

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

S

1

SENATE BILL 1043

Short Title: Workers' Comp/Agriculture Workers. (Public)

Sponsors: Senators Clodfelter; Hartsell and Kinnaird.

Referred to: Commerce.

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO LOWER THE NUMBER OF AGRICULTURAL WORKERS THAT MUST BE EMPLOYED BY AN EMPLOYER IN ORDER FOR AGRICULTURAL EMPLOYMENT TO BE WITHIN THE PURVIEW OF THE WORKERS' COMPENSATION ACT AND TO PROVIDE A TEMPORARY REFUNDABLE TAX CREDIT FOR THE COSTS OF AGRICULTURAL EMPLOYERS BROUGHT UNDER THE WORKERS' COMPENSATION ACT AS A RESULT OF THIS CHANGE.

The General Assembly of North Carolina enacts:

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

"(1) Employment. – The term 'employment' includes employment by the State and all political subdivisions thereof, and all public and quasi-public corporations therein and all private employments in which three or more employees are regularly employed in the same business or establishment or in which one or more employees are employed in activities which involve the use or presence of radiation, except ~~agriculture and domestic services, unless 10 or more full-time nonseasonal agricultural workers are regularly employed by the employer~~ services and an individual sawmill and logging operator with less than 10 employees, who saws and logs less than 60 days in any six consecutive months and whose principal business is unrelated to saw milling or logging."

**SECTION 2.** G.S. 97-13(b) reads as rewritten:

"(b) Casual Employment, Domestic Servants, ~~Farm Laborers~~, Federal Government, Employer of Less than Three Employees. – This Article shall not apply to casual employees, ~~farm laborers when fewer than 10 full-time nonseasonal farm laborers are regularly employed by the same employer~~, federal government employees in North Carolina, and domestic servants, nor to employees of such persons, nor to any person, firm or private corporation that has regularly in service less than three

1 employees in the same business within this State, except that any employer without  
 2 regard to number of employees, including an employer of domestic ~~servants, farm~~  
 3 ~~laborers, servants~~ or one who previously had exempted himself, who has purchased  
 4 workers' compensation insurance to cover his compensation liability shall be  
 5 conclusively presumed during life of the policy to have accepted the provisions of this  
 6 Article from the effective date of said policy and his employees shall be so bound unless  
 7 waived as provided in this Article; provided however, that this Article shall apply to all  
 8 employers of one or more employees who are employed in activities which involve the  
 9 use or presence of radiation."

10 **SECTION 3.(a)** Part 1 of Article 4 of Chapter 105 of the General Statutes is  
 11 amended by adding a new section to read:

12 **"§ 105-130.47. Workers' compensation credit for small agricultural employers.**

13 (a) Eligible Agricultural Employer. – An agricultural employer is eligible for the  
 14 credit allowed by this section if it met both of the following conditions for the taxable  
 15 year:

16 (1) It regularly employed fewer than 10 full-time nonseasonal agricultural  
 17 employees.

18 (2) It regularly employed fewer than three nonagricultural employees.

19 (b) Credit. – An eligible agricultural employer is allowed a credit against the tax  
 20 imposed by this Part equal to the applicable percentage provided in the table below  
 21 times its costs during the taxable year of securing the payment of workers'  
 22 compensation as required by G.S. 97-93:

<u>Taxable Year</u>		<u>Percentage</u>
<u>Beginning</u>		
	<u>In 2005</u>	<u>60%</u>
	<u>In 2006</u>	<u>45%</u>
	<u>In 2007</u>	<u>30%</u>
	<u>In 2008</u>	<u>15%</u>
	<u>After 2008</u>	<u>0%</u>

30 (c) Credit Refundable. – If the credit allowed by this section exceeds the amount  
 31 of tax imposed by this Part for the taxable year reduced by the sum of all credits  
 32 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess  
 33 is governed by the provisions governing a refund of an overpayment by the taxpayer of  
 34 the tax imposed in this Part. In computing the amount of tax against which multiple  
 35 credits are allowed, nonrefundable credits are subtracted before refundable credits.

36 (d) Substantiation. – In order to claim a credit under this section, a taxpayer must  
 37 provide any information required by the Secretary to establish the taxpayer's eligibility  
 38 for the credit and the amount of the credit."

39 **SECTION 3.(b)** Part 2 of Article 4 of Chapter 105 of the General Statutes is  
 40 amended by adding a new section to read:

41 **"§ 105-151.29. Workers' compensation credit for small agricultural employers.**

42 (a) Eligible Agricultural Employer. – An agricultural employer is eligible for the  
 43 credit allowed by this section if the employer met both of the following conditions for  
 44 the taxable year:

(1) The employer regularly employed fewer than 10 full-time nonseasonal agricultural employees.

(2) The employer regularly employed fewer than three nonagricultural employees.

(b) Credit. – An eligible agricultural employer is allowed a credit against the tax imposed by this Part equal to the applicable percentage provided in the table below times its costs during the taxable year of securing the payment of workers' compensation as required by G.S. 97-93:

<u>Taxable Year</u>	
<u>Beginning</u>	<u>Percentage</u>
<u>In 2005</u>	<u>60%</u>
<u>In 2006</u>	<u>45%</u>
<u>In 2007</u>	<u>30%</u>
<u>In 2008</u>	<u>15%</u>
<u>After 2008</u>	<u>0%</u>

(c) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(d) Substantiation. – In order to claim a credit under this section, a taxpayer must provide any information required by the Secretary to establish the taxpayer's eligibility for the credit and the amount of the credit."

**SECTION 4.** Section 3 of this act becomes effective for taxable years beginning on or after January 1, 2006. The remaining sections of this act become effective January 1, 2006. Sections 1 and 2 of this act apply to all claims for workers' compensation that the Industrial Commission determines on or after that date and to all claims for workers' compensation that result in a settlement agreement entered into on or after that date.