

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 1178
HOUSE BILL 1447

AN ACT TO AMEND THE EMPLOYMENT SECURITY LAW TO CONFORM WITH FEDERAL REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-17(c), as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by deleting the word "Any" in the first line and substituting the words "Except as provided in subsection (d) of this section, any".

Sec. 2. G.S. 96-17 is amended by adding a new subsection to read:

"(d) I. Definitions. For the purpose of this subsection and when used herein:

- (A) 'Unemployment Compensation' means any compensation found by the Commission to be payable to an unemployed individual under the Employment Security Law of North Carolina (including amounts payable by the Commission pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment) provided, that nothing in this subsection shall be construed to limit the Commission's ability to reduce or withhold benefits, otherwise payable, under authority granted elsewhere in this Chapter including but not limited to reductions for wages or earnings while unemployed and for the recovery of previous overpayments of benefits.
- (B) 'Child Support Obligation' includes only obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.
- (C) 'State or Local Child Support Enforcement Agency' means any agency of this State or a political subdivision thereof operating pursuant to a plan described in subparagraph (B) above.

II. (A) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether the individual owes child support obligations, as defined under subparagraph I(B) of this subsection. If any such individual discloses that he or she owes child support obligations and is determined by the Commission to be eligible for payment of unemployment compensation, the Commission shall notify the State or Local Child Support Enforcement Agency enforcing such obligation that such individual has been determined to be eligible for payment of unemployment compensation.

(B) Upon payment by the State or Local Child Support Enforcement Agency of the processing fee provided for in paragraph IV of this subsection and beginning with any payment of unemployment compensation that, except for the provisions of this subsection, would be made to the individual during the then current benefit year

and more than five working days after the receipt of the processing fee by the Commission, the Commission shall deduct and withhold from any unemployment compensation otherwise payable to an individual who owes child support obligations:

1. the amount specified by the individual to the Commission to be deducted and withheld under this paragraph if neither subparagraph 2 nor subparagraph 3 of this paragraph is applicable; or
2. the amount, if any, determined pursuant to an agreement submitted to the Commission under Section 454(20)(B)(i) of the Social Security Act by the State or Local Child Support Enforcement Agency, unless subparagraph 3 of this paragraph is applicable; or
3. any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to properly served legal process, as that term is defined in Section 462(e) of the Social Security Act.

(C) Any amount deducted and withheld under paragraph (B) of this subdivision shall be paid by the Employment Security Commission to the appropriate State or Local Child Support Enforcement Agency.

(D) The Department of Human Resources and the Commission are hereby authorized to enter into one or more agreements which may provide for the payment to the Commission of the processing fees referred to in subparagraph (B) and the payment to the Department of Human Resources of unemployment compensation benefits withheld, referred to in subparagraph (C), on an open account basis. Where such an agreement has been entered into, the processing fee shall be deemed to have been made and received (for the purposes of fixing the date on which the Commission will begin withholding unemployment compensation benefits) on the date a written authorization from the Department of Human Resources to charge its account is received by the Commission. Such an authorization shall apply to all processing fees then or thereafter (within the then current benefit year) chargeable with respect to any individual name in the authorization. Any agreement shall provide for the reimbursement to the Commission of any start-up costs and the cost of providing notice to the Department of Human Resources of any disclosure required by subparagraph (A). Such an agreement may dispense with the notice requirements of subparagraph (A) by providing for a suitable substitute procedure, reasonably calculated to discover those persons owing child support obligations who are eligible for unemployment compensation payments.

III. Any amount deducted and withheld under paragraph II of this subdivision shall, for all purposes, be treated as if it were paid to the individual as unemployment compensation and then paid by such individual to the State or Local Child Support Enforcement Agency in satisfaction of the individual's child support obligations.

IV. (A) On or before April 1 of 1983 and each calendar year thereafter, the Commission shall set and forward to the Secretary of Human Resources for use in the next fiscal year, a schedule of processing fees for the withholding and payment of unemployment

compensation as provided for in this subsection, which fees shall reflect its best estimate of the administrative cost to the Commission generated thereby.

- (B) At least 20 days prior to the effective date of this act, the Commission shall set and forward to the Secretary of Human Resources an interim schedule of fees which will be in effect until July 1, 1983.
- (C) The provisions of this subsection apply only if arrangements are made for reimbursement by the State or Local Child Support Agency for all administrative costs incurred by the Commission under this subsection attributable to child support obligations enforced by the Agency."

Sec. 3. G.S. 96-12(e)A.(1), as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended to read:

- "(1) 'Extended benefit period' means a period which:
 - (a) begins the third week after a week for which there is an 'on' indicator; and
 - (b) ends with either of the following weeks, whichever occurs later:
 - (I) the third week after the first week for which there is an 'off' indicator; or
 - (II) the 13th consecutive week of such period.

Provided, that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period which was in effect with respect to this State."

Sec. 4. G.S. 96-12(e)A.(2), as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is repealed.

Sec. 5. G.S. 96-12(e)A.(3), as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is repealed.

Sec. 6. G.S. 96-12(e)A.(4) as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by renumbering it as G.S. 96-12(e)A.(2), and by rewriting it to read:

- "(2) There is an 'on indicator' for this State for a week if the Commission determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediate preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this Chapter:
 - a. Equalled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13 weeks and equalled or exceeded five percent (5%), or
 - b. Equalled or exceeded six percent (6%)."

Sec. 7. G.S. 96-12(e)A.(5), as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by renumbering it as G.S. 96-12(e)A.(3) and by rewriting it to read:

- "(3) There is an 'off indicator' for this State for a week if the Commission determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this Chapter:
 - a. was less than one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period

ending in each of the preceding two calendar years, and was less than six percent (6%), or

b. was less than five percent (5%)."

Sec. 8. G.S. 96-12(e)A.(6), as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by renumbering it as G.S. 96-12(e)A.(4) and by substituting the words "subparagraphs (2) and (3)" for the words "subparagraphs (4) and (5)" in the first and second lines and further by inserting the words "for regular compensation" between the words "claims" and "in" in the first line of subparagraph a. thereof.

Sec. 9. G.S. 96-12(e)A., as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by renumbering paragraphs (7) through (11) as paragraphs (5) through (9) respectively.

Sec. 10. G.S. 96-12(e)E., as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by deleting the words "The total" in the first line and substituting "(a) Except as provided in subparagraph (b) hereof, the total".

Sec. 11. G.S. 96-12(e)E. is amended by adding a new subdivision to read: "(b) Notwithstanding any other provisions of this Chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subparagraph, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits."

Sec. 12. G.S. 96-12(e)F.1., as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended to read:

1. "Whenever an extended benefit period is to become effective in this State as a result of an 'on' indicator, or an extended benefit period is to be terminated in this State as a result of an 'off' indicator, the Commission shall make an appropriate public announcement.;" and.

Sec. 13. G.S. 96-12(e)F.2. is amended by deleting the words "subsection A(6)" in the first line and substituting the words "subsection A(4)".

Sec. 14. G.S. 96-12(e)I., as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by deleting the words "a State 'off indicator'" and substituting the words "an 'off indicator'".

Sec. 15. G.S. 96-14, as it appears in the 1981 Supplement to Volume 2C of the General Statutes, is amended by adding a new subsection to read:

"(11) (a) Notwithstanding any other provisions of this Chapter, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall such individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this law (or any applicable Federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work.

(b) For purposes of this subsection, the term 'suitable employment' means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the

individual's average weekly wage as determined for the purposes of the Trade Act of 1974."

Sec. 16. This act shall become effective September 25, 1982.

In the General Assembly read three times and ratified, this the 16th day of June, 1982.