

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2017**

S

1

**SENATE BILL 436**

Short Title: UI & WC/Newsprint Employees. (Public)

Sponsors: Senators Wade and Tucker (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 29, 2017

A BILL TO BE ENTITLED  
AN ACT RELATING TO UNEMPLOYMENT INSURANCE AND WORKERS'  
COMPENSATION FOR NEWSPRINT EMPLOYEES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 96-1(b)(12) reads as rewritten:

"(12) Employment. – Defined in section 3306 of the Code, with the following additions and exclusions:

a. Additions. – The term includes ~~service~~ all of the following:

1. Service to a governmental unit, unit.

2. Service to a nonprofit organization, or organization.

3. Service to an Indian tribe as described in 3306(c)(7) and 3306(c)(8) of the Code.

4. Service described in section 3306(c)(15)(A) or (B) of the Code involving delivery or distribution of newspapers or shopping news or involving the sale of newspapers or magazines.

...."

**SECTION 2.** 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 elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the



1 governing body of the county and whether serving on a fee basis or on a  
2 salary basis, or whether deputy sheriffs serving upon a full-time basis or a  
3 part-time basis, and including deputy sheriffs appointed to serve in an  
4 emergency, but as to those so appointed, only during the continuation of the  
5 emergency. The sheriff shall furnish to the board of county commissioners a  
6 complete list of all deputy sheriffs named or appointed by him immediately  
7 after their appointment and notify the board of commissioners of any  
8 changes made therein promptly after such changes are made. Any reference  
9 to an employee who has been injured shall, when the employee is dead,  
10 include also the employee's legal representative, dependents, and other  
11 persons to whom compensation may be payable: Provided, further, that any  
12 employee, as herein defined, of a municipality, county, or of the State of  
13 North Carolina, while engaged in the discharge of the employee's official  
14 duty outside the jurisdictional or territorial limits of the municipality, county,  
15 or the State of North Carolina and while acting pursuant to authorization or  
16 instruction from any superior officer, shall have the same rights under this  
17 Article as if such duty or activity were performed within the territorial  
18 boundary limits of their employer.

19 Except as otherwise provided herein, every executive officer elected or  
20 appointed and empowered in accordance with the charter and bylaws of a  
21 corporation shall be considered as an employee of such corporation under  
22 this Article.

23 Any such executive officer of a corporation may, notwithstanding any  
24 other provision of this Article, be exempt from the coverage of the  
25 corporation's insurance contract by such corporation's specifically excluding  
26 such executive officer in such contract of insurance, and the exclusion to  
27 remove such executive officer from the coverage shall continue for the  
28 period such contract of insurance is in effect, and during such period such  
29 executive officers thus exempted from the coverage of the insurance contract  
30 shall not be employees of such corporation under this Article.

31 All county agricultural extension service employees who do not receive  
32 official federal appointments as employees of the United States Department  
33 of Agriculture and who are field faculty members with professional rank as  
34 designated in the memorandum of understanding between the North  
35 Carolina Agricultural Extension Service, North Carolina State University, A  
36 & T State University, and the boards of county commissioners shall be  
37 deemed to be employees of the State of North Carolina. All other county  
38 agricultural extension service employees paid from State or county funds  
39 shall be deemed to be employees of the county board of commissioners in  
40 the county in which the employee is employed for purposes of workers'  
41 compensation.

42 The term "employee" shall also include members of the Civil Air Patrol  
43 currently certified pursuant to G.S. 143B-1031(a) when performing duties in  
44 the course and scope of a State-approved mission pursuant to Subpart C of  
45 Part 5 of Article 13 of Chapter 143B of the General Statutes.

46 "Employee" shall not include any person performing voluntary service as  
47 a ski patrolman who receives no compensation for such services other than  
48 meals or lodging or the use of ski tow or ski lift facilities or any combination  
49 thereof.

50 "Employee" shall not include any person elected or appointed and  
51 empowered as an executive officer, director, or committee member under the

1 charter, articles, or bylaws of a nonprofit corporation subject to Chapter  
2 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization  
3 exempt from federal income tax under section 501(c)(3) of the Internal  
4 Revenue Code, who performs only voluntary service for the nonprofit  
5 corporation, provided that the person receives no remuneration for the  
6 voluntary service other than reasonable reimbursement for expenses incurred  
7 in connection with the voluntary service. When a nonprofit corporation as  
8 described herein employs one or more persons who do receive remuneration  
9 other than reasonable reimbursement for expenses, then any volunteer  
10 officers, directors, or committee members excluded from the definition of  
11 "employee" by operation of this paragraph shall be counted as employees for  
12 the sole purpose of determining the number of persons regularly employed  
13 in the same business or establishment pursuant to G.S. 97-2(1). Other than  
14 for the limited purpose of determining the number of persons regularly  
15 employed in the same business or establishment, such volunteer nonprofit  
16 officers, directors, or committee members shall not be "employees" under  
17 the Act. Nothing herein shall prohibit a nonprofit corporation as described  
18 herein from voluntarily electing to provide for workers' compensation  
19 benefits in the manner provided in G.S. 97-93 for volunteer officers,  
20 directors, or committee members excluded from the definition of  
21 "employee" by operation of this paragraph. This paragraph shall not apply to  
22 any volunteer firefighter, volunteer member of an organized rescue squad, an  
23 authorized pickup firefighter when that individual is engaged in emergency  
24 fire suppression activities for the North Carolina Forest Service, a duly  
25 appointed and sworn member of an auxiliary police department organized  
26 pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol  
27 functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the  
28 General Statutes, even if such person is elected or appointed and empowered  
29 as an executive officer, director, or committee member under the charter,  
30 articles, or bylaws of a nonprofit corporation as described herein.

31 Any sole proprietor or partner of a business or any member of a limited  
32 liability company may elect to be included as an employee under the  
33 workers' compensation coverage of such business if he is actively engaged in  
34 the operation of the business and if the insurer is notified of his election to  
35 be so included. Any such sole proprietor or partner or member of a limited  
36 liability company shall, upon such election, be entitled to employee benefits  
37 and be subject to employee responsibilities prescribed in this Article.

38 "Employee" shall include an authorized pickup firefighter of the North  
39 Carolina Forest Service of the Department of Agriculture and Consumer  
40 Services when that individual is engaged in emergency fire suppression  
41 activities for the North Carolina Forest Service. As used in this section,  
42 "authorized pickup firefighter" means an individual who has completed  
43 required fire suppression training as a wildland firefighter and who is  
44 available as needed by the North Carolina Forest Service for emergency fire  
45 suppression activities, including immediate dispatch to wildfires and standby  
46 for initial attack on fires during periods of high fire danger.

47 ~~It shall be a rebuttable presumption that the term "employee" shall not~~  
48 ~~include any person performing services in the sale of newspapers or~~  
49 ~~magazines to ultimate consumers under an arrangement whereby the~~  
50 ~~newspapers or magazines are to be sold by that person at a fixed price and~~  
51 ~~the person's compensation is based on the retention of the excess of the fixed~~

1                    ~~price over the amount at which the newspapers or magazines are charged to~~  
2                    ~~the person."~~  
3                    **SECTION 3.** This act becomes effective January 1, 2018.