

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 805

Short Title: Work Breaks/Tips Not Counted/Allow Pay Talk. (Public)

Sponsors: Representatives Logan and Majeed (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 18, 2019

A BILL TO BE ENTITLED

AN ACT AMENDING THE WAGE AND HOUR LAWS TO REQUIRE MANDATORY PAID WORK BREAKS AND PAID MEAL PERIODS, TO ELIMINATE THE SUBMINIMUM WAGE FOR TIPPED EMPLOYEES BY NOT COUNTING TIPS AS WAGES, AND TO PROHIBIT DISCRIMINATION OR RETALIATION AGAINST AN EMPLOYEE FOR DISCLOSING WAGE INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2A of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ 95-25.6A. Paid work break and meal period required.

(a) An employee who is to work more than six continuous hours during a 24-hour period shall be provided a paid meal period of 60 minutes and at least one paid work break of 15 minutes.

(b) An employee who is to work six continuous hours or less during a 24-hour period shall be provided at least one paid work break of 15 minutes."

SECTION 2.(a) G.S. 95-25.3(f) reads as rewritten:

"(f) ~~Tips earned by a tipped employee may be counted as wages only up to the amount permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the tipped employee is notified in advance, is permitted to retain all tips and the employer maintains accurate and complete records of tips received by each employee as such tips are certified by the employee monthly or for each pay period. Even if the employee refuses to certify tips accurately, tips may still be counted as wages when the employer complies with the other requirements of this section and can demonstrate by monitoring tips that the employee regularly receives tips in the amount for which the credit is taken. shall not be counted as wages.~~ Tip pooling shall also be permissible among employees who customarily and regularly receive tips; however, no employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling arrangement."

SECTION 2.(b) This section becomes effective January 1, 2022.

SECTION 3.(a) Article 2A of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ 95-25.6B. Right to disclose and discuss wage information.

(a) The General Assembly finds that an employee has the right to disclose and discuss information about employee wages.

(b) No employer may do any of the following:

(1) Require, as a condition of employment, that an employee refrain from disclosing the amount of the employee's wages.



- 1 (2) Require an employee to sign a waiver or other document that purports to deny
2 the employee the right to disclose the amount of the employee's wages.
3 (3) Discharge, discipline, or otherwise discriminate against an employee for
4 inquiring about, disclosing, comparing, or otherwise discussing the
5 employee's wages or the wages of any other employee."

6 **SECTION 3.(b)** G.S. 95-241(a) reads as rewritten:

7 "(a) No person shall discriminate or take any retaliatory action against an employee
8 because the employee in good faith does or threatens to do any of the following:

- 9 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
10 proceeding or other action, or testify or provide information to any person
11 with respect to any of the following:
12 a. Chapter 97 of the General Statutes.
13 b. Article 2A or Article 16 of this Chapter.
14 c. Article 2A of Chapter 74 of the General Statutes.
15 d. G.S. 95-28.1.
16 e. Article 16 of Chapter 127A of the General Statutes.
17 f. G.S. 95-28.1A.
18 g. Article 52 of Chapter 143 of the General Statutes.
19 h. Article 5F of Chapter 90 of the General Statutes.
20 (2) Cause any of the activities listed in subdivision (1) of this subsection to be
21 initiated on an employee's behalf.
22 (3) Exercise any right on behalf of the employee or any other employee afforded
23 by Article 2A or Article 16 of this Chapter, by Article 2A of Chapter 74 of the
24 General Statutes, or by Article 52 of Chapter 143 of the General Statutes.
25 (4) Comply with the provisions of Article 27 of Chapter 7B of the General
26 Statutes.
27 (5) Exercise rights under Chapter 50B. Actions brought under this subdivision
28 shall be in accordance with the provisions of G.S. 50B-5.5.
29 (6) Exercise rights under G.S. 95-25.6B."

30 **SECTION 4.** This act is effective when it becomes law and applies to employment
31 in this State on or after that date.