



**NCDOL**

*N.C. Department of Labor*

*Josh Dobson, Commissioner*

# Labor

**LEDGER**

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## 2023 Legislative Report

*By Julie Ryan, Director of Governmental Affairs and  
Edgar Starnes, Legislative Liaison*

The General Assembly convened on Jan. 11, 2023, for its biennium long session. The session started off with large GOP majorities in each chamber, but the GOP was one vote short of having a veto-proof majority in the House. This changed early on when Rep. Trisha Cotham, (D-Mecklenburg) switched parties and became a Republican. This gave Speaker Tim Moore the 72 votes he needed to override any of the governor’s vetoes.

The General Assembly used their super majorities to pass a number of bills that were promptly vetoed by the governor. The governor vetoed a total of 19 bills, but each of them were overridden and became law despite his objections.

The Legislative Affairs team tracked a number of bills that affected the labor department. House Bill 600, Regulatory Reform Act of 2023, was of particular interest. This bill contained a provision which exempted inflatable amusement devices (Bounce houses) from inspections.

Sen. Amy Galey, (R-Alamance) was the primary sponsor for our agency bill, Senate Bill 542, Department of Labor Omnibus Changes. This was our agency bill which contained N.C. Department of Labor (NCDOL) specific provisions which were important to us. This bill passed the Senate rather quickly with a unanimous vote. However, we ran into headwinds in the House. The House leadership added several unrelated provisions to our bill which was met by stiff opposition in the Senate. As of today, the conference committee has been unable to successfully negotiate a compromise. The NCDOL provisions are not controversial and have universal support. It is the unrelated provisions that the Senate will not agree to, and the House will not drop. This legislation continues to be negotiated and we are optimistic that it will be ratified during the short session, which begins next spring.

Several bills were filed which would change the rulemaking process. Currently, our Occupational Safety and Health (OSH) Division can adopt federal rules verbatim and they are exempt from rulemaking on the state level. We were involved in several meetings with legislators and thought we had successfully sidelined these proposals. We were caught off guard when a provision removing the NCDOL exemption was included in the budget. This will place new burdens on OSH since they are now required to create a new state rule for every federal rule change.

The primary purpose of the session was to write the biennial budget for the State of North Carolina. The budget started in the House this year and was sent to the Senate for their revisions. After many weeks of negotiations, the final budget was released on Sept. 18. The budget was delayed for many weeks by the insistence of the Senate that a provision be included which would allow for four casinos in North Carolina. Despite the fact that the Speaker of the House supported casinos, it became obvious that there were not enough votes to pass a budget that included them. Once this provision was dropped, the budget was quickly adopted.

The budget included several major policy changes. Most notable was the expansion of Medicaid. This was Gov. Cooper’s top legislative priority. Another significant policy change was the expansion of vouchers for all students to attend private schools. Of interest to state employees was a 7% pay raise (4% in 2023 and 3% in 2024). Retirees received a 4% bonus in 2023. The budget also included cuts to the personal income tax rate.

Of specific interest to the NCDOL was the funding of six new positions. These positions had previously been paid for from receipts. With this additional appropriation, it will no longer be necessary to divert these receipts to pay for employee salaries. The Elevator and Amusement Device Bureau can keep their funds and use this money to fund their needs. The “Be Pro Be Proud” initiative continued to enjoy broad support from the General Assembly. They received \$750,000 each year for the next two years.

The last major initiative tackled by the General Assembly was redistricting. The U.S. Supreme Court ruled last year that political gerrymandering is legal, and disputes must be handled in the state courts. Racial gerrymandering is still illegal. The General Assembly asked the State Supreme Court to review the current maps in light of the recent U.S. Supreme Court ruling. The State Supreme Court did so and ruled that the current maps could be redrawn.

The General Assembly drew new Senate and House districts. They also drew new congressional districts. The newly created districts will probably give the Republicans greater political advantage. A new round of lawsuits over the new maps has already begun and will continue indefinitely.



# Merry Christmas





## From Labor Commissioner Josh Dobson

I hope everyone enjoyed the Thanksgiving holiday. Thanksgiving is personally my favorite holiday, and I enjoy it the most because of the time spent with family and friends. It also provides me with the opportunity to reflect on how blessed I am and that I have so much to be thankful for.

On Nov. 6, I had the opportunity to participate in the Carolina Star Recertification ceremony at the Sherwin-Williams plant in Greensboro. They have been a part of the Carolina Star program for 15 years and this was their third recertification! Congratulations to Sherwin-Williams on this accomplishment. On that same day, I was also proud to be a part of a Partnership Signing ceremony between the N.C. Department of Labor's Occupational Safety and Health (OSH) Division and The Whiting-Turner Contracting Co. This partnership is designed to help improve the safety and health of the employees working at the construction site of the new Wolfspeed facility in Siler City.

We are very excited about our 25<sup>th</sup> annual Toys for Tots campaign. The objective of the program is to "bring the joy of Christmas to America's needy children." If you are in Raleigh on Dec. 13, please feel free to drop by the Labor Building from noon to 3 p.m. and drop off a new, unwrapped toy. If you are not able to attend the NCDOL's Toys for Tots event, boxes can be found throughout North Carolina with the Toys for Tots logo, and you can donate or give a monetary contribution. This is a great way to get into the Christmas spirit and help those in need. Read about our Toys for Tots event on Page 6 and listen to our podcast with Lee Peacock about the involvement of NCDOL with Toys for Tots and the importance of this campaign on Page 3.

The safety awards application process will open in January and the deadline for submitting applications is Feb. 15. Previous participants should be on the lookout for emails explaining the new application process. Any business that would like to learn more about the program should call Kiley Willard, the safety awards coordinator, at 919-707-7855 or email [safety.awards@labor.nc.gov](mailto:safety.awards@labor.nc.gov). I am looking forward to seeing many of you when the new safety award season begins this spring. It is a little bittersweet as this will be my last safety awards season as your Labor Commissioner.

I wish you and your families a blessed holiday season!

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## Recognition Roundup

"Recognition Roundup" identifies businesses that qualify for one of the N.C. Department of Labor's recognition programs. Congratulations to all of the recent award recipients. For a complete list of **Star** and **SHARP** sites, visit the **NCDOL website**.

### SHARP \*Recertification

- Highland Brewing Co. Inc., Asheville\*
- Joseph T. Ryerson & Son Inc., Charlotte\*
- Uchiyama Manufacturing America LLC, Goldsboro\*
- OFS Brands Holdings Inc., Archdale\*
- Town of Dallas Public Works Facility, Dallas\*



Nova Development



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# Forklift Safety Rodeo

By Erin Wilson, Director of Communications

On Oct. 6, the annual Forklift Safety Rodeo was held at Pitt Community College in Greenville. This annual event is intended to demonstrate the safe and effective use of forklifts in a fun and exciting way, and it helps showcase to drivers and their employers safe operation techniques.

“The first three ‘annual’ events were held on Manufacturing Day as a way to celebrate local manufacturers who are committed to safety,” said Mary Paramore, manager of Learning and Organizational Development at the Hyster-Yale Group.

The event took a break during the pandemic and was relaunched in 2022. Now and in the future, the Forklift Safety Rodeo will take place the first Friday of October every year to tie in with National Manufacturing Day.

“When inviting teams to compete, we like to reach out to organizations that we know have demonstrated a strong commitment to employee safety and health,” said Stephen Kelly, manager of Environmental Health and Safety at the Hyster-Yale Group. “Here in North Carolina, there is no group of organizations that consistently demonstrates this commitment more than those that belong to the Carolina Star Program. We also invite other companies in our region to participate that are not yet involved with the Carolina Star Program and use this opportunity for them to meet the many friendly faces at the N.C. Department of Labor (NCDOL) and we use the Forklift Safety Rodeo to introduce the Carolina Star Program to companies that aren’t yet participating.”

There were four teams of drivers that participated in this year’s Forklift Safety Rodeo and the companies they represented were Avient, Cintas, Fastenal and Thermo-Fisher. The drivers competed in five events, which included: A Safety Knowledge Quiz, A Pre-Shift Inspection, Basketball, Thread the Needle and an Obstacle Course. Each course had a panel of judges and NCDOL’s very own Jennifer Haigwood, deputy commissioner of the Occupational Safety and Health (OSH) Division; Morgan Brown, Star Program IH consultant; and Carlene Harris, Carolina Star Program consultant participated as judges.

Pitt Community College hosted the event, and Patrick N. Jacques, the Dean of Construction and Industrial Technology, was enthusiastic and excited to have everyone there participating and focused on showcasing and improving the safe use of forklifts.

“The forklift rodeo was a collaborative effort between Hyster-Yale Group, Gregory Poole Lift Systems, Pitt County Economic Development, RiversEast Workforce Development Board and Pitt Community College,” said Jacques. “This event is part of our celebration of National Manufacturing Day and is a chance to highlight and spur interest in manufacturing careers and strengthens the relationships between local industries and Pitt Community College.”



A forklift driver participating in the Obstacle Course challenge.



A forklift driver participating in the difficult Thread the Needle challenge.



NCDOL Photo Library

## Inside NC Labor

Be sure to check out NCDOL’s podcast, *Inside NC Labor*.

Tune in to **Episode 64** of *Inside NC Labor*, where we sit down with Nicole Brown, East Compliance bureau chief, as she discusses her time with NCDOL and the significance of compliance and occupational safety and health.

Tune in to **Episode 65** of *Inside NC Labor* to hear the story of how LaMont Smith, recognition program manager, and Paul Sullivan, assistant deputy commissioner of the Occupational Safety and Health (OSH) Division, started on the same day 30 years ago on Aug. 1, 1993. They discuss how they both got started in health and safety and the different positions the two have had throughout their careers.

Tune in to **Episode 66** of *Inside NC Labor* to hear Lee Peacock, West Compliance bureau chief, breakdown the history of Toys for Tots and provide insight into how the NCDOL has made an impact on the growth in toy collection across the state. He also provides important updates on this year’s toy drive, so don’t miss it!

In addition to NCDOL’s **website**, *Inside NC Labor* is available on YouTube, Spotify, Apple Podcasts, Anchor and Google Podcasts.

*Inside NC Labor* is designed to inform and educate North Carolina citizens on the role that the Department of Labor plays in state government.

# 2023 OSH Annual Training

By: Julie Martin, OSH ETTA Safety Education Specialist

Once again, we gathered together in Raleigh for the OSH Annual Training event. The event took place at the McKimmon Center on Oct. 9-11 and culminated with the NCDOL 2023 Employee Recognition Banquet. This year, we kicked off training on the afternoon of Oct. 9 with a session on Significant Cases presented by various OSH compliance staff. Many high priority and media cases were presented, covering a wide range of hazards and industries.

On Oct. 10, both Health and Safety training tracks were offered. The health track consisted of two sessions; the first covered Heat Stress while the second session covered Occupational Noise. The safety track also offered two sessions but covered NFPA 70E and Scaffolding, respectively. In the afternoon, there were two more sessions covering Human Trafficking and Combustible Dust.

On Oct. 11, we participated in an OSH-wide team bonding event called “Beat the Box,” where individual teams worked cooperatively in an escape-room type scenario. We then wrapped up with an additional significant case review, along with updates from human resources, legal affairs and the director’s office.

We want to give special thanks to all the speakers, instructors and facilitators who had a role in making this event a success. We also appreciate those of you who took the time to complete the evaluations as they provide valuable feedback that helps us in planning future events. Next year’s OSH Annual Training will take place in Raleigh on Oct. 28-30, 2024. Please mark your calendars now and make plans to join us. We look forward to seeing you next October!



By Harriet Hopkins, Administrator,  
Retaliatory Employment  
Discrimination Bureau

**Q:** I am a machine operator and welder for a nationwide company that makes fuel components for other businesses. Our machines would regularly break down because of their age and lack of maintenance. It was company practice to expect the operators to get their own equipment fixed or operational when they broke down. I was often asked to help repair the machines so that an outside technician would not need to be called, which interrupted production. It was common and accepted practice. Several of my co-workers and I complained that the poor condition and breakdowns of the machines were safety problems and accidents waiting to happen. At regular company meetings, we raised these concerns and I also complained to my supervisor, his manager, the department supervisor, an HR specialist and the safety director. Nothing changed. Then, one day when I was helping a co-worker repair his machine, he activated a part of the machine that failed to activate properly, and he was seriously injured. After his accident, I again met with an HR representative, the safety director and later, the manager of the company’s nationwide environmental safety and health program. The company terminated my employment because they said that I should have stopped my co-worker from trying to repair his machine and that it was my fault that he was injured. I believe that the real reason

they terminated me was because I spoke up often and regularly about the faulty machines that were huge safety risks to the workers in the plant. Can they terminate me because I complained about the faulty machines?

**A:** You have asked a very complicated question. In general, the Retaliatory Employment Discrimination Act (REDA) protects an employee from retaliation because they file or threaten to file a safety complaint with the N.C. Occupational Safety and Health Division, or because they initiate an inquiry or participate in an investigation of a safety complaint. Whether a person’s activity is found to be “protected” under REDA depends on the specific facts and circumstances of the situation. For instance, when an employee only complains to a manager about a potential safety problem, that would not be covered by REDA. But the courts do consider such facts as 1) whether the safety complaint relates to or led to an investigation; 2) whether the complaint is made to someone above the level of the supervisor or managers; and 3) whether workplace safety is a primary focus of the complaint. In your case, you complained regularly to several different management personnel about a specific concern about workplace safety. After the accident, which was an example of the consequences of continuing to use faulty machines, an investigation was conducted. The Retaliatory Employment Discrimination Bureau would review these facts and most likely determine that you did engage in “protected activity” under REDA. That does not answer your question, however. You would still have to have evidence that you were terminated BECAUSE of your protected activity. That would require a complete investigation of the facts and evidence. This bureau investigates complaints filed by employees against their employers under REDA.

To file a REDA complaint, contact the bureau’s helpline at 919-707-7941.



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Season's Greetings



# DEADLY

## Mistakes



By Judyth Forte, State Plan Coordinator

**Fatal Event:** On Aug. 14, 2020, a 54-year-old man died when he fell headfirst through a first floor opening and onto the concrete basement floor below.

**Investigative findings:** The building was owned by a developer who had hired two employees to renovate the property and convert it from an office space into residential property. The building consisted of a main floor and a basement, and the renovations would include removal of all the internal walls, floor coverings and damaged or rotted structural components, as well as the removal and replacement of the roof. At the time of the accident, all interior walls had been removed, a contract was pending on the roof replacement and two sections of structurally deficient flooring and support joists had been removed.

The employee was working alone on the first story. A 14-by-16-foot area of damaged floor had been removed and the employee was in the process of replacing the joists and the flooring. There was no witness to the accident, but from details collected at the scene from emergency services and law enforcement, it was determined that the employee was likely kneeling, standing or bending over the floor opening. At some point he lost his balance and fell headfirst through the opening, which was approximately nine feet above the concrete basement floor. When inspectors arrived at the site there was no evidence of fall protection or scaffolding.

**Discussion:** It was determined the employer was the owner of the building but also served as the renovation contractor who made daily visits to the work site. However, the employer did not initiate or maintain safety programs which identified hazardous conditions, such as employees working at heights of six feet or more without guard rails, safety nets, other fall protection or the improper use of extension ladders. In addition to the floor opening involved in the accident, there was a second large floor opening and an eight-step staircase leading from the first floor to the basement area that did not have a protective stair rail system to prevent employee falls. Also, a portable ladder was being used by the employees to

access the first floor from the basement in one of the floor openings and the side rails were not long enough to extend three feet past the upper working surface, nor was it secured in place or a grasping device provided.

While many may believe OSHA standards only apply to industrial-type businesses, there are defined standards all businesses must comply with, regardless of size and industry. Under the Occupational Safety and Health (OSH) Act of North Carolina, employers have a legal responsibility to provide a safe and healthy workplace free from recognized hazards. When employees are hired, a business must comply with the safety and health standards established under the OSH Act of N.C.

For OSHA purposes, an employee would be anyone supervised by the employer on a day-to-day basis, including workers hired through a staffing agency or those considered a “1099 contractor” by the company.

### Recommendations:

- ✘ Establishing a comprehensive safety program is the first step to keeping your employees safe. Employers must train employees on proper safety procedures and ensure they understand the importance of following them.
- ✘ A job hazard analysis should be conducted of the workspace and work tasks to determine what safety and health hazards are present and what controls could be implemented to ensure a safe working environment for employees and subcontractors. Frequent and regular jobsite inspections are an effective tool for evaluating those hazards and controls moving forward. When an employee is working alone, the burden falls on the employer to keep their workers safe and should employ measures to monitor and ensure their safety.
- ✘ Construction or renovation sites are particularly hazardous, with “falls from elevation” being a leading cause of injury and death. The use of fall protection methods, such as guardrails or a personal fall arrest system, are required when employees are exposed to fall hazards greater than six feet.
- ✘ Failure to comply with OSHA regulations can lead to fines. More importantly though, uncorrected safety hazards on a jobsite could result in a much higher cost – the death of an employee. OSHA uses standard procedures for discovering violations, writing citations and applying a penalty. For each item, the employer must submit abatement documentation showing how they corrected the violation and plan to ensure it will not occur again in the future.

## WORKPLACE WORRIES



By Kisha Scotton, Administrator, Wage and Hour Bureau

**Q:** Can an employer charge an employee for records as an initial act of hire?

**A:** If an employer requires an employee to pay the cost of a medical examination or the cost of providing any records required by the employer as a condition of the initial act of hiring, this is a violation of the Medical Payments Act, NCGS 14-357.1. The term “records” include medical records and any other required records including, but not limited

to, criminal records. Medical examination also includes, but is not limited to, a drug screening test. An employer would also be in violation if the employer hired an employee on the condition that the cost of the employee’s medical examination or costs to provide records would have to be paid back at one time or over a period of time by the employee or deducted from the employees first paycheck or any subsequent paycheck by the employer.

This requirement does not include a controlled substance examination required by the U.S. Department of Transportation or the U.S. Nuclear Regulatory Commission.





# Bulletin Board

## Mine and Quarry Training

### MSHA New Miner Training

Dec. 18-20, *Sanford*

Jan. 29-31, 2024, *Brasstown*

### MSHA Annual Refresher Training

Dec. 19, *Virtual*

Dec. 21, *Sanford*

Feb. 1, 2024, *Brasstown*

To register for any of these classes, **go online** or call the Mine and Quarry Bureau at 919-707-7932.

## OSH Webinar Courses

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses.

## Pre-Recorded Webinars

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses.

## Wage and Hour Presentations

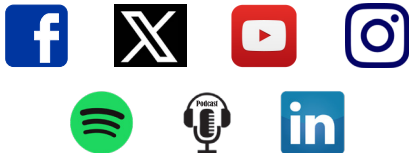
Investigators from the Wage and Hour Bureau offer presentations to employers, employees, high schools and career development organizations. The presentation covers the provisions of the Wage and Hour Act, minimum wage, overtime, record keeping, wage payment and youth employment. The presentation is designed to enhance North Carolina citizens' knowledge on labor laws and to inform employers and employees of their rights and responsibilities in wage and hour matters. Investigators conduct the presentations onsite at schools or local businesses if there is a minimum of 10 attendees.

To schedule a presentation, please email [whbinfo@labor.nc.gov](mailto:whbinfo@labor.nc.gov) with the following information: requesting individual or business, location, desired topics and preferred dates for presentation.

## Library Update

Click **here** for information on how to register with the Library to access streaming safety/health videos and/or borrow materials.

## Follow NCDOL on:



## Fourth Annual Toys for Tots 'Drive-By and Drop Off' Event to Be Hosted at the Labor Building



By: Erin Wilson, Director of Communications

On Dec. 13, from noon to 3 p.m., the U.S. Marine Corps Reserve Toys for Tots Program will collect toys at 4 W Edenton St., in front of the Labor Building. This is the 25<sup>th</sup> year that the N.C. Department of Labor and its Toys for Tots partners have co-hosted this annual toy drive. This year's drive will be a "drive-by and drop-off" event.

"During the holiday season, times can be tough for families and Toys for Tots gives us an opportunity to help our community and to brighten the day of a child's life," Labor Commissioner Josh Dobson said. "This is the season of giving and the Labor Department is proud to take part in a program like Toys for Tots. Last year, the Labor Department and its partners collected 1,478 individual toys and bicycles and received \$4,300 in monetary donations."

The Department of Labor's mobile training unit, Labor One, will be parked in front of the Labor Building to store all the toys collected. Anyone driving by or walking by to drop off toys or monetary donations will receive an individually wrapped goodie bag as a "thank you" for donating. You will not even have to get out of your car as Toys for Tots elves will receive donations and share bags of goodies in exchange.

Any new unwrapped toy, including bicycles and tricycles, will be accepted as well as monetary donations made payable to the Marine Corps Reserve Toys for Tots Foundation.

So, on Dec. 13, from noon to 3 p.m., in front of the Labor Building, located at 4 W Edenton St., drive by or walk by and drop off a new toy.

