

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 273\***

Short Title: Adverse Reactions to Smallpox Vaccination. (Public)

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Sponsors: Representatives Glazier, Warner, Lucas, Goodwin (Primary Sponsors); G. Allen, Bordsen, Carney, Dickson, England, McLawhorn, and Munford.

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Referred to: Judiciary IV.

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March 6, 2003

A BILL TO BE ENTITLED

1 AN ACT TO ENSURE THAT STATE EMPLOYEES WHO VOLUNTEER FOR  
2 VACCINATION AGAINST SMALLPOX INCIDENT TO THE  
3 ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH  
4 PROFESSIONALS UNDER SECTION 304 OF THE FEDERAL HOMELAND  
5 SECURITY ACT OF 2002 AND ANY FAMILY MEMBERS LIVING IN THE  
6 HOMES OF THESE VACCINATED EMPLOYEES WILL BE ABLE TO  
7 RECOVER FOR ANY ADVERSE MEDICAL REACTIONS DUE TO THE  
8 VACCINATION.  
9

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 135-40.6(8) reads as rewritten:

12 "(8) Other Covered Charges. –

13 ...

14 u. Treatment of adverse reactions to vaccinations undertaken as  
15 smallpox countermeasures: Necessary medical services  
16 provided to a covered individual for infection with smallpox,  
17 infection with vaccinia, or any adverse medical reaction due to  
18 the vaccination."

19 **SECTION 2.** G.S. 97-53 reads as rewritten:

20 **"§ 97-53. Occupational diseases enumerated; when due to exposure to chemicals.**

21 The following diseases and conditions only shall be deemed to be occupational  
22 diseases within the meaning of this Article:

23 ...

24 (29) Infection with smallpox, infection with vaccinia, or any adverse  
25 medical reaction when the infection or adverse reaction is due to the  
26 employee voluntarily receiving in employment vaccination against  
27 smallpox incident to the Administration of Smallpox Countermeasures  
28 by Health Professionals, section 304 of the Homeland Security Act,

1                   Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C  
2                   § 233(p)).

3                   ...."

4                   **SECTION 3.** Article 31 of Chapter 143 of the General Statutes is amended  
5 by adding a new section to read:

6                   "**§ 143-300.1A. Claims arising from certain smallpox vaccinations of State**  
7                   **employees.**

8                   The North Carolina Industrial Commission shall have jurisdiction to hear and  
9                   determine claims in accordance with the procedures set forth in this Article made  
10                   against the State by a person who is a family member living in the home of a State  
11                   employee who voluntarily receives in employment vaccination against smallpox  
12                   incident to the Administration of Smallpox Countermeasures by Health Professionals,  
13                   section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be  
14                   codified at 42 U.S.C. § 233(p)) when the person contracts an infection with smallpox or  
15                   an infection with vaccinia or has any adverse medical reaction due to the vaccination. A  
16                   person covered by this section shall be entitled to recover from the State damages  
17                   incurred by the person that are directly attributable to the vaccination of the State  
18                   employee under this section. No showing of negligence is required under this section.  
19                   The provisions of G.S 143-299.1 shall not apply to claims made under this section, and  
20                   contributory negligence is not a defense for claims under this section. Damages awarded  
21                   under this section shall be paid in accordance with G.S. 143-291(a1) and shall be  
22                   subject to the same limits as those which apply to tort claims under this Article."

23                   **SECTION 4.** Article 3 of Chapter 126 of the General Statutes is amended by  
24 adding a new section to read:

25                   "**§ 126-8.4. No sick leave taken for absences by State employees resulting from**  
26                   **adverse reactions to vaccination of certain health professionals against**  
27                   **smallpox.**

28                   (a) Absence from work by a State employee shall not count against the  
29                   employee's sick leave, and the employee's salary shall continue during the absence when  
30                   the employee voluntarily receives in employment vaccination against smallpox incident  
31                   to the Administration of Smallpox Countermeasures by Health Professionals, section  
32                   304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified  
33                   at 42 U.S.C. § 233(p)) and the absence is due to the employee having an adverse  
34                   medical reaction resulting from the vaccination.

35                   (b) Absence from work by a State employee shall not count against the  
36                   employee's sick leave, and the employee's salary shall continue during the absence when  
37                   the employee is a family member living in the home of the person who voluntarily  
38                   receives in employment vaccination against smallpox incident to the Administration of  
39                   Smallpox Countermeasures by Health Professionals, section 304 of the Homeland  
40                   Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p))  
41                   and the absence is due to the employee having an adverse medical reaction resulting  
42                   from the vaccination."

43                   **SECTION 5.** This act is effective when it becomes law.