

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 5

Short Title: Raise Minimum Wage.

(Public)

Sponsors: Representatives Beall; Barnes, Barnhill, Black, Bowman, Buchanan, Colton, N. J. Crawford, Cunningham, Easterling, Ethridge, Fitch, Fletcher, Fussell, Gist, Greenwood, Hackney, Hardaway, Hensley, Hightower, Holt, R. Hunter, Jeralds, Kennedy, Lineberry, Luebke, Michaux, Miller, Nesbitt, Ramsey, Rhodes, Stamey, and Warner.

Referred to: Rules.

February 4, 1991

A BILL TO BE ENTITLED

AN ACT TO RAISE THE MINIMUM WAGE AND TO AUTHORIZE A TRAINING WAGE.

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:

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

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

6 (2) Engaged in on-the-job training for the period authorized by paragraph
7 (n)(1)c.2. of this section. This training wage shall be a wage:

8 a. Of not less than three dollars and thirty-five cents (\$3.35) per
9 hour during the eight months beginning August 1, 1991; and

10 b. Beginning April 1, 1992, eighty-five percent (85%) of the wage
11 prescribed by subsection (a) of this section.

12 (h) An employer may pay an eligible employee the training wage under
13 subsection (g) of this section for a period that:

14 (1) Begins on or after August 1, 1991;

15 (2) Does not exceed the maximum period during which an employee may
16 be paid such wage as determined under sub-subdivision (n)(1)c. of this
17 section; and

18 (3) Ends before April 1, 1993.

19 (i) No eligible employee may be paid the training wage under subsection (g) of
20 this section by an employer if:

21 (1) Any other individual has been laid off by such employer from the
22 position to be filled by such eligible employee or from any
23 substantially equivalent position; or

24 (2) Such employer has terminated the employment of any regular
25 employee or otherwise reduced the number of employees with the
26 intention of filling the vacancy so created by hiring an employee to be
27 paid such training wage.

28 (j) During any month in which employees are to be employed in an
29 establishment and are to be paid a training wage under subsection (g) of this section, the
30 proportion of these employee hours of employment to the total hours of employment of
31 all employees in such establishment may not exceed a proportion equal to one-fourth
32 (1/4) of the total hours of employment of all employees in such establishment.

33 (k) No employer may take any action to displace employees, including partial
34 displacements such as reduction in hours, wages, or employment benefits, for purposes
35 of hiring individuals at the training wage under subsection (g) of this section. If the
36 Commissioner determines that an employer has taken an action to displace employees,
37 the Commissioner shall issue an order disqualifying such employer from employing any
38 individual at such training wage.

39 (l) Each employer shall provide to any eligible employee who is to be paid the
40 training wage under subsection (g) of this section a written notice before the employee
41 begins employment stating the requirements of subsections (g) through (k) and
42 subsection (n) through (q) of this section and the remedies provided by subsection (m)
43 of this section for violations of any of these requirements. The Commissioner shall

1 provide to employers upon request the text of the notice to be provided under this
2 subsection.

3 (m) Any employer who takes an action to displace employees in violation of
4 subsection (k) of this section shall be considered to have violated G.S. 95-25.20 and the
5 remedies provided in that section shall apply to any such violation.

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

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

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

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

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

20 1. An employee shall initially be eligible to be paid the
21 training wage under subsection (g) of this section until
22 the employee has been employed a cumulative total of
23 90 days at such wage.

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

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

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

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

41 (o) An individual shall provide the requisite proof of previous period or periods
42 of employment with other employers for purposes of establishing whether the
43 employee is an eligible employee pursuant to subsection (n) of this section. An
44 employer's good faith reliance on the proof presented to the employer by an individual

1 shall constitute a complete defense to a charge that the employer has violated
2 subdivision (h)(2) of this section with respect to such individual. The Commissioner
3 shall issue regulations which shall be identical to the regulations issued by the United
4 States Secretary of Labor defining the requisite proof required of an individual.

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

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

10 (2) Provide on-the-job training to such employees which meets general
11 criteria of the Commissioner issued by regulations which shall be
12 identical to the regulations issued by the United States Secretary of
13 Labor;

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

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

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

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

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

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

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