

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 924
Committee Substitute Favorable 4/29/15
Senate Judiciary I Committee Substitute Adopted 7/23/15

Short Title: Highway Safety/Salary Changes.

(Public)

Sponsors:

Referred to:

April 20, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHEN A LAW ENFORCEMENT OFFICER IS REQUIRED TO REQUEST A BLOOD SAMPLE WHEN CHARGING THE OFFENSE OF MISDEMEANOR DEATH BY VEHICLE, TO CLARIFY THE MEANING OF THE TERM "SALARY" FOR CERTAIN STATE LAW ENFORCEMENT OFFICERS, TO ALLOW CERTAIN EMPLOYEES TO BE SEPARATED FROM EMPLOYMENT DUE TO UNAVAILABILITY, AND TO MAKE OTHER CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-139.1(b5) reads as rewritten:

"(b5) Subsequent Tests Allowed. – A person may be requested, pursuant to G.S. 20-16.2, to submit to a chemical analysis of the person's blood or other bodily fluid or substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of a law enforcement officer; except that a person charged with a violation of G.S. 20-141.4 shall be ~~requested~~ requested, at any relevant time after the driving, to provide a blood sample in addition to or in lieu of a chemical analysis of the breath. However, if a breath sample shows an alcohol concentration of .08 or more, then requesting a blood sample shall be in the discretion of a law enforcement officer. If a subsequent chemical analysis is requested pursuant to this subsection, the person shall again be advised of the implied consent rights in accordance with G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other bodily fluid or substance is a willful refusal under G.S. 20-16.2. If a person willfully refuses to provide a blood sample under this subsection, and the person is charged with a violation of G.S. 20-141.4, then a law enforcement officer with probable cause to believe that the offense involved impaired driving or was an alcohol-related offense made subject to the procedures of G.S. 20-16.2 shall seek a warrant to obtain a blood sample. The failure to obtain a blood sample pursuant to this subsection shall not be grounds for the dismissal of a charge and is not an appealable issue."

SECTION 2. G.S. 20-130.1 reads as rewritten:

§ 20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.

(a) It is unlawful for any person to install or activate or operate a red light in or on any vehicle in this State. As used in this subsection, unless the context requires otherwise, "red light" means an operable red light not sealed in the manufacturer's original package which: (i) is designed for use by an emergency vehicle or is similar in appearance to a red light designed for use by an emergency vehicle; and (ii) can be operated by use of the vehicle's battery, vehicle's electrical system, or a dry cell battery. As used in this subsection, the term "red light"



1 shall also mean any ~~forward-facing~~ red light installed on a vehicle after initial manufacture of
2 the vehicle.

3 ...
4 (c) It is unlawful for any person to possess a blue light or to install, activate, or operate
5 a blue light in or on any vehicle in this State, except for a publicly owned vehicle used for law
6 enforcement purposes or any other vehicle when used by law enforcement officers in the
7 performance of their official duties. As used in this subsection, unless the context requires
8 otherwise, "blue light" means any ~~forward-facing~~ blue light installed on a vehicle after initial
9 manufacture of the vehicle; or an operable blue light which:

- 10 (1) Is not (i) being installed on, held in inventory for the purpose of being
11 installed on, or held in inventory for the purpose of sale for installation on a
12 vehicle on which it may be lawfully operated or (ii) installed on a vehicle
13 which is used solely for the purpose of demonstrating the blue light for sale
14 to law enforcement personnel;
15 (1a) Is designed for use by an emergency vehicle, or is similar in appearance to a
16 blue light designed for use by an emergency vehicle; and
17 (2) Can be operated by use of the vehicle's battery, the vehicle's electrical
18 system, or a dry cell battery.

19"

20 **SECTION 3.** G.S. 143-166.14 reads as rewritten:

21 **"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation**
22 **Act applicable after two years; duration of payment.**

23 The salary of any eligible person shall be paid as long as the person's employment in that
24 position continues, notwithstanding the person's total or partial incapacity to perform any duties
25 to which the person may be lawfully assigned, if that incapacity is the result of an injury or
26 injuries ~~proximately caused by the heightened risk and special hazards directly related to the~~
27 ~~violent nature~~ resulting from or arising out of an episode of violence, resistance, or due to other
28 special hazards which occur while of the eligible person's person is performing official duties,
29 except if that incapacity continues for more than two years from its inception, the person shall,
30 during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of
31 the General Statutes pertaining to workers' compensation. The time period for which an eligible
32 person receives benefits pursuant to this section shall be deducted from the eligible person's
33 total eligibility for benefits pursuant to G.S. 97-29 and G.S. 97-30. Salary paid to an eligible
34 person pursuant to this Article shall cease upon the resumption of the person's regularly
35 assigned duties, retirement, resignation, or death, whichever first occurs, or will cease or be
36 equitably reduced when the employee has returned for work for the same or different employer,
37 except that temporary return to duty shall not prohibit payment of salary for a subsequent
38 period of incapacity which can be shown to be directly related to the original injury. For the
39 purposes of this section, the term "salary" means the total base pay of a person as reflected on
40 the person's salary statement and shall not include any overtime, shift premium, holiday pay, or
41 other salary enhancements which the person may have earned prior to being injured."

42 **SECTION 4.** G.S. 143-166.15 reads as rewritten:

43 **"§ 143-166.15. Application of § 97-27; how payments made.**

44 Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to
45 benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment
46 of ~~full salary~~ total base pay. All payments ~~of salary~~ made shall be made at the same time and in the
47 same manner as other ~~salaries are paid~~ payments made to other persons in the same
48 department."

49 **SECTION 5.** G.S. 143B-927 reads as rewritten:

50 **"§ 143B-927. Personnel of the State Bureau of Investigation.**

1 The Director of the State Bureau of Investigation may appoint a sufficient number of
2 assistants who shall be competent and qualified to do the work of the Bureau. The Director
3 shall be responsible for making all hiring and personnel decisions of the Bureau.
4 Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B of the
5 General Statutes, the Director may hire or fire personnel and transfer personnel within the
6 Bureau. If the Director deems it appropriate to appoint reserve agents, those reserve agents
7 shall be considered employees of the State Bureau of Investigation for purposes of any workers'
8 compensation claim arising from acts occurring while the reserve agent is performing assigned
9 duties."

10 **SECTION 6.** G.S. 106-145.13 is repealed.

11 **SECTION 7.** G.S. 20-185 is amended by adding a new subsection to read:

12 "(j) The State Highway Patrol is authorized to appoint retired members as volunteer
13 reserve members to serve in the Highway Patrol Reserve Unit. Such members, while
14 performing duties assigned or approved by the commanding officer, shall be considered
15 employees of the Highway Patrol for purposes of any workers' compensation claim arising
16 from acts occurring while the retired member is performing assigned duties."

17 **SECTION 8.** G.S. 15A-298 reads as rewritten:

18 **"§ 15A-298. Subpoena authority.**

19 ~~Pursuant to rules issued by the State Bureau of Investigation, the~~ The Director of the State
20 Bureau of Investigation or the Director's designee may issue an administrative subpoena to a
21 communications common carrier or an electronic communications service to compel
22 production of business records if the records:

- 23 (1) Disclose information concerning local or long-distance toll records or
24 subscriber information; and
- 25 (2) Are material to an active criminal investigation being conducted by the State
26 Bureau of Investigation."

27 **SECTION 9.** G.S. 126-35 reads as rewritten:

28 **"§ 126-35. Just cause; disciplinary actions for State employees.**

29 (a) No career State employee subject to the North Carolina Human Resources Act shall
30 be discharged, suspended, or demoted for disciplinary reasons, except for just cause. In cases of
31 such disciplinary action, the employee shall, before the action is taken, be furnished with a
32 statement in writing setting forth the specific acts or omissions that are the reasons for the
33 disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days
34 from the date the statement is delivered to appeal to the head of the agency through the agency
35 grievance procedure for a final agency decision. However, an employee may be suspended
36 without warning for causes relating to personal conduct detrimental to State service, pending
37 the giving of written reasons, in order to avoid undue disruption of work or to protect the safety
38 of persons or property or for other serious reasons. If the employee is not satisfied with the final
39 agency decision or is unable, within a reasonable period of time, to obtain a final agency
40 decision, the employee may appeal to the Office of Administrative Hearings. Such appeal shall
41 be filed not later than 30 days after receipt of notice of the final agency decision. The State
42 Human Resources Commission may adopt, subject to the approval of the Governor, rules that
43 define just cause.

44 (b) through (d) Repealed by Session Laws 2013-382, s. 6.1, effective August 21, 2013,
45 and applicable to grievances filed on or after that date.

46 (e) Nothing in this Chapter shall preclude an employee on workers' compensation or
47 salary continuation from being separated due to unavailability if the employee is unable to
48 return to his or her previous position at full duty, even if the employee has not exhausted his or
49 her vacation, sick, bonus, or compensatory leave.

50 (f) Nothing in this Chapter shall preclude the separation of an employee due to
51 unavailability if that employee is unable to perform all the duties of his or her position due to a

1 Court order, due to a loss of required credentials, or due to a loss of other required certification,
2 even if the employee has not exhausted his or her vacation, sick, bonus, or compensatory
3 leave."

4 **SECTION 10.** Sections 1 and 2 of this act become effective December 1, 2015,
5 and apply to offenses committed on or after that date. The remainder of this act is effective
6 when it becomes law and applies to offenses committed on or after that date. Prosecutions for
7 offenses committed before the effective date of this act are not abated or affected by this act,
8 and the statutes that would be applicable but for this act remain applicable to those
9 prosecutions.