



WORKERS COMPENSATION NORTH DAKOTA

ND MINIMUM WAGE & WORK CONDITIONS SUMMARY

State Capitol 600 East Boulevard Avenue, Bismarck, ND 58505-0340
 Hours: M-F 8:00a.m. - 5:00p.m.
 (701) 328-2900 1-800-552-8022 Fax: (701) 328-2011 TTY: 1-800-369-6888
 e-mail: labor@nd.gov web site: www.nd.gov/labor

OVERTIME
 N.D. Admin. Code § 46-02-07-02(1)
 • Overtime pay must be paid for one and one-half times the employee's regular rate of pay for hours worked over forty hours work week.
 • A work week is seven consecutive days period defined by the employer.
 • Overtime is computed on a weekly basis, regardless of the length of the pay period.
 • Overtime is based only on hours worked. Paid holidays, paid time off, or sick leave need not be counted in computing overtime hours.
 • Compensatory time is not paid overtime employment for non-union employees— overtime hours may not be "banked" and used for time off another work week.
 • Employees working more than one job under the control of the same employer must have all hours worked counted toward overtime.
Domestic home care services are defined below. Domestic home care services are available for N.D. Admin. Code § 46-02-07-02.

MEAL PERIODS
 N.D. Admin. Code § 46-02-07-02(3)
 • A minimum 30 minute meal period must be provided in writing excluding five hours when there are one or more employees on duty.
 • Employees may waive their right to a meal period in writing.
 • Employees do not have to be paid for meal periods if they are completely relieved of their duties and the meal period is at least thirty minutes in length. Employees are not completely relieved if they are required to perform any duties during the meal period.
 • Other breaks (such as 15 minute "coffee" breaks) are not required by law, but must be paid for if they are required by the employer.

PAID TIME OFF
 N.D. Admin. Code § 46-02-07-02(12)
 Applies unless a limitation below is met
 • Paid time includes annual leave, earned time, personal leave, or other privileges provided by the employer. If sick leave is combined with paid time off, sick leave is not defined as paid time off if it is not in separate buckets.
 • Paid time off is not available for an employee's own, any unpaid portion of each time is considered employee separation from employment and must be paid at the regular rate of pay earned by the employee prior to separation.
 • No requirement control or policy may provide for forfeiture of earned paid time off upon separation.
 • An employment contract or policy may require an employee to take vacation by a certain date to take the vacation "use it or lose it" provided that the employee is given a reasonable opportunity to take the vacation. The employer must demonstrate that the employee had notice of such contract or policy provision.

LIMITATIONS ON PAID TIME OFF
 N.D. Admin. Code § 34-14-04-2
 1. If an employee separates from employment, a private employer may withhold payment for accrued paid time off if the following three conditions are all met:
 a. At the time of firing, the employer provided the employee written notice of the limitation on payment of accrued paid time off.
 b. The employee has been employed by the employer for less than two years.
 c. The employee gave the employer notice from the employer written or verbal notice.
 2. If an employee separates from employment, a private employer may withhold payment for paid time off if:
 a. The paid time off was received by the employee and not returned by the employer; and
 b. Before receiving the paid time off, the employee provided the employer written notice of the limitation on payment of accrued paid time off.

PAYDAYS & RECORD KEEPING
 N.D.C.C. § 34-14-02, 410 and N.D. Admin. Code § 46-02-07-02
 • Employees must be paid at least once each calendar month on the regular paydays designated in advance by the employer.
 • Every employer must furnish to an employee each pay period a check and/or voucher indicating hours worked, rate of pay, regular pay and federal deductions and any authorized deductions.
 • When an employee is terminated from employment, separates from employment voluntarily, or suspended from work as the result of an industrial dispute, unpaid wages or compensation benefits due and payable by the employer (if any) shall be paid to the employee by the employer at the time of termination.
 • When an employer terminates an employee, the employer shall pay three wages to the employee by certified mail or an address agreed upon by both parties.

DEDUCTIONS FROM PAY
 N.D.C.C. § 34-14-04-1
 Except for amounts that are required under state or federal law to be withheld from employee compensation or where a law has authorized the employer to withhold compensation, an employer may only withhold from the compensation due employees:
 1. Advance pay on employees, other than unannounced cash.
 2. A recurring deduction authorized in writing, when the source of the deduction is clear.
 3. A nonrecurring deduction authorized in writing, when the source of the deduction is clear.
 4. A nonrecurring deduction for charges, liens, or advances, or employee must be authorized by the employee or the law of the deduction.

EMPLOYMENT AT WILL
 N.D.C.C. § 34-03-01
 Employment relationship without a specific term, term of the will of both parties and can be terminated by either party upon notice to the other. An employee benefit or notice of the employee, a two week notice is required. Contract specifying a term of employment can prevent the will to contract.

MINIMUM WAGE RATE: North Dakota does not have a Training Wage.

\$7.25
 per hour on 7/24/09
 Effective Date: August 1, 2015

• A service employee is an employee who is providing direct services to the customer and that customer shows appreciation for the service by tipping that employee for the direct service. The employee must regularly and customarily provide personal face-to-face services to individual customers, which customer would recognize as being performed by him or her. Service such as stocking and delimiting are not included.
 • An employer who elects to use the tip credit must inform the employee in advance.
 • The tip credit is allowed only among the tipped employees. A rate of tipped employees to allow to perform that tip, and 80 percent plus one of all tipped employees must appear. The employer must maintain a written record of each such use of tip credit, including names of employees who get the credit. A rate on whether to pay has a record if requested by the tip employee or more of the tipped employees. The tipped employees shall provide documentation verifying the request. This part of a record called by the employee for the hours that employee worked. Serving sites, which regularly have four or fewer tipped employees on duty, can require tip pooling among all employees of the site. If there are no employees of the same site are not tipped employees and cannot be part of the tip pool when performing duties of those positions other than during regular business hours.

MEETINGS AND TRAINING TIME
 N.D. Admin. Code § 46-02-07-02(6)
 Absence at meetings, training, training programs and similar activities need not be counted as working time if all the following criteria are met:
 a. Attendance is outside of the employee's regular working hours.
 b. Attendance is not for voluntary.
 c. The course, lecture, or training is not directly related to the employee's job.
 d. The employee does not perform any productive work during such attendance.
 Training or education maintained by the state, federal government or any other public authority for a specific occupation need not be counted as working time.

TRAVEL TIME
 N.D. Admin. Code § 46-02-07-02(7)
 • The following types of travel time are not considered work time for which an employee must be compensated:
 1. Ordinary travel from home to work.
 2. In time spent at a workplace or an office, bank, bar, or administrative building when they are not required to be there.
 3. A trip to a job site or other office job site.
 4. The driver of a vehicle is working at the time when required to travel to the job site.
 5. The day employees performed at the employee's regular working hours or at a permanent office.

ON-CALL
 N.D. Admin. Code § 46-02-07-02(8)
 • When employees are required to remain on-call on the employer's premises or on-site where they cannot use the time effectively for their own purposes, they are considered to be working and must be compensated.
 • When employees are on-call and are not required to remain on the employer's premises but are required to remain on the employer's premises for a period of time, they are considered to be working and must be compensated.
 • When employees are on-call and are not required to remain on the employer's premises but are required to remain on the employer's premises for a period of time, they are considered to be working and must be compensated.

BONUSES AND COMMISSIONS
 N.D. Admin. Code § 46-02-07-02(15)
 • A named bonus is an amount paid in addition to salary, wages, or commission. A named bonus is comparable when the employee performs the requirements set forth in a contract or an agreement between the parties.
 • A commission is a fee or percentage given for compensation for an individual's performance of a sale, service, or transaction. Upon separation from employment, the paid commission, bonus, and sales employee's employment will be used to determine if the commission is earned and comparable.

ROOM AND BOARD
 N.D. Admin. Code § 46-02-07-02(13)
 The reasonable value, not exceeding the employee's actual cost, of board, lodging, and other facilities customarily furnished by the employer to the employee's benefit shall be included in the employee's regular rate of pay. If an employer provides board, lodging, or other facilities for the employee, the employer shall include in the employee's regular rate of pay the reasonable value of such facilities.
UNIFORMS
 N.D. Admin. Code § 46-02-07-02(11)
 An employer may require an employee to purchase uniforms if the cost of such uniforms does not exceed the minimum wage below the hourly minimum wage for an employee worked during any pay period.

EMPLOYMENT DISCRIMINATION
 N.D.C.C. ch. 14-02-4
 Employees may not discriminate against employees or applicants on the basis of race, color, religion, sex, pregnancy, national origin, age, marital or physical disability status with respect to marriage or public assistance, participation in lawful activity of the employer's premises during non-working hours which is not in direct conflict with the essential business-related functions of the employer, or approval to such discrimination in the work place.
EMPLOYER RETALIATION
 N.D.C.C. § 34-01-20
 An employer may not discharge, discipline, threaten, discriminate, or penalize an employee regarding the employer's compensation, conditions, location, or privileges of employment because:
 • The employee or person acting on behalf of an employee in good faith reports a violation of federal, state, or local law, contract, regulation, or rule in an employee's confidential book, or in an enforcement official.
 • The employee is required by a public body or official to participate in an investigation, hearing, or inquiry.
 • The employee refuses an employer's order to perform an action that the employee believes violates federal, state, or local law, contract, regulation, or rule in an employee's confidential book, or in an enforcement official. The employee must use any available legal recourse for that belief and shall inform the employer that the order is being refused for that reason.
 Public employees shall also see N.D.C.C. ch. 34-11.1 Public Employees' Rights Act for further information.

POSTING REQUIRED
 Must be posted in a conspicuous place in a commonly frequented area in which employees are employed.
 This poster is provided to employers in the ND Minimum Wage and Work Conditions Summary. Administrative Code N.D. Admin. Code Chapter 46-02-07-02 as well as related provisions of ND State Code Chapter 34-03-01, N.D.C.C. Title 34 and N.D.C.C. Chapter 14-02-4.

IMPORTANT NOTICE TO WORKERS

When You Are Injured On The Job:

Notify your employer immediately of the accident and your injury. By law, you must give written or oral notice to your employer within seven days of an accident or after the general nature of your injury becomes apparent. If you fail to notify your employer, Workers Safety & Insurance (WSI) may consider that failure when deciding whether your claim will be accepted. NOTE: Even if you feel your injury is not serious enough to need medical treatment, it is important you report your accident to your employer so they are informed of the potential hazard.
 Seek first aid or medical attention promptly after a workplace injury. If your employer does not have a Designated Medical Provider (DMP), you may go to a doctor of your choice. If your employer does have a DMP, you are required to use your employer's DMP UNLESS you informed your employer, in writing, of a different medical provider before any injury occurred. In order to effectively select a DMP, your employer is required to give written notice of the identity and the terms of the preferred provider program:
 (1) To the employer's employees when the employer makes an initial selection of a preferred provider.
 (2) To the employer's employees when the employer changes the selection of the preferred provider.
 (3) To an employee at the time of hire.
 (4) To the employer's employees at least annually after the initial notice.
 An employer that has selected a preferred provider shall display notice of the identity of the preferred provider and the terms of the preferred provider program in a conspicuous manner at fixed work sites, and wherever feasible at mobile work sites, and in a sufficient number of places to reasonably inform employees of the identity of the preferred provider and the terms of the preferred provider program. Failure to give written notice, to properly post notice, or to reasonably inform employees of the terms of the preferred provider programs as required under this subsection invalidates the selection. Contact your employer or WSI for more detailed information about this requirement. Emergency medical treatment is exempt from the DMP requirement. Inform the doctor that your injury is a workers' compensation injury. Also, inform the doctor of your work duties and ask if you can return to work with any work restrictions the doctor may impose. Follow restrictions, both on and off the job.
 File a claim with WSI immediately after a work-related injury occurs (within 24 hours of work activity).

The information contained in this poster is effective August 1, 2015.
 For a detailed explanation of the information contained in this poster, please contact WSI at the numbers listed below or visit our website at www.WorkersSafety.com.

Types of Benefits Available:

- Wage Replacement
- Medical Benefits
- Pharmacy Benefits WSI will pay for prescriptions that are part of the necessary work-related medical care when obtained at pharmacies and medical facilities that are contracted with WSI's prescription benefit management company. WSI does not reimburse for prescriptions that are paid out-of-pocket by an injured worker.
- Reimbursement for Personal Expenses
- Return-to-Work Services
- Death Benefits



Scan here to learn more on the types of benefits.

Use one of three methods:
 1) online at www.WorkersSafety.com, available 24 hours/weekends/holidays (follow online instructions);
 2) by hand by completing the First Report of Injury (FROI) Form, or
 3) telephonically by calling 1-800-777-5038, 8 a.m. - 5 p.m. on business days.
 Whichever claim filing method is used, complete the FROI form with your employer, if possible. Answer all questions fully and honestly on the form. Be sure to have your employer complete the employer's portion of the FROI form. If you have received benefits for an injury and are now off work again for that same injury, you must reapply for benefits in writing. Contact WSI and request a Workers' Notice of Reapplication (C4) form.
 WSI will inform you of your claim number, in writing, upon registering your claim. Be sure to always inform the pharmacy and medical provider of your claim number.
 Keep in touch with your employer and provide them with periodic updates on your condition. Notify WSI immediately:
 1) when you perform any type of work activity, whether you receive pay for it or not;
 2) if you change your address or telephone number; or
 3) if you apply for either Social Security disability or retirement benefits or are found to be eligible for these benefits.

Our/Your Designated Medical Provider (DMP) selection is:

WSI
 North Dakota Workforce Safety & Insurance

1600 E Century Ave, Ste 1 - PO Box 5885 Bismarck ND 58506-5885
 (701) 328-3800 1-800-777-5038 Hearing Impaired: 1-800-566-8888
 Decision Review Office: (701) 328-9900 1-800-701-8022
 Fraud & Safety Hotline: 1-800-243-3331

Filing a claim (3 methods):
 Online: www.WorkersSafety.com (Online Services Section), 24 hours/weekends/holidays
 By hand: Complete the First Report of Injury (FROI) Form and submit to WSI
 Telephonically: 1-800-777-5038, 8 a.m. - 5 p.m. on business days

THIS POSTER MUST BE POSTED IN A CONSPICUOUS PLACE TO EMPLOYEES: THIS EMPLOYER IS SUBJECT TO THE UNEMPLOYMENT COMPENSATION LAWS OF THE STATE OF NORTH DAKOTA

Employer Name: _____
 Account #: _____

YOU MAY BE ELIGIBLE FOR UNEMPLOYMENT COMPENSATION BENEFITS IF YOU MEET THE ELIGIBILITY REQUIREMENTS
 To file a claim for unemployment compensation benefits:
 online: www.jobsnd.com
 click on the **UI ICE** logo
 or call: 1-701-328-4995
 or TTY: RELAY ND 1-800-366-6888 (for hearing impaired only)

The North Dakota Unemployment Compensation Law requires eligible employees to post this notice near the location(s) where workers's services are performed. Employees are prohibited from posting this notice if they are not currently liable for coverage. NDCC 52-06-35 NDAC 27-02-04-01

JOB SERVICE NORTH DAKOTA
 Job Service North Dakota
 Unemployment Insurance
 PO Box 5567
 Bismarck ND 58506-5507

Job Service North Dakota is an Equal Opportunity Employer/Program Provider. Auxiliary Aids and Services are Available Upon Request to Individuals with Disabilities. (R-05-06)

Notice to Employers / Employees
 Your state has its own minimum wage law which requires posting a notice regarding the aspects of that law. Employees are still required to post the Federal Unemployment Compensation Law notice from the U.S. Dept. of Labor. The Federal Unemployment Compensation Law notice and state law have different minimum wage rates, the higher standard applies.
 According to the Dept. of Labor, where Federal and state law have different minimum wage rates, the higher standard applies.
 This Posting is for Informational Purposes Only

NORTH DAKOTA

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 Employees: We'll deliver the information you need to get your business back on track. ADP is a leading provider of HR solutions. ADP logo is a registered trademark of ADP Inc. All other trademarks are the property of their respective owners.