

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 277

Short Title: "Family Friendly"UI Exception/AB.

(Public)

Sponsors: Representatives Redwine; and Luebke.

Referred to: Ways and Means.

March 4, 1999

A BILL TO BE ENTITLED

1 AN ACT AMENDING THE EMPLOYMENT SECURITY LAWS TO PROVIDE
2 THAT AN INDIVIDUAL MAY NOT BE DISQUALIFIED FOR
3 UNEMPLOYMENT INSURANCE BENEFITS WHEN THE INDIVIDUAL'S
4 INABILITY TO ACCEPT BONA FIDE PERMANENT EMPLOYMENT DURING
5 A PARTICULAR SHIFT WOULD RESULT IN AN UNDUE FAMILY HARDSHIP.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 96-8(24) reads as rewritten:

8 "(24) Work, for purposes of this Chapter, means any bona fide permanent
9 ~~employment.~~ employment the acceptance of which would not result in an
10 undue hardship to the individual. For purposes of this definition, 'bona

11 fide permanent employment' is presumed to include only those
12 employments of greater than 30 consecutive calendar days duration
13 (regardless of whether work is performed on all those days) provided:

14 (a) the presumption that an employment lasting 30 days or less is not
15 bona fide permanent employment may be rebutted by a finding by the
16 Commission, either on its own motion or upon a clear and convincing
17 showing by an interested party that the application of the presumption
18 would work a substantial injustice in view of the intent of this Chapter;

19 (b) Any decision of the Commission on the question of bona fide
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1 employment may be disturbed on judicial review only upon a finding of
2 plain error. For the purposes of this definition, an 'undue family
3 hardship' arises when the individual is unable to accept bona fide
4 permanent employment during a particular shift due to the individual's
5 inability to obtain (i) child care during that shift for a minor child under
6 14 years of age who is in the legally recognized custody of the
7 individual or (ii) elder care during that shift for an aged and disabled
8 parent of the individual."

9 Section 2. G.S. 96-9(c)(2)b. reads as rewritten:

10 "b. Any benefits paid to any claimant under a claim filed for a period
11 occurring after the date of such separations as are set forth in this
12 paragraph and based on wages paid prior to the date of (i) the
13 leaving of work by the claimant without good cause attributable
14 to the employer; (ii) the discharge of claimant for misconduct in
15 connection with his work; (iii) the discharge of the claimant for
16 substantial fault as that term may be defined in G.S. 96-14; (iv)
17 the discharge of the claimant solely for a bona fide inability to do
18 the work for which he was hired but only where the claimant was
19 hired pursuant to a job order placed with a local office of the
20 Commission for referrals to probationary employment (with a
21 probationary period no longer than 100 days), which job order
22 was placed in such circumstances and which satisfies such
23 conditions as the Commission may by regulation prescribe and
24 only to the extent of the wages paid during such probationary
25 employment; (v) separations made disqualifying under G.S. 96-
26 14(2b) and (6a); ~~or~~ (vi) separation due to leaving for disability or
27 health condition shall not be charged to the account of the
28 employer by whom the claimant was employed at the time of
29 such separation; provided, however, said employer promptly
30 furnishes the Commission with such notices regarding any
31 separation of the individual from work as are or may be required
32 by the regulations of the ~~Commission.~~ Commission, or (vii)
33 separation of claimant solely as the result of the claimant's
34 inability to work during a particular shift due to an undue family
35 hardship as defined by G.S. 96-8(24), shall not be charged to the
36 account of the employer.

37 No benefit charges shall be made to the account of any
38 employer who has furnished work to an individual who, because
39 of the loss of employment with one or more other employers,
40 becomes eligible for partial benefits while still being furnished
41 work by such employer on substantially the same basis and
42 substantially the same amount as had been made available to
43 such individual during his base period whether the employments

1 were simultaneous or successive; provided, that such employer
2 makes a written request for noncharging of benefits in
3 accordance with Commission regulations and procedures.

4 No benefit charges shall be made to the account of any
5 employer for benefit years ending on or before June 30, 1992,
6 where benefits were paid as a result of a discharge due directly to
7 the reemployment of a veteran mandated by the Veteran's
8 Reemployment Rights Law, 38 USCA § 2021, et seq.

9 No benefit charges shall be made to the account of any
10 employer where benefits are paid as a result of a decision by an
11 Adjudicator, Appeals Referee or the Commission if such decision
12 to pay benefits is ultimately reversed; nor shall any such benefits
13 paid be deemed to constitute an overpayment under G.S. 96-
14 18(g)(2), the provisions thereof notwithstanding. Provided, an
15 overpayment of benefits paid shall be established in order to
16 provide for the waiting period required by G.S. 96-13(c)."

17 Section 3. This act becomes effective July 1, 1999, and applies to
18 unemployment insurance claims filed on or after that date.