

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 877

Judiciary II Committee Substitute Adopted 4/22/99

Short Title: Workers' Comp. for National/State Guard.

(Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

**AN ACT TO CLARIFY WHEN MEMBERS OF THE NORTH CAROLINA
NATIONAL GUARD AND NORTH CAROLINA STATE GUARD ARE
EMPLOYEES SUBJECT TO THE WORKERS' COMPENSATION ACT.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term 'employee' means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and as relating to those so employed by the State, the term 'employee' shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term 'employee' shall include all officers and employees thereof, including such as are

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1 elected by the people. The term 'employee' shall include members of the
2 North Carolina national ~~guard, except when called into the service of the~~
3 ~~United States, guard while on State active duty under orders of the~~
4 Governor and members of the North Carolina State ~~guard, and members~~
5 ~~of these organizations shall be entitled to compensation for injuries arising out~~
6 ~~of and in the course of the performance of their duties at drill, in camp, or on~~
7 ~~special duty guard while on State active duty under orders of the~~
8 Governor. The term 'employee' shall include deputy sheriffs and all
9 persons acting in the capacity of deputy sheriffs, whether appointed by
10 the sheriff or by the governing body of the county and whether serving
11 on a fee basis or on a salary basis, or whether deputy sheriffs serving
12 upon a full-time basis or a part-time basis, and including deputy sheriffs
13 appointed to serve in an emergency, but as to those so appointed, only
14 during the continuation of the emergency. The sheriff shall furnish to
15 the board of county commissioners a complete list of all deputy sheriffs
16 named or appointed by him immediately after their appointment, and
17 notify the board of commissioners of any changes made therein
18 promptly after such changes are made. Any reference to an employee
19 who has been injured shall, when the employee is dead, include also his
20 legal representative, dependents, and other persons to whom
21 compensation may be payable: Provided, further, that any employee as
22 herein defined of a municipality, county, or of the State of North
23 Carolina while engaged in the discharge of his official duty outside the
24 jurisdictional or territorial limits of the municipality, county, or the State
25 of North Carolina and while acting pursuant to authorization or
26 instruction from any superior officer, shall have the same rights under
27 this Article as if such duty or activity were performed within the
28 territorial boundary limits of his employer.

29 Every executive officer elected or appointed and empowered in
30 accordance with the charter and bylaws of a corporation shall be
31 considered as an employee of such corporation under this Article.

32 Any such executive officer of a corporation may, notwithstanding
33 any other provision of this Article, be exempt from the coverage of the
34 corporation's insurance contract by such corporation specifically
35 excluding such executive officer in such contract of insurance and the
36 exclusion to remove such executive officer from the coverage shall
37 continue for the period such contract of insurance is in effect, and
38 during such period such executive officers thus exempted from the
39 coverage of the insurance contract shall not be employees of such
40 corporation under this Article.

41 All county agricultural extension service employees who do not
42 receive official federal appointments as employees of the United States
43 Department of Agriculture and who are field faculty members with

1 professional rank as designated in the memorandum of understanding
2 between the North Carolina Agricultural Extension Service, North
3 Carolina State University, A & T State University and the boards of
4 county commissioners shall be deemed to be employees of the State of
5 North Carolina. All other county agricultural extension service
6 employees paid from State or county funds shall be deemed to be
7 employees of the county board of commissioners in the county in which
8 the employee is employed for purposes of workers' compensation.

9 The term employee shall also include members of the Civil Air
10 Patrol currently certified pursuant to G.S. 143B-491(a) when
11 performing duties in the course and scope of a State approved mission
12 pursuant to Article 11 of Chapter 143B.

13 Employee shall not include any person performing voluntary service
14 as a ski patrolman who receives no compensation for such services other
15 than meals or lodging or the use of ski tow or ski lift facilities or any
16 combination thereof.

17 Any sole proprietor or partner of a business or any member of a
18 limited liability company may elect to be included as an employee under
19 the workers' compensation coverage of such business if he is actively
20 engaged in the operation of the business and if the insurer is notified of
21 his election to be so included. Any such sole proprietor or partner or
22 member of a limited liability company shall, upon such election, be
23 entitled to employee benefits and be subject to employee responsibilities
24 prescribed in this Article."

25 Section 2. This act is effective when it becomes law and applies to claims for
26 injuries or deaths occurring on or after that date.