee Classification Section Statistics

In Fiscal Year 2025-26, a total of 6,616 employee misclassification reports/alerts came through the ECA for investigation, and the Criminal Investigations & Employee Classification Division (in conjunction with the Compliance Division of the Industrial Commission) investigated and resolved a total of 5,944 reports/alerts, representing reports/alerts that came through the ECA either in Fiscal Year 2025-26 or in prior fiscal years. The remaining 672 reports/alerts were pending resolution as of the end of Fiscal Year 2025-26.

Of the 5,944 reports/alerts investigated and resolved in Fiscal Year 2025-26, 1,659 employers were found to be in compliance with the Workers' Compensation Act; 3,708 employers were found not to be subject to the Workers' Compensation Act; 424 employers were found to be no longer in business; and 153 employers were found to be subject to the Workers' Compensation Act, non-insured, and brought into compliance with the Act. Of these 153 non- insured employers that were brought into compliance, 62 were referred by the Compliance Division to the Commission's Deputy Commissioner Section for consideration of a penalty assessment.

A total of $1,309,593 in penalty assessments was made initially by the Industrial Commission against non-insured employers based upon referrals from the Employee Classification Section. After alternative penalties were calculated under G.S. 97-94(b2), the amount assessed was reduced by $239,809, thus resulting in a modified assessed amount of $1,069,784 in penalties for Fiscal Year 2025-26 based upon referrals from the Employee Classification Section.

In Fiscal Year 2025-26, $248,568 of the Commission's penalty collections came from non-insured employers who were referred to the Compliance Division by the Employee Classification Section. This includes penalties collected in cases referred during a prior fiscal year but not collected until Fiscal Year 2025-26. (These penalty collections are included in the Compliance Division's total penalty collections of $1,513,863 for Fiscal Year 2025-26).

North Carolina Division of Employment Security Statistics Related to Employee Misclassification

The Criminal Investigations & Employee Classification Division shares information about employee misclassification identified during field investigations and reports/alerts through the ECA with the North Carolina Division of Employment Security (NCDES).

As a result of 4,172 audits performed by the NCDES Tax Audit Unit, $10,593,044,486 in reported wages was audited and 13,910 workers were found by NCDES to be misclassified from the third quarter of 2025 through the second quarter of 2026. This resulted in $1,482,311 in taxes assessed by NCDES.

North Carolina Department of Labor Statistics Related to Employee Misclassification

The North Carolina Department of Labor (NCDOL) shared information from 162 of its investigations involving suspected employee misclassification to be entered into the ECA by the Employee Classification Section. Additionally, the NCDOL Wage and Hour Bureau referred 133 complaints to the Employee Classification Section.

As a result of investigations performed by the NCDOL, wages in the amount of $104,557 were found to be due to employees who were deemed to be misclassified, and $35,765 in wages was collected and paid to the misclassified employees. Additionally, penalties in the amount of $32,625 were assessed by the NCDOL Wage and Hour Bureau, and $10,312 in penalties was collected by the NCDOL.

NCDOL DISCLAIMER: All amounts are subject to change. Issued penalties may not be paid in a timely manner and may be sent to collections. Wages owed to an employee may not be immediately collected. Final totals may change if penalties and/or wages are paid after the close of the fiscal year.

North Carolina Department of Revenue Statistics Related to Employee Misclassification

The North Carolina Department of Revenue (NCDOR) currently does not have initiatives that are specifically designed to identify cases of employee misclassification. However, the NCDOR's Schedule C Initiative and 4% ITIN Withholding Initiative may identify employers who are misclassifying workers as independent contractors. The NCDOR may attempt to reclassify the workers, depending on the facts of the case. The Schedule C Initiative performs audits of taxpayers who have overstated expenses or understated income based upon their Federal Schedule C. The 4% ITIN Withholding Initiative identifies and audits taxpayers who have made payment to an ITIN holder under a 1099-Misc but have failed to withhold 4% in income tax. In Fiscal Year 2025-26, the NCDOR's 4% ITIN Withholding audits resulted in $12,301,116 in additional tax, penalties, and interest due, and its Schedule C Initiative audits resulted in $9,039,029 in additional tax, penalties, and interest due.

Criminal Investigations and Employee Classification Division Data by Industry Type (Using North American Industry Classification System (NAICS) Industry Code Categories)

The NAICS code is a six-digit number used to classify businesses by industry. When making tax filings, businesses self-select the NAICS code that best reflects their principal business activity. The Industrial Commission's Criminal Investigations and Employee Classification Division began compiling data on the NAICS code associated with its caseload this past fiscal year.

The chart below summarizes the data for the 2025-26 Fiscal Year. For ease of understanding, this chart does not use NAICS code numbers, but, instead, lists the name of the industry category.

The first column reflects all potential cases of violations of the Workers' Compensation Act that were reviewed by the Criminal Investigations and Employee Classification Division. The second column reflects all cases assigned to a Criminal Investigations and Employee Classification Division investigator for a field investigation. The third column reflects all cases in which warning citations were issued by the Industrial Commission for failure to secure and maintain workers' compensation insurance in violation of the Workers' Compensation Act. The fourth column reflects cases in which criminal charges were issued for failure to secure and maintain workers' compensation insurance in violation of the Workers' Compensation Act.

July 1, 2025 - June 30, 2026	Potential Cases Reviewed	Cases Assigned to Investigator	Warning Citations Issued	Criminal Charges Made
Accommodation and Food Services	6,796	150	23	116
Administrative & Support Waste Management & Remediation Services	506	22	2	7
Agriculture, Forestry, Fishing and Hunting	135	1	0	0
Arts, Entertainment and Recreation	392	31	2	12
Construction	1,765	23	1	13
Education Services	150	9	1	4
Financial and Insurance Activities	378	30	1	5
Heath Care and Social Assistance	4,354	55	14	59
Information	51	1	0	2
Management of Companies & Enterprises	4	0	0	0
Manufacturing	628	15	2	7
Other Services	2,216	71	7	31
Professional, Scientific and Technical Services	1,353	58	1	18
Public Administration	31	1	0	0
Real Estate & Rental & Leasing	600	19	2	9
Retail Trade	3,036	67	17	106
Transportation and Warehouse	406	40	9	17
Utilities	12	0	0	0
Wholesale Trade	392	6	0	2
Total Cases	**23,205**	**599**	**82**	**408**