

CHAPTER 34-05

DEPARTMENT OF LABOR

34-05-01. Statistics relating to the employment of labor. The labor commissioner shall collect, systematize, and submit in biennial reports to the governor and the secretary of state in accordance with section 54-06-04 statistical details relating to the employment of labor in the state. The statistics may be classified as the labor commissioner determines best.

34-05-01.1. Department of labor. There is hereby created the North Dakota department of labor. All records, materials, supplies, and equipment used by the deputy commissioner of agriculture and labor in the official capacity as administrator of the labor division of the department of agriculture and labor must be transferred to the department of labor.

34-05-01.2. Labor commissioner to administer department of labor. Beginning January 1, 1999, the governor shall appoint a labor commissioner to administer the department of labor. The labor commissioner shall serve at the pleasure of the governor.

34-05-01.3. Duties of labor commissioner. The labor commissioner shall:

1. Improve working conditions and living conditions of employees and advance their opportunities for profitable employment.
2. Foster, promote, and develop the welfare of both wage earners and industries in North Dakota.
3. Promote friendly and cooperative relations between employers and employees.
4. Cooperate with other state agencies to encourage the development of new industries and the expansion of existing industries.
5. Represent the state of North Dakota in dealings with the United States department of labor, with the federal mediation and conciliation service, and with the United States veterans' administration with respect to job training programs.
6. Acquire and disseminate information on the subjects connected with labor, relations between employers and employees, hours of labor, and working conditions.
7. Encourage and assist in the adoption of practical methods of career and technical education training, retraining, and career development counseling.
8. Report biennially to the governor and to the legislative assembly concerning activities of the department of labor, including in such report recommendations for legislation deemed necessary or desirable to effectuate the purposes of this chapter.
9. Administer the provisions of chapter 34-06 relating to wages and hours, chapter 34-07 relating to child labor, and the provisions of chapter 34-12 relating to labor-management relations.
10. Perform such other duties as may be required by law.

34-05-01.4. Independent contractors - Determination made by commissioner. A person beginning work or working as an independent contractor may apply to the commissioner to receive verification of independent contractor status. The commissioner, upon receiving an application, shall review the circumstances of the applicant's job and other relevant information. When the information supports a finding under the "common law" test that the applicant will be working or is working as an independent contractor, the commissioner shall issue a determination to verify the status of the applicant as an independent contractor and shall issue the independent contractor an identification number that will be invalid if the applicant's job

changes. If the applicant's job changes, the applicant may reapply for a determination to verify independent contractor status.

34-05-02. Labor division - Administrative officers - General duties. Repealed by S.L. 1965, ch. 236, § 15.

34-05-03. Officials and employers to furnish certain information - Records - Penalty. All public officers and all employers shall furnish to the labor commissioner such information as the commissioner may request relating to their respective offices or businesses. Any information collected, records, and determinations made under chapter 34-14, information collected under this section from private employers, and information collected under section 34-06-02 from private employers are exempt from section 44-04-18. The commissioner shall disclose information collected, records, and determinations made to the parties to an investigation under chapter 34-14. When the commissioner enforces collection of a wage claim by judicial action or forwards records, information, or determinations to another state or country for enforcement as authorized under chapter 34-14, the information collected, records, and determinations made under chapter 34-14 are open records. The commissioner may publish aggregate employment-related statistics. The commissioner may provide a list of the names and addresses of employers to other agencies or to a private entity for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3. Any officer, employer, or operator or manager of any establishment wherein persons are employed, who fails or refuses to furnish the commissioner with the information requested under the provisions of this section, is guilty of a class B misdemeanor.

34-05-04. Employment of assistants. The labor commissioner may employ necessary help and assistants for the purpose of administering and enforcing labor laws, rules, and regulations, and may fix their compensation and bonds. The total amount of compensation paid for such purposes, however, may not exceed the amount appropriated for compensation by the legislative assembly.