

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 1202

Short Title: Sole Proprietors/Workers' Comp.

(Public)

---

Sponsors: Representatives Anderson; and R. Hunter.

---

Referred to: Commerce.

---

April 12, 1989

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT CONTRACTORS ARE NOT REQUIRED TO  
2 PROVIDE WORKERS' COMPENSATION BENEFITS FOR EMPLOYEES OF  
3 SOLE PROPRIETORS, IF THE SOLE PROPRIETOR HAD NO EMPLOYEES  
4 WHEN THE CONTRACT WAS SUBLETTED; AND TO EXEMPT SOLE  
5 PROPRIETORS WITH NO EMPLOYEES FROM THE REQUIREMENT OF  
6 COMPLIANCE WITH G.S. 97-93.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 97-19 reads as rewritten:

10 "**§ 97-19. Liability of principal contractors; certificate that subcontractor has**  
11 **complied with law; right to recover compensation of those who would**  
12 **have been liable; order of liability.**

13 Any principal contractor, intermediate contractor, or subcontractor who shall sublet  
14 any contract for the performance of any work without requiring from such subcontractor  
15 or obtaining from the Industrial Commission a certificate, issued by the Industrial  
16 Commission, stating that such subcontractor has complied with G.S. 97-93 hereof, shall  
17 be liable, irrespective of whether such subcontractor has regularly in service less than  
18 four employees in the same business within this State, to the same extent as such  
19 subcontractor would be if he were subject to the provisions of this Article for the  
20 payment of compensation and other benefits under this Article on account of the injury  
21 or death of any such subcontractor, any principal or partner of such subcontractor or any  
22 employee of such subcontractor due to an accident arising out of and in the course of the  
23 performance of the work covered by such subcontract. If the principal contractor,  
24 intermediate contractor or subcontractor shall obtain such certificate at the time of

1 subletting such contract to subcontractor, he shall not thereafter be held liable to any  
2 such subcontractor, any principal or partner of such subcontractor, or any employee of  
3 such subcontractor for compensation or other benefits under this Article. If the  
4 subcontractor is a sole proprietor and has no employees at the time of the subletting of  
5 such contract, the principal contractor, intermediate contractor, or subcontractor  
6 subletting the contract shall not thereafter be held liable for compensation or other  
7 benefits under this Article to any person hired by the sole proprietor after the subletting  
8 of the contract. Subcontractors who are sole proprietors and who have no employees  
9 are not required to comply with G.S. 97-93. The Industrial Commission, upon demand  
10 shall furnish such certificate, and may charge therefor the cost thereof, not to exceed  
11 twenty-five cents (25¢).

12 Any principal contractor, intermediate contractor, or subcontractor paying  
13 compensation or other benefits under this Article, under the foregoing provisions of this  
14 section, may recover the amount so paid from any person, persons, or corporation who  
15 independently of such provision, would have been liable for the payment thereof.

16 Every claim filed with the Industrial Commission under this section shall be  
17 instituted against all parties liable for payment, and said Commission, in its award, shall  
18 fix the order in which said parties shall be exhausted, beginning with the immediate  
19 employer.

20 The principal or owner may insure any or all of his contractors and their employees  
21 in a blanket policy, and when so insured such contractor's employees will be entitled to  
22 compensation benefits regardless of whether the relationship of employer and employee  
23 exists between the principal and the contractor."

24 Sec. 2. This act is effective upon ratification.