

**PROPOSED REGULATION OF THE  
LABOR COMMISSIONER**

**LCB FILE NO. R185-24I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 07/17/2024**

STATE OF NEVADA

BRETT K. HARRIS, ESQ  
Labor Commissioner



DEPARTMENT OF BUSINESS AND INDUSTRY  
OFFICE OF THE LABOR COMMISSIONER

July 16, 2024

Legislative Counsel Bureau - Legal Division  
401 South Carson Street  
Carson City, NV 89701

**Re: Proposed Regulatory Changes to Nevada Administrative Code section 608**

Dear Legislative Counsel Bureau – Legal Division:

On behalf of the Office of the Labor Commissioner (OLC), we are submitting the following proposed changes to Nevada Administrative Code (NAC) section 608 for the drafting of new minimum wage language by the Legislative Counsel Bureau. **Please note that existing NAC 608 regulations became outdated effective July 1, 2024 upon the implementation of Assembly Joint Resolution 10 from the 2021 Nevada Legislature and passage from Nevada voters in the 2022 General Election:**

<https://www.leg.state.nv.us/Statutes/81st2021/Stats2021R02.html#Stats2021R02page4035>.

Proposed new language is in ***bold blue italics***. Proposed language to be deleted is in **red strikethrough**. Changes are being proposed to NAC 608.100, and the OLC is proposing removal of NAC 608.102, 608.104, 608.106, 608.108, and 608.123 entirely, as shown below.

**NAC 608.100 Minimum wage: Applicability; rates; annual adjustments.** (Nev. Const. Art. 15, § 16; NRS 607.160, 608.250)

1. Except as otherwise provided in subsections 2 and 3, the minimum wage for an employee in the State of Nevada ***shall not be less than twelve dollars (\$12) per hour worked*** ~~is the same~~ whether the employee is a full-time, permanent, part-time, probationary, or temporary employee. ~~and:~~

~~— (a) If an employee is offered qualified health insurance, is \$5.15 per hour; or~~

~~— (b) If an employee is not offered qualified health insurance, is \$6.15 per hour.~~

~~— 2. The rates set forth in subsection 1 may change based on the annual adjustments set forth in Section 16 of Article 15 of the Nevada Constitution.~~

2. The minimum wage provided in subsection 1 does not apply to ~~(a)~~ a person under 18 years of age *that is*;

~~(a) A person~~ Employed by a nonprofit organization for after-school employment;

~~(b) A person~~ Employed by a nonprofit organization for summer employment; or

~~(c) A person~~ Employed as a trainee for a period not longer than 90 days, as described by the United States Department of Labor pursuant to section 6(g) of the Fair Labor Standards Act. ~~or~~

~~(d) 3. The minimum wage provided in subsection 1 does not apply to a A person who has waived minimum wage in clear and unambiguous terms employed under a bona fide valid collective bargaining agreement pursuant to in which wage, tip credit or other provisions set forth in Section 16 of Article 15 of the Nevada Constitution have been waived in clear and unambiguous terms.~~

~~4. As used in this section, "qualified health insurance" means health insurance coverage offered by an employer which meets the requirements of NAC 608.102.~~

(Added to NAC by Labor Comm'r by R055-07, eff. 10-31-2007)

~~**NAC 608.102 Minimum wage: Qualification to pay lower rate to employee offered health insurance.** (Nev. Const. Art. 15, § 16; NRS 607.160, 608.250) To qualify to pay an employee the minimum wage set forth in paragraph (a) of subsection 1 of NAC 608.100, an employer must meet each of the following requirements:~~

~~1. The employer must offer a health insurance plan which:~~

~~(a) Covers those categories of health care expenses that are generally deductible by an employee on his individual federal income tax return pursuant to 26 U.S.C. § 213 and any federal regulations relating thereto, if such expenses had been borne directly by the employee; or~~

~~(b) Provides health benefits pursuant to a Taft-Hartley trust which:~~

~~(1) Is formed pursuant to 29 U.S.C. § 186(e)(5); and~~

~~(2) Qualifies as an employee welfare benefit plan:~~

~~(I) Under the guidelines of the Internal Revenue Service; or~~

~~(II) Pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.~~

~~2. The health insurance plan must be made available to the employee and any dependents of the employee. The Labor Commissioner will consider such a health insurance plan to be available to the employee and any dependents of the employee when:~~

~~(a) An employer contracts for or otherwise maintains the health insurance plan for the class of employees of which the employee is a member, subject only to fulfillment of conditions required to complete the coverage which are applicable to all similarly situated employees within the same class; and~~

~~(b) The waiting period for the health insurance plan is not more than 6 months.~~

~~3. The share of the cost of the premium for the health insurance plan paid by the employee must not exceed 10 percent of the gross taxable income of the employee attributable to the employer under the Internal Revenue Code, as determined pursuant to the provisions of NAC 608.104.~~

~~(Added to NAC by Labor Comm'r by R055-07, eff. 10-31-2007)~~

~~—NAC 608.104— Minimum wage: Determination of whether employee share of premium of qualified health insurance exceeds 10 percent of gross taxable income. (Nev. Const. Art. 15, § 16; NRS 607.160, 608.250)~~

~~—1.— To determine whether the share of the cost of the premium of the qualified health insurance paid by the employee does not exceed 10 percent of the gross taxable income of the employee attributable to the employer, an employer may:~~

~~—(a) For an employee for whom the employer has issued a Form W-2 for the immediately preceding year, divide the gross taxable income of the employee paid by the employer into the projected share of the premiums to be paid by the employee for the health insurance plan for the current year;~~

~~—(b) For an employee for whom the employer has not issued a Form W-2, but for whom the employer has payroll information for the four previous quarters, divide the combined total of gross taxable income normally calculated from the payroll information from the four previous quarters into the projected share of the premiums to be paid by the employee for qualified health insurance for the current year;~~

~~—(c) For an employee for whom there is less than 1 aggregate year of payroll information:~~

~~——(1) Determine the combined total gross taxable income normally calculated from the total payroll information available for the employee and divide that number by the number of weeks the total payroll information represents;~~

~~——(2) Multiply the amount determined pursuant to subparagraph (1) by 52; and~~

~~——(3) Divide the amount calculated pursuant to subparagraph (2) into the projected share of the premiums to be paid by the employee for qualified health insurance for the current year; and~~

~~—(d) For a new employee, promoted employee or an employee who turns 18 years of age during employment, use the payroll information for the first two normal payroll periods completed by the employee and calculate the gross taxable income using the formula set forth in paragraph (c).~~

~~—2.— As used in this section, “gross taxable income of the employee attributable to the employer” means the amount specified on the Form W-2 issued by the employer to the employee and includes, without limitation, tips, bonuses or other compensation as required for purposes of federal individual income tax.~~

~~—(Added to NAC by Labor Comm’r by R055-07, eff. 10-31-2007)~~

~~—NAC 608.106— Minimum wage: Declination by employee of coverage under health insurance plan. (Nev. Const. Art. 15, § 16; NRS 607.160, 608.250) If an employee declines coverage under a health insurance plan that meets the requirements of NAC 608.102 and which is offered by the employer, the employer must maintain documentation that the employee has declined coverage. Declining coverage may not be a term or condition of employment.~~

~~—(Added to NAC by Labor Comm’r by R055-07, eff. 10-31-2007)~~

~~—NAC 608.108— Minimum wage: Requirements for payment at higher rate; modification of term of waiting period. (Nev. Const. Art. 15, § 16; NRS 607.160, 608.250) If an employer does not offer a health insurance plan, or the health insurance plan is not available or is not provided within 6 months of employment, the employee must be paid at least the minimum wage set forth in paragraph (b) of subsection 1 of NAC 608.100 until such time as the employee becomes eligible for and is offered coverage under a health insurance plan that meets~~

~~the requirements of NAC 608.102 or until such a health insurance plan becomes effective. The term of the waiting period may be modified in a bona fide collective bargaining agreement if the modification is explicitly set forth in such agreement in clear and unambiguous terms.~~

~~—(Added to NAC by Labor Comm'r by R055-07, eff. 10-31-2007)~~

~~**NAC 608.123 Compensation for overtime: Payment based upon requirements for minimum wage.** (Nev. Const. Art. 15, § 16; NRS 607.160, 608.018, 608.250) For purposes of complying with the daily overtime provisions of subsection 1 of NRS 608.018, an employer shall pay overtime based upon the minimum wage which must be paid pursuant to the provisions of NAC 608.100 to 608.108, inclusive.~~

~~—(Added to NAC by Labor Comm'r by R055-07, eff. 10-31-2007)~~

Should you wish to discuss this matter further, please do not hesitate to contact me at your earliest opportunity at (702) 486-2650.

Sincerely,

/s/ Brett K. Harris, Esq.

Brett K. Harris, Esq.  
Labor Commissioner