

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS45329-TMx-6A (03/16)

Short Title: UI and Workers' Comp for Newsprint Employees. (Public)

Sponsors: Senators Rucho and Apodaca (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE ALL EMPLOYEES OF NEWS AND ADVERTISING EMPLOYERS
3 WITH COVERAGE FOR UNEMPLOYMENT INSURANCE AND WORKERS'
4 COMPENSATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 96-1 reads as rewritten:

7 "§ 96-1. Title and definitions.

8 ...

9 (b) Definitions. – The following definitions apply in this Chapter:

10 ...

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

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

- 14 1. Service to a governmental unit, unit.
- 15 2. Service to a nonprofit organization, or organization.
- 16 3. Service to an Indian tribe as described in 3306(c)(7) and
17 3306(c)(8) of the Code.
- 18 4. Service described in section 3306(c)(15)(A) or (B) of the
19 Code involving delivery or distribution of newspapers or
20 shopping news or involving the sale of newspapers or
21 magazines.

22 b. Exclusions. – The term excludes all of the following:

- 23 1. Service performed by an independent contractor.
- 24 2. Service performed for a governmental entity or nonprofit
25 organization under 3309(b) and 3309(c) of the Code.
- 26 3. Service by one or more of the following individuals if the
27 individual is authorized to exercise independent judgment and
28 control over the performance of the work and is compensated
29 solely by way of commission:
 - 30 A. A real estate broker, as defined in G.S. 93A-2.
 - 31 B. A securities salesman, as defined in G.S. 78A-2.

32"

33 SECTION 2. G.S. 97-2 reads as rewritten:

34 "§ 97-2. Definitions.

35 When used in this Article, unless the context otherwise requires:

36 ...



* D R S 4 5 3 2 9 - T M X - 6 A *

1 (2) Employee. – The term "employee" means every person engaged in an
2 employment under any appointment or contract of hire or apprenticeship,
3 express or implied, oral or written, including aliens, and also minors,
4 whether lawfully or unlawfully employed, but excluding persons whose
5 employment is both casual and not in the course of the trade, business,
6 profession, or occupation of his employer, and as relating to those so
7 employed by the State, the term "employee" shall include all officers and
8 employees of the State, including such as are elected by the people, or by the
9 General Assembly, or appointed by the Governor to serve on a per diem,
10 part-time or fee basis, either with or without the confirmation of the Senate;
11 as relating to municipal corporations and political subdivisions of the State,
12 the term "employee" shall include all officers and employees thereof,
13 including such as are elected by the people. The term "employee" shall
14 include members of the North Carolina National Guard while on State active
15 duty under orders of the Governor and members of the North Carolina State
16 Defense Militia while on State active duty under orders of the Governor. The
17 term "employee" shall include deputy sheriffs and all persons acting in the
18 capacity of deputy sheriffs, whether appointed by the sheriff or by the
19 governing body of the county and whether serving on a fee basis or on a
20 salary basis, or whether deputy sheriffs serving upon a full-time basis or a
21 part-time basis, and including deputy sheriffs appointed to serve in an
22 emergency, but as to those so appointed, only during the continuation of the
23 emergency. The sheriff shall furnish to the board of county commissioners a
24 complete list of all deputy sheriffs named or appointed by him immediately
25 after their appointment and notify the board of commissioners of any
26 changes made therein promptly after such changes are made. Any reference
27 to an employee who has been injured shall, when the employee is dead,
28 include also the employee's legal representative, dependents, and other
29 persons to whom compensation may be payable: Provided, further, that any
30 employee, as herein defined, of a municipality, county, or of the State of
31 North Carolina, while engaged in the discharge of the employee's official
32 duty outside the jurisdictional or territorial limits of the municipality, county,
33 or the State of North Carolina and while acting pursuant to authorization or
34 instruction from any superior officer, shall have the same rights under this
35 Article as if such duty or activity were performed within the territorial
36 boundary limits of their employer.

37 Every executive officer elected or appointed and empowered in
38 accordance with the charter and bylaws of a corporation shall be considered
39 as an employee of such corporation under this Article.

40 Any such executive officer of a corporation may, notwithstanding any
41 other provision of this Article, be exempt from the coverage of the
42 corporation's insurance contract by such corporation's specifically excluding
43 such executive officer in such contract of insurance, and the exclusion to
44 remove such executive officer from the coverage shall continue for the
45 period such contract of insurance is in effect, and during such period such
46 executive officers thus exempted from the coverage of the insurance contract
47 shall not be employees of such corporation under this Article.

48 All county agricultural extension service employees who do not receive
49 official federal appointments as employees of the United States Department
50 of Agriculture and who are field faculty members with professional rank as
51 designated in the memorandum of understanding between the North

1 Carolina Agricultural Extension Service, North Carolina State University, A
2 & T State University, and the boards of county commissioners shall be
3 deemed to be employees of the State of North Carolina. All other county
4 agricultural extension service employees paid from State or county funds
5 shall be deemed to be employees of the county board of commissioners in
6 the county in which the employee is employed for purposes of workers'
7 compensation.

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

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

16 Any sole proprietor or partner of a business or any member of a limited
17 liability company may elect to be included as an employee under the
18 workers' compensation coverage of such business if he is actively engaged in
19 the operation of the business and if the insurer is notified of his election to
20 be so included. Any such sole proprietor or partner or member of a limited
21 liability company shall, upon such election, be entitled to employee benefits
22 and be subject to employee responsibilities prescribed in this Article.

23 ~~Employee~~"Employee" shall include an authorized pickup firefighter of
24 the North Carolina Forest Service of the Department of Agriculture and
25 Consumer Services when that individual is engaged in emergency fire
26 suppression activities for the North Carolina Forest Service. As used in this
27 section, "authorized pickup firefighter" means an individual who has
28 completed required fire suppression training as a wildland firefighter and
29 who is available as needed by the North Carolina Forest Service for
30 emergency fire suppression activities, including immediate dispatch to
31 wildfires and standby for initial attack on fires during periods of high fire
32 danger.

33 ~~It shall be a rebuttable presumption that the term "employee" shall not~~
34 ~~include any person performing services in the sale of newspapers or~~
35 ~~magazines to ultimate consumers under an arrangement whereby the~~
36 ~~newspapers or magazines are to be sold by that person at a fixed price and~~
37 ~~the person's compensation is based on the retention of the excess of the fixed~~
38 ~~price over the amount at which the newspapers or magazines are charged to~~
39 ~~the person.~~

40"

41 **SECTION 3.** This act is effective when it becomes law.