

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 212

Short Title: Drugs/No Unemployment.

(Public)

Sponsors: Senators Albertson; Carrington, Forrester, Carpenter, Warren, Ballantine, Speed, Conder, Perdue, Martin of Pitt, Hoyle, Simpson, East, Parnell, Blackmon, Odom, and Foxx.

Referred to: Judiciary II/Election Laws.

February 15, 1995

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THAT AN INDIVIDUAL WHO IS DENIED OR
2 TERMINATED FROM EMPLOYMENT DUE TO POSITIVE DRUG TEST WILL
3 BE DENIED UNEMPLOYMENT BENEFITS.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 96-14(2) reads as rewritten:

7 "(2) For the duration of his unemployment beginning with the first day of
8 the first week after the disqualifying act occurs with respect to which
9 week an individual files a claim for benefits if it is determined by the
10 Commission that such individual is, at the time such claim is filed,
11 unemployed because he was discharged for misconduct connected
12 with his work. Misconduct connected with the work is defined as
13 conduct evincing such willful or wanton disregard of an employer's
14 interest as is found in deliberate violations or disregard of standards of
15 behavior which the employer has the right to expect of his employee,
16 or in carelessness or negligence of such degree or recurrence as to
17 manifest equal culpability, wrongful intent or evil design, or to show
18 an intentional and substantial disregard of the employer's interests or
19 of the employee's duties and obligations to his employer.

20 'Discharge for misconduct with the work' as used in this section is
21 defined to include but not be limited to separation initiated by an
22 employer for reporting to work significantly impaired by alcohol or

1 illegal drugs; consuming alcohol or illegal drugs on employer's
2 premises; conviction by a court of competent jurisdiction for
3 manufacturing, selling, or distribution of a controlled substance
4 punishable under G.S. 90-95(a)(1) or G.S. 90-95(a)(2) while in the
5 employ of said ~~employer~~ employer; and separation initiated by an
6 employer for testing positive for drugs if the test complies with G.S.
7 95-232."

8 Sec. 2. G.S. 96-14(3) reads as rewritten:

9 "(3) For the duration of his unemployment beginning with the first day of
10 the first week in which the disqualifying act occurs if it is determined
11 by the Commission that such individual has failed without good cause
12 (i) to apply for available suitable work when so directed by the
13 employment office of the Commission; or (ii) to accept suitable work
14 when offered him; or (iii) to return to his customary self-employment
15 (if any) when so directed by the Commission. The term 'refusing to
16 accept suitable work' as used in this subdivision includes but is not
17 limited to any individual who tests positive for drugs under a test
18 which complies with G.S. 95-232. Provided further, an otherwise
19 eligible individual who is attending a vocational school or training
20 program which has been approved by the Commission for such
21 individual shall not be denied benefits because he refuses to apply for
22 or accept suitable work during such period of training.

23 In determining whether or not any work is suitable for an
24 individual, the Commission shall consider the degree of risk involved
25 to his health, safety, and morals, his physical fitness and prior training,
26 his experience and prior earnings, his length of unemployment and
27 prospects for securing local work in his customary occupation, and the
28 distance of the available work from his residence.

29 Notwithstanding any other provisions of this Chapter, no work
30 shall be deemed suitable and benefits shall not be denied under this
31 Chapter to any otherwise eligible individual for refusing to accept new
32 work under any of the following conditions:

- 33 a. If the position offered is vacant due directly to a strike, lockout,
34 or other labor dispute;
- 35 b. If the remuneration, hours, or other conditions of the work
36 offered are substantially less favorable to the individual than
37 those prevailing for similar work in the locality;
- 38 c. If as a condition of being employed the individual would be
39 required to join a company union or to resign from or refrain
40 from joining any bona fide labor organization."

41 Sec. 3. This act becomes effective January 1, 1996.