

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 811
Second Edition Engrossed 5/11/93

Short Title: ESC Conforming Changes.

(Public)

Sponsors: Senators Gulley and Kerr.

Referred to: Manufacturing and Labor.

April 12, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO THE EMPLOYMENT SECURITY LAW TO
3 CONFORM TO FEDERAL LAW.

4 The General Assembly of North Carolina enacts:

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

6 "g. On and after January 1, 1978, the term 'employment' includes
7 services performed in agricultural labor when a person or
8 employing unit (a) during any calendar quarter in the current
9 calendar year or the preceding calendar year pays wages of
10 twenty thousand dollars (\$20,000) or more for agricultural
11 labor, or (b) on each of some 20 days during the preceding
12 calendar year, each day being in a different calendar week,
13 employs at least 10 individuals in employment in agricultural
14 labor for some portion of the day. For purposes of this Chapter,
15 the term 'agricultural labor' includes all services performed: (1)
16 On a farm, in the employ of any person, in connection with
17 cultivating the soil, or in connection with raising or harvesting
18 any agricultural or horticultural commodity, including the
19 raising, shearing, feeding, caring for, training, and management
20 of livestock, bees, poultry, and fur-bearing animals and wildlife;
21 (2) in the employ of the owner or tenant or other operator of a
22 farm, in connection with the operation, management,
23 conservation, improvement, or maintenance of such farm and

1 its tools and equipment, or in salvaging timber or clearing land
2 of brush and other debris left by a hurricane, if the major part of
3 such service is performed on a farm; (3) in connection with the
4 production or harvesting of crude gum (oleoresin) from a living
5 tree, and the following products if processed by the original
6 producer of crude gum from which derived; gum spirits of
7 turpentine and gum resin, or in connection with the ginning of
8 cotton or in connection with the operation or maintenance of
9 ditches, canals, reservoirs, or waterways, not owned or operated
10 for profit, used exclusively for supplying and storing water for
11 farming purposes; or (4)(A) in the employ of the operator of a
12 farm in handling, planting, drying, packing, packaging,
13 processing, freezing, grading, storing, or delivering to storage
14 or to market or to a carrier for transportation to market, in its
15 unmanufactured state, any agricultural or horticultural
16 commodity, but only if such operator produced more than one
17 half of the commodity with respect to which such service is
18 performed; (B) in the employ of a group of operators of farms
19 (or a cooperative organization of which such operators are
20 members) in performance of service described in subparagraph
21 (A), but only if such operators produced more than one half of
22 the commodity with respect to which such service is performed.
23 (C) The provisions of subparagraphs (A) and (B) shall not be
24 deemed to be applicable with respect to service performed in
25 connection with commercial canning or commercial freezing or
26 in connection with any agricultural or horticultural commodity
27 after its delivery to a terminal market for distribution for
28 consumption; (D) on a farm operated for profit if such service is
29 not in the course of the employer's trade or business. As used in
30 this subsection, the term 'farm' includes stock, dairy, poultry,
31 fruit, fur-bearing animal, and truck farms, plantations, ranches,
32 nurseries, ranges, greenhouses or other similar structures used
33 primarily for the raising of agricultural or horticultural
34 commodities, and orchards. Provided, such labor is not
35 agricultural labor performed before January 1, ~~1993~~, 1995, by
36 an individual who is an alien admitted to the United States to
37 perform agricultural labor pursuant to sections 214(c) and
38 101(a)(15)(H) of the Immigration and Nationality Act."

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

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

44 1. He is an 'exhaustee' as defined in subsection A(10).

- 1 2. He has satisfied the requirements of this Chapter for the receipt
2 of regular benefits that are applicable to individuals claiming
3 extended benefits, including not being subject to a
4 disqualification for the receipt of benefits. Provided, however,
5 that for purposes of disqualification for extended benefits for
6 weeks of unemployment beginning after March 31, 1981, the
7 term 'suitable work' means any work which is within the
8 individual's capabilities to perform if: (i) The gross average
9 weekly remuneration payable for the work exceeds the sum of
10 the individual's weekly extended benefit amount plus the
11 amount, if any, of supplemental unemployment benefits (as
12 defined in section 501(C)(17)(D) of the Internal Revenue Code
13 of 1954) payable to such individual for such week; and (ii) the
14 gross wages payable for the work equal the higher of the
15 minimum wages provided by section 6(a)(1) of the Fair Labor
16 Standards Act of 1938 as amended (without regard to any
17 exemption), or the State minimum wage; and (iii) the work is
18 offered to the individual in writing and is listed with the State
19 employment service; and (iv) the considerations contained in
20 G.S. 96-14(3) for determining whether or not work is suitable
21 are applied to the extent that they are not inconsistent with the
22 specific requirements of this subdivision; and (v) the individual
23 cannot furnish evidence satisfactory to the Commission that his
24 prospects for obtaining work in his customary occupation
25 within a reasonably short period of time are good, but if the
26 individual submits evidence which the Commission deems
27 satisfactory for this purpose, the determination of whether or
28 not work is suitable with respect to such individual shall be
29 made in accordance with G.S. 96-14(3) without regard to the
30 definition contained in this subdivision. Provided, further, that
31 no work shall be deemed to be suitable work for an individual
32 which does not accord with the labor standard provisions set
33 forth in this subdivision, but the employment service shall refer
34 any individual claiming extended benefits to any work which is
35 deemed suitable hereunder. Provided, further, that any
36 individual who has been disqualified for voluntarily leaving
37 employment, being discharged for misconduct or substantial
38 fault, or refusing suitable work under G.S. 96-14 and who has
39 had the disqualification terminated, shall have such
40 disqualification reinstated when claiming extended benefits
41 unless the termination of the disqualification was based upon
42 employment subsequent to the date of the disqualification.
- 43 3. After March 31, 1981, he has not failed either to apply for or to
44 accept an offer of suitable work, as defined in G.S. 96-

1 12(e)C.2., to which he was referred by an employment office of
2 the Commission, and he has furnished the Commission with
3 tangible evidence that he has actively engaged in a systematic
4 and sustained effort to find work. If an individual is found to be
5 ineligible hereunder, he shall be ineligible beginning with the
6 week in which he either failed to apply for or to accept the offer
7 of suitable work or failed to furnish the Commission with
8 tangible evidence that he has actively engaged in a systematic
9 and sustained effort to find work and such individual shall
10 continue to be ineligible for extended benefits until he has been
11 employed in each of four subsequent weeks (whether or not
12 consecutive) and has earned remuneration equal to not less than
13 four times his weekly benefit amount.

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

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

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

39 The amount of benefits payable to an individual for any
40 week which begins after July 1, 1981, and which begins in a
41 period with respect to which such individual is receiving a
42 governmental or other pension, retirement or retired pay,
43 annuity, or other similar periodic payment which is based on the
44 previous work of such individual shall be reduced (but not

1 below zero) by the amounts of any such pension, retirement or
2 retired pay, annuity, or other payment contributed to in part or
3 in total by the individual's base period employers; provided,
4 however, that the amount of all payments received by an
5 individual under the ~~Social Security Act and the Railroad~~
6 Retirement Act shall be deducted from the individual's benefit
7 amount. Provided further, that all such reduced weekly benefit
8 amounts shall be rounded to the nearest lower full dollar
9 amount (if not a full dollar amount)."

10 Sec. 4. This act is effective upon ratification.