

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 735

Short Title: Ready for Work/UI Drug Testing. (Public)

Sponsors: Representatives H. Warren, Cleveland, Hager, and Lewis (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Commerce and Job Development.

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCLUDE PERIODIC DRUG TESTING AMONG THE CONDITIONS  
3 REQUIRED FOR ELIGIBILITY TO RECEIVE UNEMPLOYMENT INSURANCE  
4 BENEFITS IN ORDER TO ENSURE THAT RECIPIENTS ARE ABLE AND  
5 AVAILABLE TO WORK.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 96-13 is amended by adding a new subsection to read:

8 "§ 96-13. Benefit eligibility conditions.

9 (a) An unemployed individual shall be eligible to receive benefits with respect to any  
10 week only if the Commission finds that –

11 ...

12 (2a) Upon the initial filing of a claim for unemployment benefits, the individual  
13 must submit to and pass a drug test to establish that the individual is able and  
14 available for work, providing the former employer agrees to pay for the drug  
15 test. Should the employer decline to pay for drug testing, the claim may  
16 proceed through regular eligibility procedures.

17 a. An employer may request and pay for a drug test at the appeal stage  
18 of a claim for benefits.

19 b. A claimant may refute the results of a positive drug test by  
20 submitting to a second drug test, at the claimant's own expense, at a  
21 State-approved testing facility. The claimant may be eligible for  
22 benefits upon presentation and acceptance of the new test results if  
23 that test is negative.

24 c. All claimants who are awarded benefits are automatically subject to  
25 submitting to random drug tests that may be required during such  
26 time as the claimant is receiving benefits. The cost of the drug test  
27 will be deducted from the last check of a claimant who fails the  
28 random drug test. All benefits will be suspended until such time as  
29 one or more of the conditions in sub-subdivision g. of subdivision  
30 (2a) of this subsection are met. The State is responsible for the cost  
31 of drug testing claimants who successfully pass the test.

32 d. A claimant who fails the random drug test may challenge the test  
33 results by submitting to and paying for a second drug test from a  
34 State-approved testing facility within 48 hours or at the earliest  
35 availability of the testing facility, not to exceed 72 hours. The



- 1 claimant's benefits will resume upon presentation and acceptance of  
2 the new test results if the claimant tests negative.
- 3 e. If an individual fails a pre-hire or post-offer drug test as required by a  
4 prospective employer as a prerequisite to hiring, or refuses to submit  
5 to a drug test, the claimants benefits will be suspended until such  
6 time as one or more of the conditions in sub-subdivision g. of  
7 subdivision (2a) of this subsection are met. The employer is required  
8 to report to the Commission the name and contact information of any  
9 job applicant currently receiving unemployment benefits who fails or  
10 refuses to take the drug test.
- 11 f. A claimant who is denied benefits on the basis of drug test results  
12 may reapply but will be required to submit to and pay for a new drug  
13 test. Any disqualification resulting from a failed drug test may be  
14 adjudicated pursuant to G.S. 96-15 only on the basis that the drug test  
15 was in error or the period of disqualification was not imposed in  
16 connection with a failed drug test.
- 17 g. Notwithstanding the provisions of sub-subdivisions a. through e. of  
18 this subdivision, an individual is not disqualified for benefits based  
19 on a failure to successfully pass a drug test as required by this  
20 subsection if, on the basis of evidence presented by the individual,  
21 the Commission finds any of the following:
- 22 1. The individual is participating satisfactorily in a treatment  
23 plan for drug or alcohol abuse.
- 24 2. The failure to pass the drug test is found to have been caused  
25 by the lawful use of a drug prescribed by a licensed physician  
26 as medically necessary for that individual.
- 27 3. The individual submits to and tests negatively for drug abuse.  
28 The testing must be done at a State-approved agency and paid  
29 for by the claimant. A claimant who refuses to submit to a  
30 drug test is automatically ineligible to receive unemployment  
31 benefits until such time as the claimant submits to and test  
32 negatively for drugs.
- 33 h. The Commission shall adopt rules to carry out the purposes of this  
34 subsection. At a minimum, the rules adopted by the Commission  
35 shall provide for the following:
- 36 1. A listing of acceptable drug test laboratories from which an  
37 individual may obtain drug testing.
- 38 2. The manner in which drug test results are to be received and  
39 reviewed by the Commission.
- 40 i. For the purpose of this subsection, the term "drug test" refers to a test  
41 that contains at least a nine-drug panel that test for one or more of the  
42 following substances:
- 43 1. Amphetamines.
- 44 2. Cocaine.
- 45 3. Opiates.
- 46 4. Barbiturates.
- 47 5. Cannabinoids (THC).
- 48 6. Benzodiazepines.
- 49 7. Phencyclidine.
- 50 8. Methadone.
- 51 9. Propoxyphene."

1           **SECTION 2.** This act is effective when it becomes law and applies to claims made  
2 on or after that date.