

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 320

Short Title: Tech. Changes/Empl. Sec.

(Public)

Sponsors: Senator Smith.

Referred to: Manufacturing and Labor.

March 27, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES TO THE EMPLOYMENT SECURITY LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-4(t)(5) reads as rewritten:

"(5) Privileged Status of Letters and Reports and Other Information Relating to Administration of this Chapter. – All letters, reports, communication, or any other matters, either oral or written, including any testimony at any hearing, from the employer or employee to each other or to the Commission or any of its agents, representatives, or employees, which letters, reports, or other communication shall have been written, sent, delivered, or made in connection with the requirements of the administration of this Chapter, shall be absolutely privileged communication in any civil or criminal proceedings except proceedings pursuant to or involving the administration of this Chapter and except proceedings involving child support and only for the purpose of establishing the payment and amount of unemployment compensation benefits. Nothing in this subsection shall be construed to prohibit the Commission, upon written request and on a reimbursable basis only, from disclosing information to any person from the records of an adjudication or proceeding before an appeals referee, deputy commissioner, or other hearing officer by whatever name called, compiled for the purpose of resolving issues raised pursuant to the Employment Security Law."

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1           Sec. 2. G.S. 96-8 is amended by adding the following new subdivision to  
2 read:

3           "(26) If two or more related corporations concurrently employ the same  
4           individual and compensate the individual through a common  
5           paymaster that is one of the related corporations, each related  
6           corporation shall be considered to have paid as remuneration to the  
7           individual only the amounts actually disbursed by it to the individual  
8           and shall not be considered to have paid as remuneration to the  
9           individual amounts actually disbursed to the individual by another of  
10           the related corporations."

11           Sec. 3. G.S. 96-9(a) is amended by adding the following new subdivision to  
12 read:

13           "(7) Effective with the quarter ending March 31, 1992, every employer  
14           with 250 or more employees, and every person or organization that, as  
15           agent, reports wages on a total of 250 or more employees on behalf of  
16           one or more subject employers, shall file that portion of the  
17           'Employer's Quarterly Tax and Wage Report' that contains the name,  
18           social security number, and gross wages of each individual in  
19           employment on magnetic tapes or diskettes in a format prescribed by  
20           the Commission."

21           Sec. 4. G.S. 96-9(c)(2) reads as rewritten:

22           "(2) Charging of benefit payments. –

23           a.       Benefits paid shall be allocated to the account of each base  
24           period employer in the proportion that the base period wages  
25           paid to an eligible individual in any calendar quarter by each  
26           such employer bears to the total wages paid by all base period  
27           employers during the base period, except as hereinafter  
28           provided in paragraphs b, c, and d of this subdivision, G.S. 96-  
29           9(d)(2)c, and 96-12(e)G. The amount so allocated shall be  
30           multiplied by one hundred twenty percent (120%) and charged  
31           to that employer's account. Benefits paid shall be charged to  
32           employers' accounts upon the basis of benefits paid to claimants  
33           whose benefit years have expired.

34           b.       Any benefits paid to any claimant under a claim filed for a period  
35           occurring after the date of such separations as are set forth in this  
36           paragraph and based on wages paid prior to the date of (i) the leaving  
37           of work by the claimant without good cause attributable to the  
38           employer; (ii) the discharge of claimant for misconduct in connection  
39           with his work; (iii) the discharge of the claimant for substantial fault as  
40           that term may be defined in G.S. 96-14; (iv) the discharge of the  
41           claimant solely for a bona fide inability to do the work for which he  
42           was hired but only where the claimant was hired pursuant to a job  
43           order placed with a local office of the Commission for referrals to  
44           probationary employment (with a probationary period no longer than

1 100 days), which job order was placed in such circumstances and  
2 which satisfies such conditions as the Commission may by regulation  
3 prescribe and only to the extent of the wages paid during such  
4 probationary employment; (v) separations made disqualifying under  
5 G.S. 96-14(2B) and (6A); or (vi) separation due to leaving for  
6 disability or health condition shall not be charged to the account of the  
7 employer by whom the claimant was employed at the time of such  
8 separation; provided, however, said employer promptly furnishes the  
9 Commission with such notices regarding any separation of the  
10 individual from work as are or may be required by the regulations of  
11 the Commission.

12 No benefit charges shall be made to the account of any  
13 employer who has furnished work to an individual who,  
14 because of the loss of employment with one or more other  
15 employers, becomes eligible for partial benefits while still being  
16 furnished work by such employer on substantially the same  
17 basis and substantially the same amount as had been made  
18 available to such individual during his base period whether the  
19 employments were simultaneous or successive; provided, that  
20 such employer makes a written request for noncharging of  
21 benefits in accordance with Commission regulations and  
22 procedures.

23 No benefit charges shall be made to the account of any  
24 employer where benefits are paid as a result of a decision by an  
25 Adjudicator, Appeals Referee or the Commission if such  
26 decision to pay benefits is ultimately reversed; nor shall any  
27 such benefits paid be deemed to constitute an overpayment  
28 under G.S. 96-18(g)(2), the provisions thereof notwithstanding.  
29 Provided, an overpayment of benefits paid shall be established  
30 in order to provide for the waiting period required by G.S. 96-  
31 13(c).

32 c. Any benefits paid to any claimant who is attending a vocational  
33 school or training program as provided in G.S. 96-13(a)(3) shall  
34 not be charged to the account of the base period employer(s).

35 d. Any benefits paid to any claimant under the following  
36 conditions shall not be charged to the account of the base period  
37 employer(s):

- 38 1. The benefits are paid for unemployment due directly to a  
39 major natural disaster, and
- 40 2. The President has declared the disaster pursuant to the  
41 Disaster Relief Act of 1970, 42 USCA 4401, **et seq.**, and
- 42 3. The benefits are paid to claimants who would have been  
43 eligible for disaster unemployment assistance under this

- 1 Act, if they had not received unemployment insurance  
2 benefits with respect to that unemployment.
- 3 e. 1. Any benefits paid to any claimant which are  
4 based on previously uncovered employment which are  
5 reimbursable by the federal government shall not be  
6 charged to the experience rating account of any  
7 employer.
- 8 2. For purposes of this paragraph previously uncovered  
9 employment for which benefits are reimbursable by the  
10 federal government means services performed before  
11 July 1, 1978, in the case of a week of unemployment  
12 beginning before July 1, 1978, or before January 1, 1978,  
13 in the case of a week of unemployment beginning after  
14 July 1, 1978, and to the extent that assistance under Title  
15 II of the Emergency Jobs and Unemployment Assistance  
16 Act of 1974 (SUA) was not paid to such individuals on  
17 the basis of such service."
- 18 Sec. 5. This act is effective upon ratification.