DEDUCTIONS FROM PAY

4. Compensation, an employer only may withhold from the compensation due employees:

- Except for those amounts that are required under state or federal law to be withheld from employee compensation or where a co-

LIMITATIONS ON PAID TIME OFF

MEAL PERIODS

N.D. Admin. Code § 46-02-07-02(5)

- A minimum 30-minute meal period must be provided in shifts exceeding five hours when there are two or more employees on duty.

- Employees may waive their right to a meal period upon agreement with the employer.

- 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 may not be 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 breaks if they are offered by the employer.

PAID TIME OFF

N.D. Admin. Code § 46-02-07-02(12) - Applies unless a limitation below is met

- Paid time off includes annual leave, earned time, personal days, or other provisions providing compensation for vacation. If sick leave is combined with such time into one balance, all of the hours are defined as paid time off. Sick leave is not defined as paid time off if it is kept in a separate balance.

- Once paid time off is made available for an employee’s use, any unused portion of such time is considered wages upon separation from employment and must be paid at the regular rate of pay earned by the employee prior to separation.

- No employment contract 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 or lose 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.C.C. § 34-14-09.2

1. If an employee separates from employment voluntarily, a private employer may withhold payment for accrued paid time off if the following three conditions are all met:
   a. At the time of hiring, 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 one year; and
   c. The employee gave the employer less than five days’ 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 awarded by the employer but not yet earned by the employee; and
   b. Before awarding the paid time off, the employer provided the employee written notice of the limitation on payment of awarded paid time off.

PAYDAYS & RECORD KEEPING

N.D.C.C. § 34-14-02, 03 and N.D. Admin Code § 46-02-07-02

- Employees must be paid at least once each calendar month on the regular payday(s) designated in advance by the employer.

- Every employer must furnish to an employee each pay period a check stub or voucher indicating hours worked, rate of pay, required state and federal deductions, and any authorized deductions.

- When an employee terminates from employment, he separates from employment voluntarily, or is suspended from work as the result of an industrial dispute, unpaid wages or compensation become due and payable at the regular payday(s) established in advance by the employer for the period(s) worked by the employee.

- When an employee terminates an employee, the employer shall pay those wages to the employee by certified mail at an address designated by the employee or as otherwise agreed upon by both parties.

DEDUCTIONS FROM PAY

N.D.C.C. § 34-14-04.1

- Except for those amounts that are required under state or federal law to be withheld from employee compensation or where a court has ordered the employer to withhold compensation, an employer only may withhold from the compensation due employees:

  - Advances paid to employees, other than undocumented cash.
  - A recurring deduction authorized in writing.
  - A nonrecurring deduction authorized in writing, when the source of the deduction is cited specifically.
  - A nonrecurring deduction for damage, breakage, shortage, or negligence must be authorized by the employee at the time of the deduction.

EMPLOYMENT AT WILL

N.D.C.C. § 34-03-01

Employment relationships without a specific term exist at the will of both parties and can be terminated by either party upon notice to the other. No minimum length of notice (for example, a two-week notice) is required.

Contracts specifying a term of employment can pre-empt the at-will provision.

RIGHT TO WORK

N.D.C.C. § 34-01-14

An individual’s right to work may not be denied or abridged due to membership or nonmembership in any labor union or labor organization.

YOUTH EMPLOYMENT

N.D.C.C. ch. 34-07

Employment & Age Certificates (work permits) are required for workers ages 14 & 15 and are available from the Department of Labor, Job Service offices, County School Superintendents’ offices, and local schools.

- Restricted hours for youth age 14 & 15:
  - Maximum hours per day: 3 per school day, 8 per non-school day.
  - Maximum hours per week: 18 per school week (any week in which school attendance is required any part of 4 or more days), 40 per non-school week.
  - May work only between 7a.m.-7p.m. (until 9p.m. from June 1st - Labor Day).

- Hazardous job duties for workers age 14 & 15:

  - Workers ages 14 & 15 are prohibited from performing certain job duties defined as hazardous in labor law.

POSTING REQUIRED

Must be posted in a conspicuous place in a commonly frequented area in which employees work.

See REVERSE SIDE of this Poster for Additional Information.
An employee employed in a bona fide executive, administrative, or professional capacity. Exceptions - an employee whose primary duties consist of:
- The management of the enterprise or recognized department or subdivision thereof;
- Directing the work of two or more other employees therein and, in addition, is an owner of the enterprise or the majority stockholder;
- The primary activity is to test or observe the reactions or responses, or other observations, which will be given particular weight.

Administrator - an employee whose primary duties consist of:
- Office or non-manual work directly related to management or general business operations;
- And who customarily and regularly exercises discretion and independent judgment.

An employee providing companionship services (fellowship, care, or protection) to aged or disabled individuals. No more than 20% of the hours worked in the week may be household work (cleaning, laundry, or meal preparation).

N.D.C.C. § 34-06-03.1

An employee employed in domestic service who resides in the household in which employed.

A straight time salesperson in retail automobile, trailer, boat, aircraft, truck, or farm implement dealerships unless that salesperson is required to be on the premises for more than forty hours per week.

EXEMPTIONS FROM OVERTIME N.D. Admin. Code § 46-02-07-02(4)

A computer professional exercising discretion and independent judgment when designing, developing, creating, analyzing, testing, or modifying computer programs or who is paid hourly at a rate of at least $27.63.

A mechanic paid on a commission basis at a flat rate schedule.

An employee of a retail establishment if the employee's regular rate of pay exceeds 1.5 times the minimum hourly rate applicable if more than half of the employee's compensation for a period of not less than one month is derived from commission on goods or services sold.

An employee employed as an announcer, news editor, or chief engineer by a radio or television station.

An employee in an artistic profession that is original and creative in nature or where the work is dependent upon the invention, imagination, or talent of the employee.

Motor carrier as applied to covered employees of motor common, contract, and private carriers specified by the Motor Carriers Act [49 U.S.C. § 31502].

A teacher, instructor, tutor, or lecturer engaged in teaching in a school or educational system.

A highly compensated employee: an employee who is paid total annual compensation of one hundred thousand dollars or more, which includes at least four hundred fifty-dollar or over per week paid on an annual or semiannual basis. The employee's primary duty includes performing office or normal work.

TAXI DRIVER AND HEALTHCARE OVERTIME PROVISIONS N.D. Admin. Code § 46-02-07-02(4)

Taxicab drivers must be paid overtime for all hours worked in excess of fifty hours in any work week.

Hospitals and residential care establishments may adopt, by agreement with their employees, a fourteen-hour overtime period, if the employees are paid at least time and one-half their regular rate for hours worked over eight in a day or eighty in a fourteen-day work period.

ROOM AND BOARD N.D. Admin. Code § 46-02-07-02(13)

The reasonable value, not exceeding the employer's actual cost, of board, lodging, and other facilities customarily furnished by the employer for the employee's benefit may be treated as part of the wages, up to a maximum of eighteen dollars per day, if agreed to in writing and if the employee's acceptance of facilities is in fact voluntary.

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 bring that employee's wage below the hourly minimum wage for all hours worked during any pay period.

An employee providing companionship services (fellowship, care, or protection) to aged or disabled individuals. No more than 20% of the hours worked in the week may be household work (cleaning, laundry, or meal preparation).

N.D.C.C. ch. 34-11.1 Public Employees Relations Act for further information.