

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1709

Short Title: Increase/Index State Minimum Wage. (Public)

Sponsors: Representatives Adams, Luebke, Harrison, Wainwright (Primary Sponsors); Alexander, Faison, Goodwin, Pierce, and Ross.

Referred to: Commerce, Small Business and Entrepreneurship.

April 19, 2007

A BILL TO BE ENTITLED

AN ACT INCREASING THE STATE MINIMUM WAGE TO SEVEN DOLLARS AND TWENTY-FIVE CENTS PER HOUR AND PROVIDING FOR AUTOMATIC ADJUSTMENTS BASED UPON INCREASES IN THE CONSUMER PRICE INDEX.

The General Assembly of North Carolina enacts:

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

"§ 95-25.3. Minimum wage.

(a) ~~Every~~ Subject to the provisions of 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)~~ seven dollars and twenty-five cents (\$7.25) 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.

(a1) The minimum wage required by subsection (a) of this section shall be increased on January 1, 2008, and on January 1 of successive years by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase of the consumer price index (all urban consumers, U.S. city average for all items), CPI-U, or its successor index, as calculated by the U.S. Department of Labor for the 12 months preceding the previous September 1. The Commissioner shall calculate the indexed minimum wage rate. The indexed minimum wage rate shall be calculated to the nearest cent (\$0.01).

(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, 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

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

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

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

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

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

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

35 **SECTION 2.** This act becomes effective September 1, 2007.