

NORTH CAROLINA

State Guide to Workplace Safety Regulation

Provided by:

TRISURE



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I. Introduction

This manual reviews some of the most basic and most important workplace safety regulations for the state of North Carolina. Though most employers follow federal Occupational Safety and Health Administration (OSHA) guidelines on this matter, North Carolina has its own state-run plan called North Carolina Department of Labor – Safety and Health Division (NDOL). Though NDOL delves into workplace safety on many levels, it does not cover all issues. On some matters, NDOL defers back to the federal standards, and on others it is silent.

Navigating workplace safety laws and regulations can be overwhelming, so use this guide to become familiar with the basics. It will help you build a foundation of knowledge on state expectations for mitigating on-the-job hazards. By knowing North Carolina laws, you can effectively reduce your risk of liability. Though this manual covers many areas, it is not meant to be exhaustive or construed as legal advice. It also may not address all compliance issues with federal, state and local laws. Use the North Carolina Workplace Safety Regulations Guide as a reference, but contact TriSure or legal counsel to talk about compliance requirements or to ask questions about material covered here.

II. NDOL Overview and Definitions

NDOL definition of employer → A person who is engaged in business and has employees.

NDOL definition of employee → A person working in a business or other capacity of the employer.

Are employers in public sector covered by NDOL?	Yes
Does NDOL cover state agencies and political subdivisions?	Yes
Are employers in private sector covered by NDOL?	Yes
Does NDOL cover charitable organizations?	Yes
Are any employers excepted from NDOL coverage?	Yes*
<i>*Domestic service that takes place at the employer's place of residence is excluded</i>	
Are any employees excepted from NDOL coverage?	Yes*
<i>*Domestic service employees may be excluded</i>	

III. Employer Penalties for Violating Workplace Safety Regulations

What is the maximum civil penalty in North Carolina for violating workplace safety laws?	\$7,000 (\$14,000 if relating to an employee under age 18)
What is the minimum civil penalty in North Carolina for willful or repeated violation of workplace safety laws?	\$5,000
What is the maximum civil penalty in North Carolina for willful or repeated violation of workplace safety laws?	\$70,000
What is the penalty in North Carolina for a willful violation that results in death?	\$10,000 plus possible 6 months prison (\$20,000 if related to the death of an employee under age 18)
What is the penalty in North Carolina for a subsequent willful violation that results in death?	\$20,000 plus possible 6 months prison (\$40,000 if related to the death of an employee under age 18)
What is the penalty in North Carolina for giving unauthorized advanced notice of inspection?	\$1,000 plus possible 6 months prison

What is the penalty in North Carolina for failure to correct a violation?

\$7,000 per day

What is the penalty for making false/misleading statements to NDOL?

\$10,000 plus possible
6 months prison (\$20,000 if
relating to employee under
age 18)

IV. Employer Duties and Responsibilities

a. Reporting Requirements

Q: What must be reported under NDOL regulations?

A: *NDOL standards are the same as the federal OSHA standards on this matter.*

Q: Who must file the report?

A: *NDOL standards are the same as the federal OSHA standards on this matter.*

Q: Where should the report be sent?

A: *All reports go to the Division of Occupational Safety and Health within the North Carolina Department of Labor.*

Q: What is the reporting timeframe?

A: *NDOL standards are the same as the federal OSHA standards on this matter.*

Q: How do NDOL workplace safety laws relate to North Carolina's workers' compensation laws?

A: *The North Carolina workers' compensation statute requires all injuries that result in one or more lost work days to be reported within five days of learning of the occurrence. NDOL requires that employers record on-the-job injuries and illnesses as soon as possible, but no more than seven calendar days after learning of them.*

Q: Are there other notable reporting requirements unique to North Carolina?

A: *No.*

b. Recordkeeping Requirements

Are employers required to keep records of all incidents resulting in occupational injury and/or illness? Yes

OSHA 300 Form required where applicable? Yes

OSHA 300A Form required where applicable? Yes

OSHA 301 Form required where applicable? Yes

Q: What are the NDOL requirements for determining whether an injury is recordable?

A: *NDOL standards are the same as the federal OSHA standards on this matter.*

Q: How long do employers have to keep these records?

A: *NDOL standards are the same as the federal OSHA standards on this matter.*

Q: Are there other notable recordkeeping requirements unique to North Carolina?

A: *No.*

c. Notice Posting Requirements

Q: What workplace posters must employers in North Carolina post?

A: *In addition to federal posting requirements, North Carolina employers must post:*

- *Wage and Hour Act Poster (includes information on minimum wage, overtime, youth employment, wage payment, complaints, employment at will and retaliation/discrimination)*
- *Workers' Compensation Poster*
- *OSH Notice to Employees (Safety and Health) Poster*
- *Unemployment Insurance Poster*

Q: Do employers have to post their citations illustrating violation of NDOL or other state labor laws?

A: *Yes, those must be posted for three days or until the violation is corrected, whichever is longer.*

Q: Are there any other notable posting requirements unique to North Carolina?

A: *Employers are also required to post applications for modification or revocation of rules/orders, applications for variances and hearing/conference notices.*

V. Required Safety Policies and Procedures

The state of North Carolina provides that North Carolina employers follow the federal guidelines for required safety policies and procedures. At the federal level, OSHA does not specifically address which industries are required to maintain written safety policies and procedures. Instead, it is the conditions and hazards within a given company that establish these requirements.

As a general rule, OSHA requires employers to address all hazards that exist in their workplace by training all employees how to avoid them. If OSHA conducts an assessment of the workplace, the OSHA inspector will ask the employer for all company training programs. The employer's written policies and procedures serve as proof to an OSHA inspector that the employees have been trained on all hazards present. If the employer is unable to produce these programs, the business will be at increased risk of receiving OSHA citations.

Below are the most common workplace safety plans; however, this list is not exhaustive. If you are unsure which policies or procedures your company must have on file, [contact your area's OSHA office](#).

General Safety Plan	Fall Protection Plan
Emergency Action Plan	Forklift Safety Plan
Fire Safety Plan	Lockout/Tagout Plan
Hazard Assessment Plan	Respiratory Protection Plan
Hazard Communication Plan	Workplace Security Plan
Bloodborne Pathogens Exposure Control Plan	Ergonomics Plan
Confined Space Plan	

VI. General Employer Requirements

d. Providing Personal Protective Equipment (PPE)

Q: What PPE must employers require their employees to wear?

A: North Carolina has several PPE requirements that differ from federal standards:

- Employers are responsible for ensuring all PPE is up to proper standards, including making sure it undergoes necessary maintenance and that it is kept sanitary, even if the PPE is employee-furnished.
- All employees ascending, descending or changing locations on poles or towers must be provided with a fall protection system.
- Employers in the construction industry must require the proper PPE whenever there is exposure, or potential exposure, to hazardous conditions.
- Employees in the steel industry must wear long sleeves with fastened cuffs when working with sparks or hot metal. Clothing contaminated with flammable liquids, grease, corrosives, irritants or oxidizing agents are not allowed. Employers also cannot permit loose, ragged or torn clothing in this type of work.
- Employees in pickling operations must wear acid-resistant PPE, including aprons, gloves, protective footwear and face shields. Pant guards must also be worn when conditions call for them.
- Employees handling steel, rough surfaces or in any job with risk of heat, spatter and arc radiation must wear gloves.
- Employees who handle solids weighing 15 pounds or more at least once every eight hours, or work in areas where other employees handle such materials, must wear safety-toed shoes.
- Employers with plants that contain hazards from flying particles or injurious chemicals must require approved eye protection. Face protection may also be required where chippers and grinders are being used.
- Welders are required to wear approved eye protection and burning goggles where necessary. Facilities for quick eye-flushing must be readily available and tested for proper use periodically. Employers have to provide eyeglass cleaning materials.
- Employees working on certain types of platforms must wear safety belts, and lines must be secured to limit free fall to a maximum of 6 feet. If impossible, other safety means – like safety nets – must be in place. North Carolina employers must follow special specifications for fall protection systems and for safety belt use.
- Respiratory protection is to be used according to federal guidelines.
- Employees exposed to hazardous noise levels as defined by federal standards must have a hearing conservation program in place that also meets requirements of the North Carolina Noise Compliance Plan.
- Employees at risk of falling/flying objects or exposure to high-voltage electrical shock/burns must wear head protection approved by the American National Standards Institute (ANSI) .
- Employers with employees working in fumigation must follow all North Carolina's special compliance regulations for PPE.

Q: Are employers obligated to pay for PPE equipment?

A: Yes, employers are required by law to pay for all PPE that is required of employees to wear to avoid on-the-job hazards. The only PPE employers are not financially responsible for are pieces that employees wear off the job site or use while off the job.

e. Education and Training

Q: Are there any notable employer education or training requirements unique to North Carolina?

A: NDOL has extensive education and training requirements:

- *All North Carolina employers must have a training and education system in place to prevent on-the-job safety and health hazards.*
- *New employees cannot begin work, except during supervised on-the-job training, until they have gone through all necessary training relevant to their work environment.*
- *Employees given a new work assignment must be re-trained in all new hazard areas.*
- *Employees working with new substances, processes, procedures or equipment must also be re-trained.*
- *Employers with employees working in fumigation must follow all specific training requirements for that industry in North Carolina.*
- *Training and education regarding hazardous waste operations and emergency response are more stringent under NDOL than in federal standards, and all employers must be aware of and follow these regulations.*
- *All employees required to use PPE must receive adequate training that includes information on when PPE is necessary, what PPE is necessary, how to use PPE, PPE limitations, proper PPE care, equipment's useful life and correct disposal procedures.*
- *Before being allowed to use PPE, employees must successfully demonstrate their knowledge in all the above-listed areas.*
- *Re-training must occur when there is a lack of understanding of proper PPE use or when changes in workplace conditions or assignments occur.*
- *Employers must issue written certification to each employee illustrating completion of PPE training.*

f. Precautionary Medical Examinations

Q: Can employers require that employees undergo a precautionary, physical medical examination if they have been exposed to toxic – or potentially toxic – substances?

A: Employers must give all employees who work with hazardous chemicals the opportunity to receive medical attention if necessary.

Q: Are employers required to pay for these examinations?

A: The employer must pay for the cost of precautionary medical examinations if they are offered as an option to employees.

Q: What action can employers take if employees refuse to have the recommended precautionary medical examination?

A: Employers may not require precautionary medical examinations, immunizations or treatments for employees that refuse on religious grounds, unless it is necessary to protect others' health or safety.

g. Workplace Violence

Q: Does North Carolina have specific laws in place addressing employer responsibility and workplace violence?

A: North Carolina does not have general industry standards in place for preventing workplace violence. However, NDOL has the authority to cite under the general duty clause for failure to properly address workplace violence issues or provide a safe workplace.

Q: Has North Carolina enacted a version of the model Workplace Violence Safety Act?

A: Yes. North Carolina state law allows employers to seek injunctions on behalf of employees who are being threatened in the workplace. If the injunction is granted, the court can order the

defendant to refrain from coming near the employer's property, contacting the employee or threatening the employee while he or she is on business property or performing business duties.

h. Ergonomic Standards

Q: Does NDOL have an ergonomic standard with which employers must comply?

A: North Carolina officials have expressed their commitment to preventing ergonomic-related injuries in the state by actively citing workplaces with ergonomic issues and conducting thorough inspections. The state's Cooperative Assessment Program for Ergonomics allows employers to negotiate agreements with authorities to correct ergonomic issues before being issued a citation. Though they do not have an official ergonomic standard, employers will be cited under the NDOL general duty clause for failure to provide a safe workplace free from all hazards.

i. Means of Access and Egress Regulation

State regulation on entrances <i>*NDOL has adopted all federal standards</i>	No*
State regulation on exits <i>*NDOL has adopted all federal standards</i>	No*
State regulation on aisles <i>*NDOL has adopted all federal standards</i>	No*
State regulation on passageways <i>*NDOL has adopted all federal standards</i>	No*

VII. Regulations for Industry-Specific Issues

In addition to general industry standards, NDOL addresses a few additional industries in further detail that require more regulation. Keep in mind these industries may not have the same regulations across states and that each state has its own list of specially regulated industries.

Additional NDOL requirements for employers in specialized industries on top of all federal standards:

- *A regulation specific to North Carolina excludes properly maintained unmodified Class I equipment from the requirements of 29 CFR 1926.54 regarding non-ionizing radiation.*
- *A North Carolina regulation clarifies the federal rule regarding clearances to protect employees from electrocution due to inadvertent contact with other energized or conductive objects while working on an energized part.*
- *In North Carolina, most requirements of 29 CFR 1910.1030 regarding blood-borne pathogens also apply to the construction industry.*
- *Special safety requirements exist for shops fabricating structural steel and steel plate regarding proper handling, storing, preparing fitting, fastening and shipping.*
- *Special requirements and amendments to the state's blasting standard are more stringent than federal law.*
- *Special safety regulations addressing employer responsibilities, hazard identification/assessment, recordkeeping and training for those working with communication towers.*
- *State requires 100 percent fall protection systems for all work higher than six feet.*

VIII. Workplace Safety Policies Supplemental to OSH Act Procedures

Note: These regulations are outside the realm of federal and state OSHA plans, but were put in place to further protect employers and their employees and promote workplace safety.

j. Workplace Smoking Laws

Q: In what settings is smoking completely banned?*

A: *North Carolina law prohibits smoking in the following places:*

- *All designated non-smoking areas*
- *Libraries and museums open to the public*
- *All buildings controlled, owned, leased or occupied by the state*
- *State vehicles*
- *All long-term care facilities (i.e., adult care homes, nursing homes)*
- *Enclosed areas of bars, restaurants and certain lodging establishments*

**Local governments, etc., may have additional exclusions.*

Q: In what settings is smoking permitted?

A: *North Carolina law generally does not specifically list places where smoking is permitted, but it does list the following locations as exempt from state smoking statutes, saying these facilities may choose to regulate or not regulate smoking as desired:*

- *Primary schools, secondary schools and child care centers, except for teachers' lounges*
- *Enclosed elevators*
- *Public school busses*
- *Hospitals, nursing homes*
- *Local health departments*
- *Facilities of non-profit organizations whose primary purpose is to discourage tobacco products, tobacco manufacturing, processing or administrative facilities*

Additionally, local governments may not adopt a local law that restricts or prohibits smoking in the following places:

- *A private residence*
- *A private vehicle*
- *A tobacco shop (subject to certain limitations)*
- *Property of a tobacco leaf grower or tobacco products processor or manufacturer,*
- *A motion picture, television, theater, or other live production set, with respect to the actor or performer portraying the use of tobacco products during the production*
- *Designated smoking guest rooms in lodging establishments (up to 20% of the guest rooms)*
- *Certain cigar bars*
- *Private clubs, including country clubs*

Q: What kind of smoking signage must employers post?

A: *Signs must be conspicuously and clearly posted to indicate smoking and non-smoking areas.*

Q: Can any of the requirements of the statute or its associated costs be waived?

A: *Employers are not required to make physical modifications to provide non-smoking areas if doing so will add expense.*

Q: Are there laws banning discrimination of employees who exercise their smoking rights, whether that is to smoke or complain about the presence of smokers?

A: North Carolina law bans discrimination or retaliation based on lawful use of lawful products during nonworking hours. Penalties for lawful products discrimination include paying lost benefits/wages, reinstating a terminated employee in the same position without loss of seniority or benefits, hiring an applicant who was previously rejected and paying court costs and/or attorney fees.

Q: Are there any state regulations that local law must follow?

A: Generally, a local government may adopt and enforce ordinances, rules and policies that are more restrictive than state law.

Q: What are the penalties for employees or employers who violate smoking laws?

A: Depending upon the specific state law being violated, a person smoking in a non-smoking area faces a fine of \$25 to \$50 per violation. A business owner could face a maximum penalty of up to \$200 per day.

Q: Are there any other smoking laws unique to North Carolina?

A: No.

k. Drug Testing Laws

Q: Does North Carolina have laws permitting drug testing in the workplace, and to whom do they apply?

A: Yes. Drug testing laws apply to all current employees and applicants of employers who require or request controlled substance examinations.

Q: Can employers drug test applicants?

A: Yes.

Q: Does North Carolina allow employee testing, and if so, under what conditions?

A: Yes. Any employee may be tested provided the testing laboratory is approved and demonstrates satisfactory performance in recordkeeping, privacy issues and sanitation. All samples producing positive results must be re-tested by an approved laboratory using gas chromatography/mass spectrometry or an equivalent scientifically accepted method, and those samples must be kept for a minimum of 90 days.

Q: Is the employer always responsible for paying for the drug test itself and all other associated costs?

A: North Carolina law does not specifically address this issue.

Q: How can employers use drug tests?

A: Though North Carolina statutes do not specifically address this issue, they do state that employers should be afforded the opportunity to select from a range of cost effective and advanced drug testing technologies.

Q: How are drug testing laws enforced?

A: The state of North Carolina Commissioner of Labor investigates and pursues statute violations.

Q: What are the employee's rights when it comes to employer drug tests?

A: Employees are protected from unreliable, inadequate and invasive examinations and screening for controlled substances. Employers must follow certain statutorily specified procedural testing criteria if testing for controlled substances.

Q: What are the penalties for North Carolina employers who violate any part of the drug testing statutes?

A: The state may assess civil penalties of up to \$250 per affected applicant/employee with a cap of \$1,000 per inspection by the state Commissioner of Labor.

Q: Does North Carolina law address drug tests as they relate to employee assistance programs (EAPs)?
A: North Carolina law does not specifically address this issue.

Q: Are there any other notable regulations or state statutes that relate to workplace drug testing?
A: No.

IX. Regulations on Employment of Minors and Home Employment

I. Occupational Age Restrictions

Restrictions on employment of minors younger than 14 years?	Yes
Prohibited occupations and occupational restrictions for minors younger than 14: <i>All employment generally prohibited except delivering newspapers, and certain acting/theatrical activities.</i>	
Restrictions on employment of minors under 16 years?	Yes
Prohibited occupations and occupational restrictions for minors younger than 16: <i>All employment generally prohibited except for occupations permitted under federal regulations and certain acting/theatrical activities.</i>	
Restrictions on employment of minors under 18 years?	Yes
Prohibited occupations and occupational restrictions for minors younger than 18:	
<ul style="list-style-type: none"> - <i>Jobs deemed hazardous and/or detrimental by state and/or federal officials</i> - <i>Preparing, serving, dispensing or selling alcohol</i> 	
Restrictions on employment of adults under 21 years?	No

m. Penalty Schedule

General violation of laws regarding employing minors

Penalty class	<i>Civil penalty</i>
Maximum fine	<i>\$500 first violation \$1,000 subsequent violations</i>
Maximum jail time	<i>none</i>

n. Home Employment Recordkeeping Requirements

Q: Do home employers have to keep records under NDOL, and if so, what must they include?
A: NDOL does not specifically address recordkeeping requirements for home workers and home employment. Therefore, the federal OSHA standard applies.

X. Employee Rights Regarding Workplace Safety

o. Inspections

Are employees entitled to request an NDOL inspection of their employer's facility and Yes

practices at any time?

Are employees entitled to participate in the NDOL inspection process? Yes*

Must an employee be paid while participating in the NDOL inspection process? N/A

**NDOL does not specifically address this question*

Are conversations between the NDOL inspector and the employee confidential? Yes*

**The employee's name will be removed from inspection requests upon request.*

When communicating with NDOL, is the employee entitled to anonymity? Yes*

**However, an employee or representative must sign the complaint.*

Q: If an employee requests n NDOL inspection and the state does not issue a citation, what are the employee's rights?

A: North Carolina employees are entitled to ask for an informal review of any NDOL decision not to issue a citation. Employee(s) will then receive a written explanation describing the reasons behind the final decision.

p. Whistleblowing and Employer Retaliation

Q: Does North Carolina provide protection for employees from employer retaliation related to safety?

A: Yes. Employers may not discriminate or retaliate against employees who in good faith threaten to or file a claim or complaint, initiate an investigation, inspection, proceeding or other action, or testify or provide information to any person regarding employee safety issues.

This guide is not meant to be exhaustive or construed as legal advice. It does not address all potential compliance issues with federal/state/local government or any other regulatory agency standards. Consult your licensed commercial property/casualty representative at [B_Officialname] or legal counsel to address possible compliance requirements.

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