

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 122
SENATE BILL 811

AN ACT TO MAKE CHANGES TO THE EMPLOYMENT SECURITY LAW TO
CONFORM TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8(6)g. reads as rewritten:

"g. On and after January 1, 1978, the term 'employment' includes services performed in agricultural labor when a person or employing unit (a) during any calendar quarter in the current calendar year or the preceding calendar year pays wages of twenty thousand dollars (\$20,000) or more for agricultural labor, or (b) on each of some 20 days during the preceding calendar year, each day being in a different calendar week, employs at least 10 individuals in employment in agricultural labor for some portion of the day. For purposes of this Chapter, the term 'agricultural labor' includes all services performed: (1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife; (2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm; (3) in connection with the production or harvesting of crude gum (oleoresin) from a living tree, and the following products if processed by the original producer of crude gum from which derived; gum spirits of turpentine and gum resin, or in connection with the ginning of cotton or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes; or (4)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage

or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one half of the commodity with respect to which such service is performed; (B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in performance of service described in subparagraph (A), but only if such operators produced more than one half of the commodity with respect to which such service is performed. (C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; (D) on a farm operated for profit if such service is not in the course of the employer's trade or business. As used in this subsection, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. Provided, such labor is not agricultural labor performed before January 1, ~~1993~~, 1995, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act."

Sec. 2. G.S. 96-12(e)C. reads as rewritten:

"C. Eligibility Requirements for Extended Benefits. – An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the Commission finds that with respect to such week:

1. He is an 'exhaustee' as defined in subsection A(10).
2. He has satisfied the requirements of this Chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits. Provided, however, that for purposes of disqualification for extended benefits for weeks of unemployment beginning after March 31, 1981, the term 'suitable work' means any work which is within the individual's capabilities to perform if: (i) The gross average weekly remuneration payable for the work exceeds the sum of the individual's weekly extended benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(C)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week; and (ii) the

gross wages payable for the work equal the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended (without regard to any exemption), or the State minimum wage; and (iii) the work is offered to the individual in writing and is listed with the State employment service; and (iv) the considerations contained in G.S. 96-14(3) for determining whether or not work is suitable are applied to the extent that they are not inconsistent with the specific requirements of this subdivision; and (v) the individual cannot furnish evidence satisfactory to the Commission that his prospects for obtaining work in his customary occupation within a reasonably short period of time are good, but if the individual submits evidence which the Commission deems satisfactory for this purpose, the determination of whether or not work is suitable with respect to such individual shall be made in accordance with G.S. 96-14(3) without regard to the definition contained in this subdivision. Provided, further, that no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth in this subdivision, but the employment service shall refer any individual claiming extended benefits to any work which is deemed suitable hereunder. Provided, further, that any individual who has been disqualified for voluntarily leaving employment, being discharged for misconduct or substantial fault, or refusing suitable work under G.S. 96-14 and who has had the disqualification terminated, shall have such disqualification reinstated when claiming extended benefits unless the termination of the disqualification was based upon employment subsequent to the date of the disqualification.

3. After March 31, 1981, he has not failed either to apply for or to accept an offer of suitable work, as defined in G.S. 96-12(e)C.2., to which he was referred by an employment office of the Commission, and he has furnished the Commission with tangible evidence that he has actively engaged in a systematic and sustained effort to find work. If an individual is found to be ineligible hereunder, he shall be ineligible beginning with the week in which he either failed to apply for or to accept the offer of suitable work or failed to furnish the Commission with tangible evidence that he has actively engaged in a systematic and sustained effort to find work and such individual shall continue to be ineligible for extended benefits until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times his weekly benefit amount.

4. Pursuant to section 202(a)(7) of the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373), as amended by section 202(b)(1) of the Unemployment Compensation Amendments of 1992 (Public Law 102-318), for any week of unemployment beginning after March 6, 1993, and before January 1, 1995, the individual is an exhaustee as defined by federal law and has satisfied the requirements of this Chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits. Provided, the terms and conditions of State law that apply to claims for regular compensation and to the payment thereof shall apply to claims for extended benefits and to the payment thereof."

Sec. 3. G.S. 96-14(9) reads as rewritten:

"(9) The amount of compensation payable to an individual for any week which begins after July 2, 1977, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount rounded to the nearest dollar equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week.

The amount of benefits payable to an individual for any week which begins after July 1, 1981, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by the amounts of any such pension, retirement or retired pay, annuity, or other payment contributed to in part or in total by the individual's base period employers; provided, however, that the amount of all payments received by an individual under the ~~Social Security Act and the Railroad Retirement Act~~ shall be deducted from the individual's benefit amount. Provided further, that all such reduced weekly benefit amounts shall be rounded to the nearest lower full dollar amount (if not a full dollar amount)."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of June, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives