

North Carolina Wage Payment and Collection Act

The North Carolina Wage Payment and Collection Act seems like it should be rather simple, but it's perhaps the most complicated employment law in the state. Full of traps for the unwary, the law can spell big trouble for even innocent mistakes.

The law covers all North Carolina private employers, even those with only one employee, and requires employers to pay their employees monthly. (You may pay bonuses, commissions or other calculated payments as infrequently as annually.)

Disputed wages. If an employee disputes a wage calculation, you may withhold only the amount in dispute. You must pay any amount you agree is due on the regularly scheduled payday. By accepting a partial payment, employees relinquish no rights and may still sue their employers for the disputed pay.

Termination. Upon termination, employers must pay employees all wages due on the next regularly scheduled payday. For bonuses, commissions and other calculated payments, you can wait until the next regularly scheduled payday after calculating them.

If you have a policy that forces an employee to forfeit bonuses, commissions and other calculated payments at termination, you must notify the person of the policy before discharge. Otherwise, the employee is entitled to all monies earned.

Withholding from wages. When you know the amount of a withholding beforehand, you must obtain the employee's signed authorization prior to that payday stating the reason for the deduction and the dollar or percentage amount. But an employer may not always know payroll deduction amounts in advance (for instance, when an insurance premium changes). In those cases, you must inform the employee of the amount once it's known. The employee then has the right to withdraw approval of the deduction.

Under no circumstances can deductions lower the employee's pay below the minimum wage. Even in weeks when an employee has earned overtime, his or her wages can't be less than the overtime minimum wage.

Damages and shortages. Employers may divert an employee's wages to cover cash shortages or damage to company property. But you must give the employee seven days' notice before the payday on which you'll make that deduction. If the employee terminates for any reason, you needn't provide notice.

If an employee is facing criminal charges in connection with any damage or shortages, you may withhold an amount equal to those costs without the employee's consent. But if he or she isn't convicted of the charges, you must return the amount withheld.

Recovering overpayments and employee loans. Employers may recover accidental overpayments of wages out of an employee's next paycheck.

And if you make employee loans, make sure the terms are in writing, including payment amounts and the

interest rate. You can't make deductions for employee loans without their signed agreement.