

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1016

Short Title: State Minimum Wage/Inflation Increases. (Public)

Sponsors: Senators Stein; Berger of Franklin, Dorsett, Kinnaird, Nesbitt, and Purcell.

Referred to: Commerce.

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AUTOMATIC ADJUSTMENT OF THE STATE'S MINIMUM
WAGE BASED ON 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) 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, 2010, 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 under section (a) 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) 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 Employment Security Commission.



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

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

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

20 (g) Repealed by Session Laws 2006-259, s. 18, effective August 23, 2006."

21 **SECTION 2.** This act is effective when it becomes law.