

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-101
HOUSE BILL 1124

AN ACT RELATING TO UNEMPLOYMENT INSURANCE COMPENSATION FOR CERTAIN SEVERELY DISABLED VETERANS DISCHARGED FOR ACTS OR OMISSIONS ATTRIBUTED TO A SERVICE-CONNECTED DISABILITY.

Whereas, the public policy of this State declares economic insecurity due to unemployment as a serious menace to the health, morals, and welfare of the people of this State; and

Whereas, the State recognizes the great sacrifice veterans have endured to protect this country and State; and

Whereas, veterans with service-connected disabilities rated above 60% face great challenges in employment; and

Whereas, veterans with severe service-connected disabilities who wish to work should be encouraged as a matter of State policy to seek gainful employment; and

Whereas, veterans with severe service-connected disabilities may be terminated for cause, through no fault of their own; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-8 is amended by adding a new subdivision to read:

"(8b) 'Severely disabled veteran' means an honorably discharged veteran of the armed forces of the United States who has received a disability rating from the United States Department of Veterans Affairs that meets the disability percentage requirements set forth in 38 CFR 4.16, as amended, if the veteran (i) has a right to apply to the United States Department of Veterans Affairs for compensation based on total disability or individual unemployability, and (ii) has elected to work instead of assert the right to receive compensation from the United States Department of Veterans Affairs based on total disability or individual unemployability.'"

SECTION 2. G.S. 96-14(2) reads as rewritten:

"(2) For the duration of ~~his~~ the individual's unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the Commission that such individual is, at the time such claim is filed, unemployed because he or she was discharged for misconduct connected with ~~his~~ the work. Misconduct connected with the work is defined as conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of ~~his-an~~ employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to ~~his-the~~ employer.



'Discharge for misconduct with the work' as used in this section is defined to include but not be limited to separation initiated by an employer for reporting to work significantly impaired by alcohol or illegal drugs; consuming alcohol or illegal drugs on employer's premises; conviction by a court of competent jurisdiction for manufacturing, selling, or distribution of a controlled substance punishable under G.S. 90-95(a)(1) or G.S. 90-95(a)(2) while in the employ of said employer. This phrase does not include discharge or employer-initiated separation of a severely disabled veteran, as defined in G.S. 96-8, for acts or omissions of the veteran that the Commission determines are attributed to a disability incurred or aggravated in the line of duty during active military service, or to the veteran's absence from work to obtain care and treatment of a disability incurred or aggravated in the line of duty during active military service."

SECTION 3. G.S. 96-14 is amended by adding a new subdivision to read:

"(2c) Discharge or employer-initiated separation of a severely disabled veteran, as defined in G.S. 96-8, for acts or omissions of the veteran that the Commission determines are attributed to a disability incurred or aggravated in the line of duty during active military service, or to the veteran's absence from work to obtain care and treatment of a disability incurred or aggravated in the line of duty during active military service, shall not disqualify the veteran from receiving benefits under the substantial fault provisions of subdivision (2a) of this section for any period of time."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 4:22 p.m. this 15th day of June, 2009