

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 488
HOUSE BILL 950

AN ACT TO PROVIDE THAT AN EMPLOYEE MAY RETAIN THE RIGHTS TO HIS
INDEPENDENTLY CREATED INVENTIONS NOTWITHSTANDING AN
EMPLOYMENT AGREEMENT TO THE CONTRARY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article, 10A, to read:

"Article 10A.

"Inventions Developed by Employee.

"§ 66-57.1. **Employee's right to certain inventions.** — Any provision in an employment agreement which provides that the employee shall assign or offer to assign any of his rights in an invention to his employer shall not apply to an invention that the employee developed entirely on his own time without using the employer's equipment, supplies, facility or trade secret information except for those inventions that (i) relate to the employer's business or actual or demonstrably anticipated research or development, or (ii) result from any work performed by the employee for the employer. To the extent a provision in an employment agreement purports to apply to the type of invention described, it is against the public policy of this State and is unenforceable. The employee shall bear the burden of proof in establishing that his invention qualifies under this section.

"§ 66-57.2. **Employer – rights.** — An employer may not require a provision of an employment agreement made unenforceable under G.S. 66-57.1 as a condition of employment or continued employment. An employer, in an employment agreement, may require that the employee report all inventions developed by the employee, solely or jointly, during the term of his employment to the employer, including those asserted by the employee as nonassignable, for the purpose of determining employee or employer rights. If required by a contract between the employer and the United States or its agencies, the employer may require that full title to certain patents and inventions be in the United States."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1981.