Good Time, Work, and Education Limits – Applicable Statutes

Included in the Department of Corrections' (SCDC) May 24, 2019 letter to the House Legislative Oversight Committee (LOC). This information was provided in response to the following question in LOC's May 16, 2019 letter to the Department of Corrections, "61. Is there a limit on the amount of work, education, or good conduct credit an inmate can earn? If so, what are the limits and what is the rationale behind having a limit?"

In addition to providing the information in this document, SCDC provided the following response:

- Good time and earned work/education credits limitations are set forth in S.C. Code § 24-13-210 and S.C. Code 24-13-230. S.C. Code § 24-13-210 provides that inmates serving parolable sentences may earn a yearly maximum of 240 days of good behavior credits, while inmates serving no-parole sentences may earn a yearly maximum of 36 days of good behavior credits. S.C. Code § 24-13-230 provides that inmates serving parolable sentences may earn a yearly maximum of 180 days of earned work and education credits, while inmates serving no-parole sentences may earn a yearly maximum of 72 days of earned work and education credits. A copy of each statute is attached.

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 13. Prisoners Generally
Article 3. Reduction in Sentence; Early Release

Code 1976 § 24-13-210

§ 24-13-210. Credit given inmates for good behavior.

Effective: June 11, 2010

Currentness

(A) An inmate convicted of an offense against this State, except a "no parole offense" as defined in Section 24-13-100, and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of twenty days for each month served. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which the good conduct credit is computed.

(B) An inmate convicted of a "no parole offense" against this State as defined in Section 24-13-100 and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of three days for each month served. However, no inmate serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision. No inmate convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in Section 24-13-125 or 24-13-150. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which the good conduct credit is computed.

(C) An inmate convicted of an offense against this State and sentenced to a local detention facility, or upon the public works of any county in this State, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined, and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of one day for every two days served. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which good conduct credits must be computed.

(D) If an inmate sentenced to the custody of the Department of Corrections and confined in a facility of the department, confined in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, or temporarily confined, held, detained, or placed in any facility which is not under the direct control of the department, to include an inmate on a labor crew or any other assigned detail or placement, or an inmate in transport status, commits an offense or violates one of the rules of the facility during his term of imprisonment, all or part of the good conduct credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections. If an inmate sentenced to a local detention facility or upon the public works of any county in this State, even when temporarily confined, held, detained, or placed in any facility that is not under the direct control of the local detention facility, to include a prisoner on a labor crew or any other assigned detail or placement, or a prisoner in transport status, commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the good conduct credit he has earned may be forfeited in the discretion of the local official having charge of the inmate. The decision to withhold forfeited good conduct time is solely the responsibility of officials named in this subsection.

(E) Any person who has served the term of imprisonment for which he has been sentenced less deductions allowed for good conduct is considered upon release to have served the entire term for which he was sentenced unless the person is required to complete a community supervision program pursuant to Section 24-21-560. If the person is required to complete a community supervision program, he must complete his sentence as provided in Section 24-21-560 prior to discharge from the criminal justice system.

(F) No credits earned pursuant to this section may be applied in a manner which would prevent full participation in the Department of Probation, Parole and Pardon Services' prerelease or community supervision program as provided in Section 24-21-560.

Credits

HISTORY: 1962 Code § 55-8; 1952 Code § 55-8; 1942 Code § 1578; 1932 Code § 1578; Cr. C. '22 § 531; 1914 (28) 617; 1935 (39) 467; 1938 (40) 1833; 1955 (49) 475; 1956 (49) 1776; 1958 (50) 1910; 1959 (51) 123; 1960 (51) 1917; 1973 (58) 428; 1980 Act No. 513, § 1; 1986 Act No. 462, § 13; 1993 Act No. 181, § 437; 1995 Act No. 83, § 26; 2010 Act No. 237, § 72, eff June 11, 2010.

Notes of Decisions (8)

Code 1976 § 24-13-210, SC ST § 24-13-210

Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 13. Prisoners Generally
Article 3. Reduction in Sentence; Early Release

Code 1976 § 24-13-230

§ 24-13-230. Reduction of sentence for productive duty assignment or participation in academic, technical, or vocational training program.

Effective: June 11, 2010

Currentness

(A) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department, except an inmate convicted of a "no parole offense" as defined in Section 24-13-100, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30 or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, a reduction from the term of his sentence of zero to one day for every two days he is employed or enrolled. A maximum annual credit for both work credit and education credit is limited to one hundred eighty days.

(B) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department serving a sentence for a "no parole offense" as defined in Section 24-13-100, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30 or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, a reduction from the term of his sentence of six days for every month he is employed or enrolled. However, no prisoner serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision. No prisoner convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in Section 24-13-125 or 24-13-150. A maximum annual credit for both work credit and education credit is limited to seventy-two days.

(C) No credits earned pursuant to this section may be applied in a manner which would prevent full participation in the Department of Probation, Parole and Pardon Services' prerelease or community supervision program as provided in Section 24-21-560.

(D) The amount of credit to be earned for each duty classification or enrollment must be determined by the director and published by him in a conspicuous place available to inmates at each correctional institution. If a prisoner commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the work credit or education credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections.

(E) The official in charge of a local detention facility must allow an inmate sentenced to the custody of the facility who is assigned to a mandatory productive duty assignment a reduction from the term of his sentence of zero to one day for every two days so employed. The amount of credit to be earned for each duty classification must be determined by the official in charge of the local detention facility and published by him in a conspicuous place available to inmates.

(F)(1) An individual is eligible for the educational credits provided for in this section only upon successful participation in an academic, technical, or vocational training program.

(2) The educational credit provided for in this section, is not available to any individual convicted of a violent crime as defined in Section 16-1-60.

(G) The South Carolina Department of Corrections may not pay any tuition for college courses

Credits

HISTORY: 1962 Code § 55-8.1; 1963 (53) 506; 1964 (53) 2165; 1969 (56) 273; 1974 (58) 2366; 1978 Act No. 496 § 16; 1986 Act No. 462, § 14; 1993 Act No. 181, § 438; 1995 Act No. 83, § 28; 2010 Act No. 237, § 73, eff June 11, 2010.

Code 1976 § 24-13-230, SC ST § 24-13-230

Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 3. State Prison System
Article 1. Persons Confined and Use Thereof Generally

Code 1976 § 24-3-40

§ 24-3-40. Disposition of wages of prisoner allowed to work at **paid** employment.

Effective: July 1, 2017

Currentness

(A) Unless otherwise provided by law, the employer of a prisoner authorized to work at **paid** employment in the community under Sections 24-3-20 to 24-3-50 or in a prison industry program provided under Article 3 of this chapter shall **pay** the prisoner's wages directly to the Department of Corrections.

If the prisoner is serving his sentence in a local detention or correctional facility pursuant to a designated facilities agreement or in a local work/punishment program, or if the local governing body elects to operate one, then the same provisions for payment directly to the official in charge of the facility shall apply if the facility has the means to account for such monies.

The Director of the Department of Corrections, or the local detention or correctional facility manager, if applicable, shall deduct the following amounts from the gross wages of the prisoner:

(1) If restitution to a particular victim or victims has been ordered by the court, then twenty percent must be used to fulfill the restitution obligation. If a restitution payment schedule has been ordered by the court pursuant to Section 17-25-322, the twenty percent must be applied to the scheduled payments. If restitution to a particular victim or victims has been ordered but a payment schedule has not been specified by the court, the director shall impose a payment schedule of equal monthly payments and use twenty percent to meet the payment schedule so imposed.

(2) If restitution to a particular victim or victims has not been ordered by the court, or if court-ordered restitution to a particular victim or victims has been satisfied then:

(a) if the prisoner is engaged in work at **paid** employment in the community, five percent must be placed on deposit with the State Treasurer for credit to a special account to support victim assistance programs established pursuant to the Victims of Crime Act of 1984, Public Law 98-473, Title II, Chapter XIV, Section 1404, and fifteen percent must be retained by the department to support services provided by the department to victims of the incarcerated population; or

(b) if the prisoner is employed in a prison industry program, ten percent must be directed to the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund for use in training, program development, victim compensation, and general administrative support pursuant to Section 16-3-1410 and ten percent must be retained by the department to support services provided by the department to victims of the incarcerated population.

(3) Thirty-five percent must be used to **pay** the prisoner's child support obligations pursuant to law, court order, or agreement of the prisoner. These child support monies must be disbursed to the guardian of the child or children or to appropriate clerks of court, in the case of court ordered child support, for application toward payment of child support obligations, whichever is appropriate. If there are no child support obligations, then twenty-five percent must be used by the Department of Corrections to defray the cost of the prisoner's room and board. Furthermore, if there are no child support obligations, then ten percent must be made available to the **inmate** during his incarceration for the purchase of incidentals pursuant to subsection (4). This is in addition to the ten percent used for the same purpose in subsection (4).

(4) Ten percent must be available to the **inmate** during his incarceration for the purchase of incidentals. Any monies made available to the **inmate** for the purchase of incidentals also may be distributed to the person or persons of the **inmate's** choice.

(5) Ten percent must be held in an interest bearing escrow account for the benefit of the prisoner.

(6) The remaining balance must be used to **pay** federal and state taxes required by law. Any monies not used to satisfy federal and state taxes must be made available to the **inmate** for the purchase of incidentals pursuant to subsection (4).

(B) The Department of Corrections, or the local detention or correctional facility, if applicable, shall return a prisoner's wages held in escrow pursuant to subsection (A) as follows:

(1) A prisoner released without community supervision must be given his escrowed wages upon his release.

(2) A prisoner serving life in prison or sentenced to death shall be given the option of having his escrowed wages included in his estate or distributed to the persons or entities of his choice.

(3) A prisoner released to community supervision shall receive two hundred dollars or the escrow balance, whichever is less, upon his release. Any remaining balance must be disbursed to the Department of Probation, Parole and Pardon Services. The prisoner's supervising agent shall apply this balance toward payment of the prisoner's housing and basic needs and dispense any balance to the prisoner at the end of the supervision period.

Credits

HISTORY: 1962 Code § 55-321.2; 1966 (54) 2180; 1980 Act No. 431, § 2; 1986 Act No. 462, § 9; 1993 Act No. 181, § 393; 1994 Act No. 500, § 2; 1995 Act No. 7, Part II, § 54; 1999 Act No. 68, § 2; 2000 Act No. 387, Part II, § 83A; 2010 Act No. 237, § 4, eff June 11, 2010; 2017 Act No. 96 (S.289), § 10, eff July 1, 2017.

Editors' Notes

Relevant Additional Resources
Additional Resources listed below contain your search terms.

CROSS REFERENCES

Earnings of **inmate** working in private industry must be **paid** directly to Department of Corrections and applied as provided under this section, see § 24-3-430.

FEDERAL ASPECTS

Provisions of the Victims of Crime Act of 1984, P.L. 98-473, Title II, Chapter XIV, Section 1404, see 42 U.S.C.A. § 10603.

Relevant Notes of Decisions (11)
View all 12
Notes of Decisions listed below contain your search terms.

In general

Inmates working in prison industries program could not maintain declaratory-judgment action seeking declaration that Department of Corrections (DOC) violated prison industry statutes by allegedly diverting portion of **inmates'** hourly wage and violated prevailing wage provision of prison industry statute; rather, **inmates** were to present such claims via the **inmate** grievance procedure. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Declaratory Judgment 84; Prisons 315

Alleged actions of Department of Corrections (DOC), in removing money remitted by private industry sponsor as wages for **inmates** participating in prison industries program and then disbursing from the lower amount the **percentages** listed in statute governing disbursement of prisoner wages, violated the statute governing disbursement of prisoner wages, which directed DOC to disburse the money based on gross wages. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Prisons 172

Prevailing wage statutes did not give **inmates** private right of action against state Department of Corrections (DOC) for alleged violation of statutes in **paying** training wage, and minimum wage, to **inmates** employed in prison industry; overall purpose of prevailing wage statutes was to prevent unfair competition, and nothing in statutes indicated legislative intent to create civil liability for violation of statutes. Adkins v. South Carolina Dept. of Corrections (S.C. 2004) 360 S.C. 413, 602 S.E.2d 51. Action 3; Prisons 309

Remedies

Crime victims and **inmates'** dependents, as beneficiaries of wages **paid** to **inmates** participating in prison industries program, could not maintain declaratory-judgment action seeking declaration that Department of Corrections (DOC) violated prison industry statutes by allegedly diverting portion of **inmates'** hourly wage and violated prevailing wage provision of prison industry statute; rather, the victims and dependents were to maintain their claims through the DOC's internal grievance procedure. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Declaratory Judgment 84; Prisons 381

Inmates working in the prison industries program have a cognizable, state-created interest in having the Department of Corrections (DOC) **pay** them according to the statutory scheme governing the program, but they do not have a private right of action; instead, the DOC's internal grievance procedure, with recourse to the Administrative Law Court, is the appropriate way to have a prisoner's wage claim adjudicated. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Action 3; Prisons 309; Prisons 315

Inmates working in prison industries program could not maintain declaratory-judgment action seeking declaration that they were entitled to immediately access their wages held in escrow; rather, **inmates** were to present this claim via the **inmate** grievance procedure. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Declaratory Judgment 84; Prisons 315

Inmates, who did not have private civil cause of action under prevailing wage statutes to maintain action against state Department of Corrections (DOC) for alleged violations of statutes by DOC in **paying inmates** for their work in prison industry, could seek remedy by filing **inmate** grievance to protest DOC's failure to **pay** wages in accordance with mandatory statutory provisions. Adkins v. South Carolina Dept. of Corrections (S.C. 2004) 360 S.C. 413, 602 S.E.2d 51. Prisons 273; Prisons 315

Remedies of crime victims and inmates' dependents

Crime victims and **inmates'** dependents, who were directly entitled to a portion of **inmates'** wages earned through the prison industries program, were to be afforded due process before being denied this state created right, and thus victims and dependents were entitled to maintain their own claims through the Department of Corrections' (DOC's) internal grievance procedure and did not need to rely on the **inmates'** own grievance claims. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Constitutional Law 4822; Constitutional Law 4840; Prisons 381

Deductions

The South Carolina Department of Corrections (SCDC) was not entitled to deduct security costs and overhead from **inmate's** gross wages earned under service work contract entered into by SCDC as part of Prison Industries program during one-month gap between end-date of budget proviso for fiscal year and effective date of statute authorizing certain deductions from **inmate's pay** under service work contract, including "any other required deductions," even though contract included language that "SCDC shall be responsible to **pay inmate** workers, cover security costs and [Prison Industries] overhead," since more general statutory provision, which was effective during one-month gap and governed **paid** employment of **inmates**, did not authorize such deductions. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons 181

Issue of proper deductions taken from **inmate's pay** for work performed under service work contract entered into by South Carolina Department of Corrections (SCDC) as part of Prison Industries program was raised by **inmate** and SCDC in

proceedings before Administrative Law Court (ALC), and, thus, issue was properly before ALC, where **inmate** requested, in his brief, that ALC calculate his back wages less any deductions authorized by applicable statute, and SCDC argued, in its brief, that deductions for overhead and security costs were authorized by service work contract. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons ⚿ 293

Statute authorizing certain deductions from **inmate's pay** under service work contract was neither remedial nor procedural and operated prospectively only, and, thus, retroactive application of statute to **inmate's** wages violated his due process rights, since **inmate** had right to wages, prior to effective date of statute authorizing certain deductions from his **pay**, pursuant to budget provisos and statutes requiring **inmates** to earn prevailing wage, **inmate's** right to certain wage became vested as soon as he earned that wage, and increase in deductions retroactively to gross wages earned prior to effective date divested **inmate's** vested right to higher net wage under statute governing **paid** employment of **inmates**. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Constitutional Law ⚿ 4822; Prisons ⚿ 181

Code 1976 § 24-3-40, SC ST § 24-3-40

Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 3. State Prison System
Article 3. Prison Industries

Code 1976 § 24-3-430

§ 24-3-430. **Inmate** labor in private industry authorized; requirements and conditions.

Currentness

(A) The Director of the Department of Corrections may establish a program involving the use of **inmate** labor by a nonprofit organization or in private industry for the manufacturing and processing of goods, wares, or merchandise or the provision of services or another business or commercial enterprise considered by the director to enhance the general welfare of South Carolina. No violent offender shall be afforded the opportunity to perform labor for nonprofit organizations if such labor is outside the confines of a correctional institution. **Inmates** participating in such labor shall not benefit in any manner contradictory to existing statutes.

(B) The director may enter into contracts necessary to implement this program. The contractual agreements may include rental or lease agreements for state buildings or portions of them on the grounds of an institution or a facility of the Department of Corrections and provide for reasonable access to and egress from the building to establish and operate a facility.

(C) An **inmate** may participate in the program established pursuant to this section only on a voluntary basis and only after he has been informed of the conditions of his employment.

(D) No **inmate** participating in the program may earn less than the prevailing wage for work of similar nature in the private sector.

(E) **Inmate** participation in the program may not result in the displacement of employed workers in the State of South Carolina and may not impair existing contracts for services.

(F) Nothing contained in this section restores, in whole or in part, the civil rights of an **inmate**. No **inmate** compensated for participation in the program is considered an employee of the State.

(G) No **inmate** who participates in a project designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90-351 is eligible for unemployment compensation upon termination from the program.

(H) The earnings of an **inmate** authorized to work at **paid** employment pursuant to this section must be **paid** directly to the Department of Corrections and applied as provided under Section 24-3-40.

Credits

HISTORY: 1995 Act No. 7, Part II, § 43; 1998 Act No. 355, § 1.

Editors' Notes

FEDERAL ASPECTS

Public Law 90-351 see, 42 U.S.C.A. 3711 et seq.

Relevant Notes of Decisions (19)
View all 19
Notes of Decisions listed below contain your search terms.

Wages

Statute authorizing certain deductions from **inmate's pay** under service work contract was neither remedial nor procedural and operated prospectively only, and, thus, retroactive application of statute to **inmate's** wages violated his due process rights, since **inmate** had right to wages, prior to effective date of statute authorizing certain deductions from his **pay**, pursuant to budget provisos and statutes requiring **inmates** to earn prevailing wage, **inmate's** right to certain wage became vested as soon as he earned that wage, and increase in deductions retroactively to gross wages earned prior to effective date divested **inmate's** vested right to higher net wage under statute governing **paid** employment of **inmates**. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Constitutional Law ⚷ 4822; Prisons ⚷ 181

Although the federal Fair Labor Standards Act (FLSA) does not apply to **inmate** workers, statutes governing prison industries programs (PIP) compel the Department of Corrections to ensure **inmate** workers who are employed in a PIP receive the same **pay** rates and employment conditions as their non-**inmate** peers in the same locality. South Carolina Dept. of Corrections v. Tomlin (S.C.App. 2010) 387 S.C. 652, 694 S.E.2d 25, certiorari dismissed. Prisons ⚷ 172

While the prevailing wage statutes for **inmates** working in prison industries programs (PIP) do not entitle **inmates** to a private right of action in tort for Department of Corrections' failure to comply with those statutes, **inmates** may protest through the grievance process the Department's failure to comply with these statutes. South Carolina Dept. of Corrections v. Tomlin (S.C.App. 2010) 387 S.C. 652, 694 S.E.2d 25, certiorari dismissed. Prisons ⚷ 273

Inmate was entitled to time-and-a-half **pay** for overtime worked in prison industries program (PIP), under prison industries statutes providing that rate of **pay** for **inmate** labor in a PIP could not be less than that **paid** for work of a similar nature in the private sector in the locality in which the work was performed. South Carolina Dept. of Corrections v. Tomlin (S.C.App. 2010) 387 S.C. 652, 694 S.E.2d 25, certiorari dismissed. Prisons ⚷ 172

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While **inmates** working in a prison industries program (PIP) are not entitled to a private right of action in tort to challenge Department of Corrections' alleged noncompliance with governing statutes, they may protest through the grievance process the Department's failure to comply with these statutes. South Carolina Dept. of Corrections v. Cartrette (S.C.App. 2010) 387 S.C. 640, 694 S.E.2d 18, certiorari dismissed as improvidently granted 396 S.C. 523, 722 S.E.2d 805. Prisons ⚿ 273

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Inmate's participation in voluntary program which served Department of Corrections by employing and training **inmates** was not a right, but a privilege, and this employment program did not meet the test for a state-created liberty interest because it did not present an atypical, significant hardship on **inmates** who were not permitted to participate, and consequently, **inmate**, in being terminated from his prison employment, did not suffer an infringement upon his liberty interests for due process purposes; there was no statutory requirement that all correctional facilities employ voluntary employment program, or that an **inmate** participate. Skipper v. South Carolina Dept. of Corrections (S.C.App. 2006) 370 S.C. 267, 633 S.E.2d 910. Constitutional Law ⚿ 4822; Prisons ⚿ 173

Department of Corrections was required to **pay inmate** in prison industries program the prevailing wage; nothing in the statutory scheme creating prison industries program authorized Department to **pay** a training wage less than the prevailing wage. Wicker v. South Carolina Dept. of Corrections (S.C. 2004) 360 S.C. 421, 602 S.E.2d 56. Prisons ⚿ 172

State's statutory mandate that **inmates** be **paid** the prevailing wage in prison industries program created an interest that could not be denied without due process, and thus, Department of Corrections' failure to **pay** prevailing wage was reviewable by Administrative Law Judge. Wicker v. South Carolina Dept. of Corrections (S.C. 2004) 360 S.C. 421, 602 S.E.2d 56. Constitutional Law ⚿ 4822; Prisons ⚿ 172; Prisons ⚿ 293

Prevailing wage statutes did not give **inmates** private right of action against state Department of Corrections (DOC) for alleged violation of statutes in **paying** training wage, and minimum wage, to **inmates** employed in prison industry; overall purpose of prevailing wage statutes was to prevent unfair competition, and nothing in statutes indicated legislative intent to create civil liability for violation of statutes. Adkins v. South Carolina Dept. of Corrections (S.C. 2004) 360 S.C. 413, 602 S.E.2d 51. Action ⚿ 3; Prisons ⚿ 309

Remedies

Inmates' grievances to amount of **pay** received under Prevailing Wage Statute and contract for work performed as part of prison industry program were grievances to South Carolina Department of Corrections (SCDC) "policies/procedures" rather than to incidents, and, thus, were excepted from grievance system policy's 15-day filing deadline for incident grievances;

policy expressly excepted "policies/procedures" grievances from deadline, grievances challenging SCDC's day-to-day operations fell within SCDC's proposed definition of "policies/procedures," **inmates'** **pay** under statute was expression of legislative policy, and contractual **pay** was not incident, in that it effected numerous **inmates** and was not temporally limited. Ackerman v. South Carolina Dept. of Corrections (S.C.App. 2016) 415 S.C. 412, 782 S.E.2d 757, rehearing denied, certiorari denied. Prisons 283

Crime victims and **inmates'** dependents, as beneficiaries of wages **paid** to **inmates** participating in prison industries program, could not maintain declaratory-judgment action seeking declaration that Department of Corrections (DOC) violated prison industry statutes by allegedly diverting portion of **inmates'** hourly wage and violated prevailing wage provision of prison industry statute; rather, the victims and dependents were to maintain their claims through the DOC's internal grievance procedure. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Declaratory Judgment 84; Prisons 381

Inmates working in the prison industries program have a cognizable, state-created interest in having the Department of Corrections (DOC) **pay** them according to the statutory scheme governing the program, but they do not have a private right of action; instead, the DOC's internal grievance procedure, with recourse to the Administrative Law Court, is the appropriate way to have a prisoner's wage claim adjudicated. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Action 3; Prisons 309; Prisons 315

Although **inmate** had no claim for civil damages, he was entitled to file a grievance with the Department of Corrections regarding the fact that he was not being **paid** in accordance with the Prevailing Wage Statute for work performed in prison industries program. Wicker v. South Carolina Dept. of Corrections (S.C. 2004) 360 S.C. 421, 602 S.E.2d 56. Prisons 273

Inmates, who did not have private civil cause of action under prevailing wage statutes to maintain action against state Department of Corrections (DOC) for alleged violations of statutes by DOC in **paying** **inmates** for their work in prison industry, could seek remedy by filing **inmate** grievance to protest DOC's failure to **pay** wages in accordance with mandatory statutory provisions. Adkins v. South Carolina Dept. of Corrections (S.C. 2004) 360 S.C. 413, 602 S.E.2d 51. Prisons 273; Prisons 315

Remedies of crime victims and inmates' dependents

Crime victims and **inmates'** dependents, who were directly entitled to a portion of **inmates'** wages earned through the prison industries program, were to be afforded due process before being denied this state-created right, and thus victims and dependents were entitled to maintain their own claims through the Department of Corrections' (DOC's) internal grievance procedure and did not need to rely on the **inmates'** own grievance claims. Torrence v. South Carolina Dept. of Corrections (S.C. 2007) 373 S.C. 586, 646 S.E.2d 866, rehearing denied. Constitutional Law 4822; Constitutional Law 4840; Prisons 381

Review

Inmate failed to preserve for appeal to Administrative Law Court (ALC) his argument that he was entitled to overtime **pay**, even though South Carolina Department of Corrections (SCDC) addressed issue of overtime in its grievance determination; **inmate** did not request overtime **pay** on any grievance form filed with SCDC. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons 293

Issue, which was raised by **inmate** to Administrative Law Court (ALC) in his wage-related grievance proceeding challenging

pay received from Prison Industries program, of whether South Carolina Department of Corrections (SCDC) should be ordered to process wage grievances for other **inmates** participating in same program who did not file their own grievances was manifestly without merit, and, thus, ALC was not required to address it, even though ALC did not expressly state in its order that such issue was manifestly without merit, since there was no requirement in ALC rules that opinion was required to specifically state that issue was manifestly without merit in order to avoid addressing it. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons ⚭ 293

Code 1976 § 24-3-430, SC ST § 24-3-430

Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 13. Prisoners Generally
Article 11. Work/Punishment Program for **Inmates** Confined in Local Correctional Facilities

Code 1976 § 24-13-930

§ 24-13-930. Surrender of **inmates**' earnings; amounts deductible.

Currentness

The earnings of each **inmate** participating in the work/punishment program, less payroll deductions required by law, must be collected by or surrendered to the official administering the program or his authorized representative. From these earnings, the official may deduct in the following order:

(a) any amount the **inmate** may be legally obligated to **pay**, or that the **inmate** desires to **pay**, for the support of the **inmate's** dependents;

(b) any amount the **inmate** may be legally obligated to **pay** in restitution to the victim of his offense;

(c) not less than five dollars nor more than ten dollars per workday to offset the cost to the local facility providing food, lodging, supervision, clothing, and care to the **inmate** Any remaining amount of the **inmate's** earnings must be credited to the **inmate's** earnings account to be disbursed to the **inmate** upon release or to be disposed of according to applicable regulations of the local correctional facility.

Credits

HISTORY: 1986 Act No. 462, § 7.

Code 1976 § 24-13-930, SC ST § 24-13-930
Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 3. State Prison System
Article 3. Prison Industries

Code 1976 § 24-3-315

§ 24-3-315. Determinations prerequisite to selecting prison industry project.

Currentness

The Department of Corrections shall ensure that **inmates** participating in any prison industry program pursuant to the Justice Assistance Act of 1984 is on a voluntary basis. The director must determine prior to using **inmate** labor in a prison industry project that it will not displace employed workers, that the locality does not have a surplus of available labor for the skills, crafts, or trades that would utilize **inmate** labor, and that the rates of **pay** and other conditions of employment are not less than those **paid** and provided for work of similar nature in the locality in which the work is performed.

Credits

HISTORY: 1987 Act No. 177 § 2; 1993 Act No. 181, § 409.

Editors' Notes

Relevant Additional Resources
Additional Resources listed below contain your search terms.

CROSS REFERENCES

Employer, of prisoner authorized to work at **paid** employment in a prison industry program provided under this article, must **pay** prisoner's wages directly to the Department of Corrections, see § 24-3-40.

Relevant Notes of Decisions (7)
View all 7
Notes of Decisions listed below contain your search terms.

In general

Statute authorizing certain deductions from **inmate's pay** under service work contract was neither remedial nor procedural and operated prospectively only, and, thus, retroactive application of statute to **inmate's** wages violated his due process rights, since **inmate** had right to wages, prior to effective date of statute authorizing certain deductions from his **pay**, pursuant to budget provisos and statutes requiring **inmates** to earn prevailing wage, **inmate's** right to certain wage became vested as soon as he earned that wage, and increase in deductions retroactively to gross wages earned prior to effective date divested **inmate's** vested right to higher net wage under statute governing **paid** employment of **inmates**. Gatewood v. South

Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Constitutional Law 4822; Prisons 181

Although the federal Fair Labor Standards Act (FLSA) does not apply to **inmate** workers, statutes governing prison industries programs (PIP) compel the Department of Corrections to ensure **inmate** workers who are employed in a PIP receive the same **pay** rates and employment conditions as their non-**inmate** peers in the same locality. South Carolina Dept. of Corrections v. Tomlin (S.C.App. 2010) 387 S.C. 652, 694 S.E.2d 25, certiorari dismissed. Prisons 172

While the prevailing wage statutes for **inmates** working in prison industries programs (PIP) do not entitle **inmates** to a private right of action in tort for Department of Corrections' failure to comply with those statutes, **inmates** may protest through the grievance process the Department's failure to comply with these statutes. South Carolina Dept. of Corrections v. Tomlin (S.C.App. 2010) 387 S.C. 652, 694 S.E.2d 25, certiorari dismissed. Prisons 273

Inmate was entitled to time-and-a-half **pay** for overtime worked in prison industries program (PIP), under prison industries statutes providing that rate of **pay** for **inmate** labor in a PIP could not be less than that **paid** for work of a similar nature in the private sector in the locality in which the work was performed. South Carolina Dept. of Corrections v. Tomlin (S.C.App. 2010) 387 S.C. 652, 694 S.E.2d 25, certiorari dismissed. Prisons 172

Although the federal Fair Labor Standards Act (FLSA) does not apply to **inmate** workers, statutes governing prison industries programs (PIP) compel the Department of Corrections to ensure **inmate** workers who are employed in a PIP receive the same **pay** rates and employment conditions as their non-**inmate** peers in the same locality. South Carolina Dept. of Corrections v. Cartrette (S.C.App. 2010) 387 S.C. 640, 694 S.E.2d 18, certiorari dismissed as improvidently granted 396 S.C. 523, 722 S.E.2d 805. Prisons 172

While **inmates** working in a prison industries program (PIP) are not entitled to a private right of action in tort to challenge Department of Corrections' alleged noncompliance with governing statutes, they may protest through the grievance process the Department's failure to comply with these statutes. South Carolina Dept. of Corrections v. Cartrette (S.C.App. 2010) 387 S.C. 640, 694 S.E.2d 18, certiorari dismissed as improvidently granted 396 S.C. 523, 722 S.E.2d 805. Prisons 273

Inmate was entitled to time-and-a-half **pay** for overtime worked in prison industries program (PIP), under prison industries statutes providing that rate of **pay** for **inmate** labor in a PIP could not be less than that **paid** for work of a similar nature in the private sector in the locality in which the work was performed. South Carolina Dept. of Corrections v. Cartrette (S.C.App. 2010) 387 S.C. 640, 694 S.E.2d 18, certiorari dismissed as improvidently granted 396 S.C. 523, 722 S.E.2d 805. Prisons 172

Code 1976 § 24-3-315, SC ST § 24-3-315

Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 13. Prisoners Generally
Article 1. General Provisions

Code 1976 § 24-13-80

§ 24-13-80. Prisoners to **pay** for certain costs; definitions; criteria for deductions from **inmates**' accounts; reimbursement to **inmates**; recovery from estates of **inmates**.

Effective: June 11, 2010

Currentness

(A) As used in this section:

(1) "Detention facility" means a municipal or county jail, a local detention facility, or a state correctional facility used for the detention of persons charged with or convicted of a felony, misdemeanor, municipal offense, or violation of a court order.

(2) "**Inmate**" means a person who is detained in a detention facility by reason of being charged with or convicted of a felony, a misdemeanor, a municipal offense, or violation of a court order.

(3) "Medical treatment" means each visit initiated by the **inmate** to an institutional physician, physician's extender including a physician's assistant or a nurse practitioner, dentist, optometrist, or psychiatrist for examination or treatment.

(4) "Administrator" means the county administrator, city administrator, or the chief administrative officer of a county or municipality.

(5) "Director" means the agency head of the Department of Corrections.

(B) The administrator or director, whichever is appropriate, may establish, by rules, criteria for a reasonable deduction from money credited to the account of an **inmate** to:

(1) repay the costs of:

(a) public property wilfully damaged or destroyed by the **inmate** during his incarceration;

(b) medical treatment for injuries inflicted by the **inmate** upon himself or others;

(c) searching for and apprehending the **inmate** when he escapes or attempts to escape. The costs must be limited to those extraordinary costs incurred as a consequence of the escape; or

(d) quelling a riot or other disturbance in which the **inmate** is unlawfully involved;

(2) defray the costs **paid** by a municipality or county for medical services for an **inmate**, which have been requested by the **inmate**, if the deduction does not exceed five dollars for each occurrence of treatment received by the **inmate**. If the balance in an **inmate's** account is less than ten dollars, the fee must not be charged. However, a deficiency balance must be carried forward and, upon a deposit or credit being made to the **inmate's** account, any outstanding balance may be deducted from the account. This deficiency balance may be carried forward after release of the **inmate** and may be applied to the **inmate's** account in the event of subsequent arrests and incarcerations. This item does not apply to medical costs incurred as a result of injuries sustained by an **inmate** or other medically necessary treatment for which that **inmate** is determined not to be responsible.

(C) All sums collected for medical treatment must be reimbursed to the **inmate**, upon the **inmate's** request, if the **inmate** is acquitted or otherwise exonerated of all charges for which the **inmate** was being held.

(D) The detention facility may initiate an action for collection of recovery of medical costs incurred pursuant to this section against an **inmate** upon his release or his estate if the **inmate** was executed or died while in the custody of the detention facility.

Credits

HISTORY: 1994 Act No. 497, Part II, § 44A; 1995 Act No. 7, Part II, § 44; 2010 Act No. 237, § 69, eff June 11, 2010.

Editors' Notes

Relevant Additional Resources
Additional Resources listed below contain your search terms.

EFFECT OF AMENDMENT

The **2010** amendment, in subsection (A)(1) inserted ", a local detention facility, or a"; rewrote subsection (B)(2); and inserted ", upon the **inmate**'s request," in subsection (C).

CROSS REFERENCES

Medical services for **inmates**, see § 24-7-110.

Relevant Notes of Decisions (1)
View all 1
Notes of Decisions listed below contain your search terms.

In general

Debiting **inmate's** prison trust account to cover hospital emergency room treatment he received after being attacked by other **inmates** was not authorized by South Carolina statute providing deductions from such accounts of costs of medical treatment for injuries inflicted by **inmate** upon himself or others. Burks v. Pate (C.A.4 (S.C.) 2005) 119 Fed.Appx. 447, 2005 WL 19485, Unreported, on remand 2005 WL 4859266. Prisons ⚿ 117

Code 1976 § 24-13-80, SC ST § 24-13-80
Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 1. Department of Corrections

Code 1976 § 24-1-295

§ 24-1-295. Employment of **inmates** for work involving exportation of products; deductions from wages.

Effective: August 1, 2007

Currentness

The Director of the Department of Corrections may enter into contracts with private sector entities that allow **inmate** labor to be provided for prison industry service work and export work that involves exportation of products. The use of **inmate** labor may not result in the displacement of employed workers within the local region in which work is being performed. Pursuant to this section, service work is defined as any work that includes repair, replacement of original manufactured items, packaging, sorting, recycling, labeling, or similar work that is not original equipment manufacturing. The department may negotiate the wage to be **paid** for **inmate** labor provided under prison industry service work contracts and export work contracts, and these wages may be less than the prevailing wage for work of a similar nature in the private sector. However, the Director of the Department of Corrections shall deduct the following from the gross earnings of the **inmates** engaged in prison industry service work in addition to any other required deductions:

(1) If restitution to a particular victim or victims has been ordered by a court of appropriate jurisdiction, then twenty percent must be used to fulfill the restitution obligation.

(2) If restitution to a particular victim or victims has not been ordered by a court of appropriate jurisdiction, or if the court-ordered restitution to a particular victim or victims has been satisfied, then twenty percent must be applied to the South Carolina Victim Compensation Fund.

(3) Thirty-five percent must be used to **pay** the prisoner's child support obligations pursuant to law, court order, or agreement of the prisoner. These child support monies must be disbursed to the guardian of the child or children or to appropriate clerks of court, in the case of court ordered child support, for application toward payment of child support obligations, whichever is appropriate. If there are no child support obligations, then twenty-five percent must be used by the Department of Corrections to defray the cost of the prisoner's room and board. Furthermore, if there are no child support obligations, then ten percent must be made available to the **inmate** during his incarceration for the purchase of incidentals pursuant to item (4). This is in addition to the ten percent used for the same purpose in item (4).

(4) Ten percent must be made available to the **inmate** during his incarceration for the purchase of incidentals. Any monies made available to the **inmate** for the purchase of incidentals also may be distributed to the person or persons of the **inmate's** choice.

(5) Ten percent must be held in an interest bearing escrow account for the benefit of the prisoner.

(6) The remaining balance must be used to **pay** federal and state taxes required by law. Any monies not used to satisfy federal and state taxes must be made available to the **inmate** for the purchase of incidentals pursuant to item (4).

Credits

HISTORY: 2007 Act No. 68, § 2, eff August 1, 2007.

Relevant Notes of Decisions (7)
View all 7
Notes of Decisions listed below contain your search terms.

In general

Inmates' grievances to amount of **pay** received under Prevailing Wage Statute and contract for work performed as part of prison industry program were grievances to South Carolina Department of Corrections (SCDC) "policies/procedures" rather than to incidents, and, thus, were excepted from grievance system policy's 15-day filing deadline for incident grievances; policy expressly excepted "policies/procedures" grievances from deadline, grievances challenging SCDC's day-to-day operations fell within SCDC's proposed definition of "policies/procedures," **inmates'** **pay** under statute was expression of legislative policy, and contractual **pay** was not incident, in that it effected numerous **inmates** and was not temporally limited. Ackerman v. South Carolina Dept. of Corrections (S.C.App. 2016) 415 S.C. 412, 782 S.E.2d 757, rehearing denied, certiorari denied. Prisons 283

Constitutional issues

Statute authorizing certain deductions from **inmate's** **pay** under service work contract was neither remedial nor procedural and operated prospectively only, and, thus, retroactive application of statute to **inmate's** wages violated his due process rights, since **inmate** had right to wages, prior to effective date of statute authorizing certain deductions from his **pay**, pursuant to budget provisos and statutes requiring **inmates** to earn prevailing wage, **inmate's** right to certain wage became vested as soon as he earned that wage, and increase in deductions retroactively to gross wages earned prior to effective date divested **inmate's** vested right to higher net wage under statute governing **paid** employment of **inmates**. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Constitutional Law 4822; Prisons 181

Deductions

The South Carolina Department of Corrections (SCDC) was not entitled to deduct security costs and overhead from **inmate's** gross wages earned under service work contract entered into by SCDC as part of Prison Industries program during one-month gap between end-date of budget proviso for fiscal year and effective date of statute authorizing certain deductions from **inmate's** **pay** under service work contract, including "any other required deductions," even though contract included language that "SCDC shall be responsible to **pay** **inmate** workers, cover security costs and [Prison Industries] overhead," since more general statutory provision, which was effective during one-month gap and governed **paid** employment of **inmates**, did not authorize such deductions. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304,

785 S.E.2d 600, rehearing denied, certiorari denied. Prisons ⚿ 181

Security costs and overhead connected with Prison Industries program of the South Carolina Department of Corrections (SCDC) constituted "other required deductions" for purposes of statute authorizing deductions from **inmate's pay** "in addition to any other required deductions" under service work contract as part of program, since such expenses were built into negotiated wage, contract's payment provision stated that any increase in **inmate's** wage would "only reflect SCDC's increased costs of prison overhead," and statutory provisions implied that SCDC had flexibility to determine amount it would charge industry sponsor to compensate SCDC for **inmate** labor and any other costs SCDC might incur to make such work available for eligible **inmates**. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons ⚿ 181

Review

Inmate asserting wage grievance challenge preserved for appeal his question of whether retroactive application of statute authorizing certain deductions from **inmate's pay** under service work contract as part of Prison Industries program by Administrative Law Court (ALC) violated his due process rights, even if **inmate** did not raise issue before ALC, since ALC's application of statute to **inmate's** wage deductions prior to statute's effective date implied it operated retroactively, **inmate's** challenge to which statute applied to his wage deductions fairly encompassed retroactivity question, and question of whether applying statute retroactively violated due process was fairly subsumed within question of whether it in fact operated retroactively. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons ⚿ 298

Inmate failed to preserve for appeal to Administrative Law Court (ALC) his argument that he was entitled to overtime **pay**, even though South Carolina Department of Corrections (SCDC) addressed issue of overtime in its grievance determination; **inmate** did not request overtime **pay** on any grievance form filed with SCDC. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons ⚿ 293

Issue, which was raised by **inmate** to Administrative Law Court (ALC) in his wage-related grievance proceeding challenging **pay** received from Prison Industries program, of whether South Carolina Department of Corrections (SCDC) should be ordered to process wage grievances for other **inmates** participating in same program who did not file their own grievances was manifestly without merit, and, thus, ALC was not required to address it, even though ALC did not expressly state in its order that such issue was manifestly without merit, since there was no requirement in ALC rules that opinion was required to specifically state that issue was manifestly without merit in order to avoid addressing it. Gatewood v. South Carolina Dept. of Corrections (S.C.App. 2016) 416 S.C. 304, 785 S.E.2d 600, rehearing denied, certiorari denied. Prisons ⚿ 293

Code 1976 § 24-1-295, SC ST § 24-1-295

Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

Code of Laws of South Carolina 1976 Annotated
Title 42. Workers' Compensation
Chapter 7. Funds
Article 1. State Accident Fund

Code 1976 § 42-7-65

§ 42-7-65. Average weekly **wage** designated for certain categories of employees.

Effective: June 7, 2010

Currentness

Notwithstanding the provisions of Section 42-1-40, for the purpose of this title and while serving in this capacity, the total average weekly **wage** of the following categories of employees is the following:

(1) for all members of the State and National Guard, regardless of rank, seventy-five percent of the average weekly **wage** in the State for the preceding fiscal year, or the average weekly **wage** the service member would be entitled to, if any, if injured while performing his civilian employment, if the average weekly **wage** in his civilian employment is greater;

(2) for all voluntary firemen of organized voluntary rural fire units and voluntary municipal firemen, thirty-seven and one-half percent of the average weekly **wage** in the State for the preceding fiscal year;

(3) for all members of organized volunteer rescue squads, thirty-seven and one-half percent of the average weekly **wage** in the State for the preceding fiscal year;

(4) for all volunteer deputy sheriffs, thirty-seven and one-half percent of the average weekly **wage** in the State for the preceding fiscal year; and

(5) for all volunteer state constables appointed pursuant to Section 23-1-60, while performing duties in connection with their appointments and authorized by the State Law Enforcement Division, thirty-seven and one-half percent of the average weekly **wage** in the State for the preceding fiscal year.

The **wages** provided in items (2), (3), (4), and (5) of this section may not be increased as a basis for any computation of benefits because of employment other than as a volunteer. Persons in the categories provided by items (2), (3), (4), and (5) must be notified of the limitation on average weekly **wages** prescribed in this section by the authority responsible for obtaining coverage under this title.

"Volunteer firemen" and "rescue squad members" mean members of organized units whose membership is certified to the municipal clerk or chairman of the council of the municipality or county in which their unit is based by the chief officer of the unit concerned. A "volunteer deputy sheriff" is a volunteer whose membership is certified by the sheriff to the governing body of the county. No volunteer deputy sheriff may be included under the provisions of this title unless approved by the governing body of the county or municipality. A voluntary constable appointed pursuant to Section 23-1-60 must be included under the provisions of this title only while performing duties in connection with his appointment and as authorized by the State Law Enforcement Division. The workers' compensation premiums for these constables must be paid from the state general fund upon warrant of the Chief of the State Law Enforcement Division. Notwithstanding any other provision of law, voluntary firemen of organized volunteer fire units and members of organized volunteer rescue squads are covered under this title by the county governing body unless the governing body of the county opts out of the coverage.

The average weekly **wage** for **inmates** of the State Department of Corrections as defined in Section 42-1-480 is forty dollars a week. However, the average weekly **wage** for an **inmate** who works in a federally approved Prison Industries Enhancement Certification Program must be based upon the **inmate's** actual net earnings after any statutory reductions. The average weekly **wage** for county and municipal prisoners is forty dollars a week. The average weekly **wage** for students of high schools, state technical schools, and state-supported colleges and universities while engaged in work study, marketing education, or apprentice programs on the premises of private companies or while engaged in the Tech Prep or other structured school-to-work programs on the premises of a sponsoring employer is fifty percent of the average weekly **wage** in the State for the preceding fiscal year.

Credits

HISTORY: 1983 Act No. 33 § 2; 1983 Act No. 92 § 4; 1984 Act No. 424, § 3; 1985 Act No. 174, § 2, eff June 24, 1985; 1991 Act No. 16, § 2, eff April 9, 1991; 1996 Act No. 259, § 2, eff April 1, 1996; 1998 Act No. 419, Part II, § 24A, eff July 1, 1998; 2002 Act No. 339, § 38, eff July 2, 2002; 2005 Act No. 80, § 1, eff upon approval (became law without the Governor's signature on May 31, 2005); 2005 Act No. 98, § 2, eff June 1, 2005; 2010 Act No. 219, § 1, eff June 7, 2010.

Editors' Notes

Relevant Additional Resources
Additional Resources listed below contain your search terms.

RESEARCH REFERENCES

Treatises and Practice Aids

2 Modern Workers Compensation § 201:19, Prison **Inmates**.

Code 1976 § 42-7-65, SC ST § 42-7-65
Current through 2019 Act No. 25 and Act No. 27, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

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