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

**EMPLOYMENT AT WILL**

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.

**EMPLOYMENT DISCRIMINATION**

Employers may not discriminate against employees or applicants on the basis of: race, color, religion, sex, national origin, age, mental or physical disability, status with respect to marriage or public assistance, participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related functions of the employer, or opposition to such discrimination in the work place.

**EMPLOYMENT RETALIATION**

An employer may not discharge, discipline, threaten, discriminate, or penalize an employee regarding the employee'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, ordinance, regulation, or rule to an employer, a governmental body, or law enforcement official.

- The employee is requested by a public body or official to participate in an investigation, a hearing, or an inquiry.

- The employee refuses an employer's order to perform an action that the employee believes violates state, local, or federal law, ordinance, rule, or regulation. The employee must have an objective basis in fact for that belief and shall inform the employer that the order is being refused for that reason.

**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.
EXEMPTIONS FROM OVERTIME

- An employee employed in a bona fide executive, administrative, or professional capacity.
- Executive - an employee whose primary duties consist of:
  a. The management of the enterprise or the recognized department or subdivision thereof;
  b. Directing the work of two or more other employees therein; and
  c. The authority to hire or fire other employees or whose suggestions will be given particular weight.
- Administrative - an employee whose primary duties consist of:
  a. Office or professional work directly related to management policies or general business operations; and
  b. Who customarily and regularly exercises discretion and independent judgment.
- Professional - an employee whose primary duties consist of:
  a. Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes; and
  b. Work requiring the consistent exercise of discretion and judgment in its performance; and
  c. Work that is predominately intellectual and varied in character as opposed to routine mental, mechanical, or physical work.

- An employee engaged in an agricultural occupation - growing, raising, preparing, or delivering agricultural commodities for market.

- An employee spending at least 51% of the employee’s work-time providing direct care to clients of a shelter, foster care, or other such related establishment.

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

- 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 treated as part of the wages, up to a maximum of eighteen dollars per day, if agreed to in an agreement between the parties.

- When employees are on-call and are not required to remain on the employer’s premises but are required to respond to a beeper or leave word at home or the employer’s business where they may be reached, they are not considered to be working and need not be compensated.

- An employee who is customarily and regularly engaged away from the employer's premises for the purpose of making sales or taking orders. Work unrelated to outside sales may not exceed 20% of the hours worked in the week.

- 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 sales or work.

- 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.

TAXI DRIVER AND HEALTHCARE OVERTIME PROVISIONS

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

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

- An employee who is paid hourly at a rate of at least $27.63.

- 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.

TIPS

- Gratuities offered to an employee by a customer belong to the employee and may not be retained by the employer.

- An employer who elects to use the tip credit must inform the employee in advance.

- Tip pooling is not work time. Gaming sites, which regularly have four or fewer tipped employees on duty, can require tip pooling among all tipped employees at the site. Pit bosses or supervisors at gaming sites are not tipped employees and cannot be part of the tip pool when performing functions of those positions other than dealing blackjack (twenty-one).

MEETINGS AND TRAINING TIME

Attendance at lectures, meetings, 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 in fact voluntary.
- c. The course, lecture, or meeting is not directly related to the employee's job.

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

TRAVEL TIME

- The following types of travel time are considered work time for which an employee must be compensated:
  1. Ordinary travel from home to work, 2. Time spent as a passenger on an airplane, train, bus, or automobile outside of regular working hours, 3. Activities that are merely incidental use of an employer-provided vehicle for commuting home to work.

- The following types of travel time are considered work time for which an employee must be compensated:
  1. Travel during regular work hours, 2. Travel on non-work days during regular work hours (regular work hours are those typically worked by an employee on work days), 3. Travel time from job site to job site or from office to job site, 4. The driver of a vehicle is working at anytime when required to travel by the employer, 5. One-day assignments performed at the employer's request (regardless of driver or passenger status).

ON-CALL

- When employees are required to remain on-call on the employer's premises or so close thereto that 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 respond to a beeper or leave word at home or the employer's business where they may be reached, they are not considered to be working and need not be compensated.

BONUSES AND COMMISSIONS

- An earned bonus is an amount paid in addition to a salary, wage, or commission. An earned bonus is compensable when an 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 to an individual for completion of a sale, service, or transaction. Upon separation from employment, the past practices, policies, and entire employment relationship will be used to determine if the commission is earned and compensable.

UNIFORMS

- 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.

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ROOM AND BOARD

The reasonable value, not exceeding the employee'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.

This poster summarizes provisions contained in the ND Minimum Wage & Work Conditions Order (N.D. Admin. Code Chapter 46-02-07), as well as selected provisions of N.D.C.C. Title 34 and N.D.C.C. Chapter 14-02.4.