

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 345

Short Title: Minimum Wage Increased.

(Public)

Sponsors: Representatives Beall; Hardaway and Luebke.

Referred to: Rules, Appointments and Calendar.

March 27, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MINIMUM WAGE AND TO PROVIDE FOR A TRAINING WAGE FOR ELIGIBLE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-25.3(a) reads as rewritten:

"(a) Every employer shall pay to each employee who in any workweek performs any work, wages of at least ~~two dollars and seventy five cents (\$2.75) per hour effective July 1, 1979, two dollars and ninety cents (\$2.90) per hour effective July 1, 1980, three dollars and ten cents (\$3.10) per hour effective January 1, 1982 and three dollars and thirty five cents (\$3.35) per hour effective January 1, 1983~~ except as authorized below. If before June 1, 1989, the minimum wage set forth in the Fair Labor Standards Act is increased above three dollars and thirty five cents (\$3.35) per hour, the minimum wage required under this section shall increase by the same amount, but shall not increase above four dollars (\$4.00) per hour, effective the same date the increase under the Fair Labor Standards Act is effective. three dollars and eighty cents (\$3.80) per hour effective August 1, 1991, and four dollars and twenty-five cents (\$4.25) per hour effective April 1, 1992, except as otherwise provided in this section."

Sec. 2. G.S. 95-25.3 is amended by adding the following new subsections to read:

"(g) Any employer may, in lieu of the minimum wage prescribed by subsections (a) through (e) of this section, pay an eligible employee a training wage while such employee is:

- (1) Employed for the period authorized in paragraph (n)(1)c.1. of this section, or

- 1 (2) Engaged in on-the-job training for the period authorized by paragraph
2 (n)(1)c.2. of this section. This training wage shall be a wage:
3 a. Of not less than three dollars and thirty-five cents (\$3.35) per
4 hour during the eight months beginning August 1, 1991; and
5 b. Beginning April 1, 1992, eighty-five percent (85%) of the wage
6 prescribed by subsection (a) of this section.
- 7 (h) An employer may pay an eligible employee the training wage under
8 subsection (g) of this section for a period that:
9 (1) Begins on or after August 1, 1991;
10 (2) Does not exceed the maximum period during which an employee may
11 be paid such wage as determined under sub-subdivision (n)(1)c. of this
12 section; and
13 (3) Ends before April 1, 1993.
- 14 (i) No eligible employee may be paid the training wage under subsection (g) of
15 this section by an employer if:
16 (1) Any other individual has been laid off by such employer from the
17 position to be filled by such eligible employee or from any
18 substantially equivalent position; or
19 (2) Such employer has terminated the employment of any regular
20 employee or otherwise reduced the number of employees with the
21 intention of filling the vacancy so created by hiring an employee to be
22 paid such training wage.
- 23 (j) During any month in which employees are to be employed in an
24 establishment and are to be paid a training wage under subsection (g) of this section, the
25 proportion of these employee hours of employment to the total hours of employment of
26 all employees in such establishment may not exceed a proportion equal to one-fourth of
27 the total hours of employment of all employees in such establishment.
- 28 (k) No employer may take any action to displace employees, including partial
29 displacements such as reduction in hours, wages, or employment benefits, for purposes
30 of hiring individuals at the training wage under subsection (g) of this section. If the
31 Commissioner determines that an employer has taken an action to displace employees,
32 the Commissioner shall issue an order disqualifying such employer from employing any
33 individual at such training wage.
- 34 (l) Each employer shall provide to any eligible employee who is to be paid the
35 training wage under subsection (g) of this section a written notice before the employee
36 begins employment stating the requirements of subsections (g) through (k) and
37 subsection (n) through (q) of this section and the remedies provided by subsection (m)
38 of this section for violations of any of these requirements. The Commissioner shall
39 provide to employers upon request the text of the notice to be provided under this
40 subsection.
- 41 (m) Any employer who takes an action to displace employees in violation of
42 subsection (k) of this section shall be considered to have violated G.S. 95-25.20 and the
43 remedies provided in that section shall apply to any such violation.

1 (n) For purposes of subsections (g) through (m) and subsection (o) of this
2 section:

3 (1) 'Eligible employee' means, with respect to an employer, an individual
4 who:

5 a. Is not a migrant agricultural worker or a seasonal agricultural
6 worker, as defined in paragraphs (8) and (10) of section 3 of the
7 Migrant and Seasonal Agricultural Worker Protection Act, 19
8 U.S.C. § 1802(8) and (10), without regard to subparagraph (b)
9 of such paragraphs; and is not a nonimmigrant described in
10 section 1101(a)(15)(H)(ii)(a) of the Immigration and
11 Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(a);

12 b. Has not attained the age of 20 years; and

13 c. Is eligible to be paid the training wage under subsection (g) of
14 this section by virtue of the duration of employment as follows:

15 1. An employee shall initially be eligible to be paid the
16 training wage under subsection (g) of this section until
17 the employee has been employed a cumulative total of
18 90 days at such wage.

19 2. An employee who has been employed by an employer at
20 the training wage under subsection (g) of this section
21 pursuant to paragraph c.1. of this subdivision may be
22 employed by any other employer for an additional 90
23 days, if the employer meets the requirements of
24 subsection (p) of this section.

25 3. The total period pursuant to paragraphs c.1. and c.2. of
26 this subdivision that an employee may be paid the
27 training wage under subsection (g) of this section may
28 not exceed 180 days.

29 4. For purposes of this subdivision, the term 'employer'
30 means, with respect to an employee, an employer who is
31 required to withhold payroll taxes for such employee.

32 (2) 'On-the-job training' means training that is offered to an individual
33 while employed in productive work that provides training, technical,
34 and other related skills, and personal skills that are essential to the full
35 and adequate performance of such employment.

36 (o) An individual shall provide the requisite proof of previous period or periods
37 of employment with other employers for purposes of establishing whether the
38 employee is an eligible employee pursuant to subsection (n) of this section. An
39 employer's good faith reliance on the proof presented to the employer by an individual
40 shall constitute a complete defense to a charge that the employer has violated
41 subdivision (h)(2) of this section with respect to such individual. The Commissioner
42 shall issue regulations which shall be identical to the regulations issued by the United
43 States Secretary of Labor defining the requisite proof required of an individual.

1 (p) An employer who wants to employ employees at the wage authorized by
2 subsection (g) of this section for the period authorized by paragraph (n)(1)c.2. of this
3 section shall:

4 (1) Notify the Commissioner annually of the positions at which such
5 employees are to be employed at such wage;

6 (2) Provide on-the-job training to such employees which meets general
7 criteria of the Commissioner issued by regulations which shall be
8 identical to the regulations issued by the United States Secretary of
9 Labor;

10 (3) Keep on file a copy of the training program which the employer will
11 provide such employees;

12 (4) Provide a copy of the training program to the employees;

13 (5) Post in a conspicuous place in places of employment a notice of the
14 types of jobs for which the employer is providing on-the-job training;
15 and

16 (6) Send to the Commissioner on an annual basis a copy of such notice.

17 The Commissioner shall make available to the public upon request notices provided to
18 the Commissioner by employers in accordance with subdivision (6) of this subsection.

19 (q) An employer who has complied with the requirements of the Fair Labor
20 Standards Act for paying a training wage to a particular employee shall be deemed to
21 have complied with the requirements of subsections (g) through (p) of this section."

22 Sec. 3. This act becomes effective August 1, 1991.