

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 561

Short Title: Wage Clarifications.

(Public)

Sponsors: Representative Wright.

Referred to: Business and Labor.

March 25, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE MANNER IN WHICH WAGES MUST BE PAID TO
EMPLOYEES, AND TO CLARIFY EXEMPTIONS UNDER THE WAGE AND
HOUR ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-25.7 reads as rewritten:

"§ 95-25.7. Payment to separated employees.

Employees whose employment is discontinued for any reason shall be paid all wages due on or before the next regular ~~payday-payday~~ either through the regular pay channels or by mail if requested by the employee. Wages based on bonuses, commissions or other forms of calculation shall be paid on the first regular payday after the amount becomes calculable when a separation occurs. Such wages may not be forfeited unless the employee has been notified in accordance with G.S. 95-25.13 of the employer's policy or practice which results in forfeiture. Employees not so notified are not subject to such loss or forfeiture."

Sec. 2. G.S. 95-25.14(a) reads as rewritten:

"(a) The provisions of G.S. 95-25.3 (Minimum Wage), G.S. 95-25.4 (Overtime), and G.S. 95-25.5 (Youth Employment), and the provisions of G.S. 95-25.15(b) (Record Keeping) as they relate to these exemptions, do not apply to:

(1) Any person employed in an enterprise engaged in commerce or in the production of goods for commerce as defined in the Fair Labor Standards Act:

a. Except as otherwise specifically provided in G.S. 95-25.5.

- 1 b. Notwithstanding the above, any employee other than a learner,
2 apprentice, student, or handicapped worker as defined in the
3 Fair Labor Standards Act who is not otherwise exempt under
4 the other provisions of this section, and for whom the applicable
5 minimum wage under the Fair Labor Standards Act is less than
6 the minimum wage provided in G.S. 95-25.3, is not exempt
7 from the provisions of G.S. 95-25.3 or G.S. 95-25.4;
- 8 c. Notwithstanding the above, any employer or employee exempt
9 from the minimum wage, overtime, or child labor requirements
10 of the Fair Labor Standards Act for whom there is no
11 comparable exemption under this Article shall not be exempt
12 under this subsection except that where an exemption in the
13 Fair Labor Standards Act provides a method of computing
14 overtime which is an alternative to the method required in 29
15 U.S.C.S. § 207(a), the employer or employee subject to that
16 alternate method shall be exempt from the provisions of G.S.
17 95-25.4(a); provided that, persons not employed at an enterprise
18 described in subdivision (1) of this subsection shall also be
19 subject to the same alternative methods of overtime calculation
20 in the circumstances described in the Fair Labor Standards Act
21 exemptions providing those alternative methods.
- 22 (2) Any person employed in agriculture, as defined under the Fair Labor
23 Standards Act;
- 24 (3) Any person employed as a domestic, including baby sitters and
25 companions, as defined under the Fair Labor Standards Act;
- 26 (4) Any person employed as a page in the North Carolina General
27 Assembly or in the Governor's Office;
- 28 (5) Bona fide volunteers in medical, educational, religious, or nonprofit
29 organizations where an employer-employee relationship does not exist;
- 30 (6) Persons confined in and working for any penal, correctional or mental
31 institution of the State or local government;
- 32 (7) Any person employed as a model, or as an actor or performer in
33 motion pictures or theatrical, radio or television productions, as
34 defined under the Fair Labor Standards Act, except as otherwise
35 specifically provided in G.S. 95-25.5;
- 36 (8) Any person employed by an outdoor drama in a production role,
37 including lighting, costumes, properties and special effects, except as
38 otherwise specifically provided in G.S. 95-25.5; but this exemption
39 does not include such positions as office workers, ticket takers, ushers
40 and parking lot attendants."
- 41 Sec. 3. This act is effective upon ratification.