

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 277
Committee Substitute Favorable 4/19/99

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

(Public)

Sponsors:

Referred to:

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 AND TO PROVIDE THAT AN INDIVIDUAL MAY NOT BE DISQUALIFIED
7 FOR UNEMPLOYMENT INSURANCE BENEFITS WHEN THE INDIVIDUAL'S
8 DISCHARGE IS SOLELY DUE TO AN INABILITY TO ACCEPT WORK
9 DURING A PARTICULAR SHIFT AS THE RESULT OF AN UNDUE FAMILY
10 HARDSHIP.
11

12 The General Assembly of North Carolina enacts:

13 Section 1. G.S. 96-8 is amended by adding a new subdivision to read:

14 "(10a) 'Undue family hardship' arises when an individual is unable to accept a
15 particular shift because the individual is unable to obtain (i) child care
16 during that shift for a minor child under 14 years of age who is in the
17 legally recognized custody of the individual or (ii) elder care during that
18 shift for an aged or disabled parent of the individual."

19 Section 2. G.S. 96-8(24) reads as rewritten:

1 "(24) Work, for purposes of this Chapter, means any bona fide permanent
2 ~~employment.~~ employment the acceptance of which would not result in an
3 undue family hardship as defined in G.S. 96-8(10a). For purposes of
4 this definition, 'bona fide permanent employment' is presumed to
5 include only those employments of greater than 30 consecutive calendar
6 days duration (regardless of whether work is performed on all those
7 days) provided: (a) the presumption that an employment lasting 30 days
8 or less is not bona fide permanent employment may be rebutted by a
9 finding by the Commission, either on its own motion or upon a clear
10 and convincing showing by an interested party that the application of
11 the presumption would work a substantial injustice in view of the intent
12 of this Chapter; (b) Any decision of the Commission on the question of
13 bona fide employment may be disturbed on judicial review only upon a
14 finding of plain error."

15 Section 3. G.S. 96-9(c)(2)b. reads as rewritten:

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

41 No benefit charges shall be made to the account of any
42 employer who has furnished work to an individual who, because
43 of the loss of employment with one or more other employers,

1 becomes eligible for partial benefits while still being furnished
2 work by such employer on substantially the same basis and
3 substantially the same amount as had been made available to
4 such individual during his base period whether the employments
5 were simultaneous or successive; provided, that such employer
6 makes a written request for noncharging of benefits in
7 accordance with Commission regulations and procedures.

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

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

21 Section 4. G.S. 96-14 is amended by adding a new subdivision to read:

22 "(g) For purposes of this Chapter, separation or discharge solely due to an
23 inability to accept work during a particular shift as a result of an undue
24 family hardship as defined in G.S. 96-8(10a) shall constitute good cause
25 for leaving work. Benefits paid on the basis of this section shall not be
26 charged to the account of the employer."

27 Section 5. This act becomes effective July 1, 1999, and applies to
28 unemployment insurance claims filed on or after that date. This act expires June 30,
29 2001.