

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

HOUSE BILL 644  
RATIFIED BILL

AN ACT RELATING TO THE HANDLING OF ANTINEOPLASTIC AGENTS TO  
PREVENT DISEASE AND INJURY CAUSED BY EXPOSURE.

Whereas, according to the National Institute for Occupational Safety and Health (NIOSH), early concerns about occupational exposure to antineoplastic agents first appeared in the 1970s; and

Whereas, antineoplastic agents may cause skin rashes, infertility, miscarriage, birth defects, and have been linked to a wide variety of cancers; and

Whereas, NIOSH published an alert on preventing occupational exposures to antineoplastic agents in health care settings in 2004 with an update in 2010; and

Whereas, in this alert, the NIOSH presents a standard precautions or universal precautions approach to handling antineoplastic agents safely, meaning that it recommends that antineoplastic agents be handled as outlined in the alert; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** The General Assembly finds that health care personnel who work with or near hazardous antineoplastic agents in health care settings may be exposed to these agents in the workplace. It is the intent of the General Assembly to require health care facilities to follow rules requiring compliance with all aspects of alerts from the National Institute for Occupational Safety and Health in order to protect health care personnel in this State from hazardous exposure to such agents.

**SECTION 2.** G.S. 95-127 reads as rewritten:

**"§ 95-127. Definitions.**

In this Article, unless the context otherwise requires: As used in this Article, the following definitions apply:

- (1) ~~The term "Advisory Council" shall mean the Advisory Council. – The Advisory Council or body established under this Article.~~
- (2) Antineoplastic agent. – A chemotherapy drug or cytotoxic drug used to treat cancer patients and some non-cancer patients.
- (2)(3) ~~The term "Commission" means the Commission. – North Carolina Occupational Safety and Health Review Commission established under this Article.~~
- (3)(4) ~~The term "classified service" means a Classified service. – A position included in the State Merit System of Personnel Administration subject to the laws, rules and regulations of the State Personnel Board as administered by the State Personnel Director and as set forth in Chapter 126 of the General Statutes.~~
- (4)(5) ~~The term "Commissioner" means the Commissioner. – The Commissioner of Labor of North Carolina.~~
- (5)(6) ~~The term "days" shall mean a Day. – A calendar day unless otherwise noted.~~
- (6)(7) ~~The term "Department" means the Department. – The North Carolina Department of Labor of North Carolina.~~
- (7)(8) ~~The term "Deputy Commissioner" means the Deputy Commissioner. – The Deputy Commissioner of the North Carolina Department of Labor, who is appointed by the Commissioner to aid and assist the Commissioner in the performance of his duties. The Deputy Commissioner shall exercise such power and authority as delegated to him or her by the Commissioner.~~



- (8)(9) ~~The term "Director" means the Director.~~ – The officer or agent appointed by the Commissioner of Labor for the purpose of assisting in the administration of the Occupational Safety and Health Act of North Carolina.
- (9)(10) ~~The term "employee" means an Employee.~~ – An employee of an employer who is employed in a business or other capacity of his or her employer, including any and all business units and agencies owned and/or controlled by the employer.
- (10)(11) ~~The term "employer" means a Employer.~~ – A person engaged in a business who has employees, including any state or political subdivision of a state, but does not include the employment of domestic workers employed in the place of residence of his or her employer.
- (11)(12) ~~The term "established federal standard" means any Established federal standard.~~ – Any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any act of Congress in force on the date of enactment of this Article, and adopted by the Secretary of Labor under the Occupational Safety and Health Act of 1970.
- (12)(13) ~~The term "federal act," as referred to in this Article, means the Federal Act.~~ – The Occupational Safety and Health Act of 1970 (Public Law 91-596, 91st Congress, Act of December 29, 1970, 84 Stat. 1950).
- (13)(14) ~~The term "imminent danger" means any Imminent danger.~~ – Any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death, or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Article.
- (14)(15) ~~The term "issue" means an Issue.~~ – An industrial, occupational or hazard grouping.
- (15)(16) ~~The term "occupational safety and health standards" means aOccupational safety and health standard.~~ – A standard which requires conditions, or the adoption or use of one or more practices, means, methods, safety devices, operations or processes reasonably necessary and appropriate to provide safe and healthful employment and places of employment, and shall include all occupational safety and health standards adopted and promulgated by the Secretary which also may be and are adopted by the State of North Carolina under the provisions of this Article. This term includes but is not limited to interim federal standards, consensus standards, any proprietary standards or permanent standards, as well as temporary emergency standards which may be adopted by the Secretary, promulgated as provided by the Occupational Safety and Health Act of 1970, and which standards or regulations are published in the Code of Federal Regulations or otherwise properly promulgated under the federal act or any appropriate federal agencies.
- (16)(17) ~~The term "person" means onePerson.~~ – One or more individuals, partnerships, associations, corporations, business trusts, legal representatives.
- (17)(18) ~~The term "Secretary" means the Secretary.~~ – The United States Secretary of Labor.
- (18)(19) ~~A "serious violation" Serious violation.~~ – A violation that shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use at such place of employment, unless the employer did not know, and could not, with the exercise of reasonable diligence, know of the presence of the violation.
- (19)(20) ~~The term "State" means the State.~~ – The State of North Carolina."

**SECTION 3.** G.S. 94-133(a) reads as rewritten:

"(a) There is hereby created and established in the North Carolina Department of Labor a division to be known as the Occupational Safety and Health Division. The Commissioner

shall appoint a Director to administer this division who shall be subject to the direction and supervision of the Commissioner. The Director shall carry out the responsibilities of the State of North Carolina as prescribed under the Occupational Safety and Health Act of 1970, and any subsequent federal laws or regulations relating to occupational safety and health, and this Article, as written, revised or amended by legislative enactment and as delegated or authorized by the Commissioner. The Commissioner shall make and promulgate such rules, amendments, or revisions in rules, as ~~the Commissioner~~ may deem advisable for the administration of the ~~office, he~~ office. The Commissioner shall also accept and use the services, facilities, and personnel of any agency of the State or of any subdivision of State government, either as a free service or by reimbursement. The Director shall devote full time to his or her duties of office and shall not hold any other office. The Director, subject to the approval of the Commissioner, shall select a professional staff of qualified and competent employees to assist in the statewide administration of the Article. All of the employees referred to herein shall be under the classified ~~service, as herein defined in G.S. 95-127, subdivision (3).~~ service."

**SECTION 4.** Article 16 of Chapter 95 of the General Statutes is amended by adding a new section to read:

**"§ 95-156. Handling of dangerous antineoplastic agents.**

(a) The Commissioner of Labor shall adopt rules to establish requirements for the handling of antineoplastic agents in facilities where there is occupational exposure to antineoplastic agents.

(b) The rules adopted pursuant to this section shall be consistent with, but not exceed, the recommendations issued by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), as contained in the Alert: Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings, as published in 2004 and including subsequent amendments and editions. The Department's adoption of the rules may incorporate updates and changes to NIOSH's guidelines as made by CDC.

(c) Rules adopted pursuant to this section shall not apply to an entity that has obtained a permit pursuant to G.S. 90-85.21 or G.S. 90-85.21A.

(d) The Commissioner shall enforce these rules and investigate complaints in accordance with the provisions of this Article."

**SECTION 5.** The Commissioner of Labor shall adopt the rules to implement this act no later than January 1, 2016. Rules adopted pursuant to this section shall not be subject to G.S. 150B-19.1(e), 150B-19.1(f), 150B-19.1(h), and 150B-21.4. The Commissioner of Labor shall establish an advisory workgroup, consisting of hospitals, organizations representing health care personnel, and other interested stakeholders, for the development of rules as required by this act. Consideration shall be given to what constitutes a reasonable time frame for facilities to implement new requirements.

**SECTION 6.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2014.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

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Pat McCrory  
Governor

Approved \_\_\_\_\_, m. this \_\_\_\_\_ day of \_\_\_\_\_, 2014