

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 868

Short Title: Up Minimum Wage/Set Rates/Add COLA. (Public)

Sponsors: Representatives Cunningham and Baskerville (Primary Sponsors).

*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Rules, Calendar, and Operations of the House.

April 15, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE STATE MINIMUM WAGE, TO SET WAGE RATES BASED  
3 UPON THE SIZE OF THE EMPLOYER, AND TO PROVIDE FOR AUTOMATIC  
4 ADJUSTMENTS TO REFLECT INCREASES IN THE COST OF LIVING.

5 The General Assembly of North Carolina enacts:

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

7 "**§ 95-25.3. Minimum wage; wage rates; cost of living adjustments.**

8 (a) ~~Every~~ Subject to the provisions of subsection (a2) of this section, every employer  
9 shall pay to each employee who in any workweek performs any work, wages of at least six  
10 dollars and fifteen cents (\$6.15) per hour or the minimum wage set forth in paragraph 1 of  
11 section 6(a) of the Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage may change  
12 from time to time, whichever is higher, except as otherwise provided in this section at the  
13 applicable rate set forth in subsection (a1) of this section. For the purposes of this section, the  
14 following definitions apply:

- 15 (1) Large employer. – An enterprise whose annual gross volume of sales made  
16 or business done is not less than five hundred thousand dollars (\$500,000)  
17 (exclusive of excise taxes at the retail level that are separately stated).  
18 (2) Small employer. – An enterprise whose annual gross volume of sales made  
19 or business done is less than five hundred thousand dollars (\$500,000)  
20 (exclusive of excise taxes at the retail level that are separately stated).

21 (a1) Except as otherwise provided by this section:

- 22 (1) Every large employer shall pay each employee wages at a rate of at least  
23 nine dollars (\$9.00) per hour, effective January 1, 2016.  
24 (2) Every small employer shall pay each employee at a rate of at least seven  
25 dollars and seventy-five cents (\$7.75) per hour, effective January 1, 2016.

26 (a2) The minimum wage required by subsection (a1) of this section shall be increased on  
27 January 1, 2017, and on January 1 of successive years by the increase in the cost of living. The  
28 increase in the cost of living shall be measured by the percentage increase of the Consumer  
29 Price Index (all urban consumers, U.S. city average for all items), CPI-U, or its successor  
30 index, as calculated by the U.S. Department of Labor for the 12 months preceding the previous  
31 September 1. The Commissioner shall calculate the indexed minimum wage rate. The indexed  
32 minimum wage rate shall be calculated to the nearest cent (1¢).

33 (b) In order to prevent curtailment of opportunities for employment, the wage rate for  
34 full-time students, learners, apprentices, and messengers, as defined under the Fair Labor



1 Standards Act, shall be ninety percent (90%) of the rate in effect under subsection (a) above,  
2 rounded to the lowest nickel.

3 (c) The Commissioner, in order to prevent curtailment of opportunities for employment,  
4 may, by regulation, establish a wage rate less than the wage rate in effect under section (a)  
5 which may apply to persons whose earning or productive capacity is impaired by age or  
6 physical or mental deficiency or injury, as such persons are defined under the Fair Labor  
7 Standards Act.

8 (d) The Commissioner, in order to prevent curtailment of opportunities for employment  
9 of the economically disadvantaged and the unemployed, may, by regulation, establish a wage  
10 rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect  
11 under subsection (a) which shall apply to all persons (i) who have been unemployed for at least  
12 15 weeks and who are economically disadvantaged, or (ii) who are, or whose families are,  
13 receiving Work First Family Assistance or who are receiving supplemental security benefits  
14 under Title XVI of the Social Security Act.

15 Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for  
16 such subminimum wage shall be issued by the Division of Employment Security.

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

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

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

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

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