

Labor and Employment

See full summary documents for additional detail

H39 - Labor/Up Amusement Device Penalties (SL 2015-152)

S.L. 2015-152 increases the civil and criminal penalties for the violation of safety laws pertaining to amusement devices, and directs the Department of Labor to study the need for regulation of zip-lines.

This act also creates a new Class E felony for willful violations of the Amusement Device Safety Act (Act) that results in serious injury or death.

The new Class E felony for willful violations of the Act became effective December 1, 2015, and applies to violations occurring on or after that date. Other changes to the statute governing violations, civil penalties, appeal, and criminal penalties under the Act became effective July 16, 2015, and apply to violations occurring on or after that date. The remainder of this act became effective July 16, 2015.

H44 - Local Government Regulatory Reform 2015, Sec. 3.5: Well Drilling Changes (SL 2015-246)

Sec. 3.5 of S.L. 2015-246 does all of the following:

- Clarifies that when a well contractor obtains a permit to drill a well, that permit includes authorization for the electrical work needed to install the well that the well contractor is licensed to perform. Effective December 1, 2015.
- Requires the Well Contractors Certification Commission to allow well contractors with valid licenses from other states to sit, without delay, for licensure in this State upon satisfactory proof that the qualifications of the other state are equal to holders of similar licenses in this State. Effective December 1, 2015.
- Allows any property owner to request and receive a permit for an irrigation water well to be used for irrigation or other non-potable purposes, which may not be interconnected to the plumbing connected to any public water system, unless the public water system is being assisted by the Local Government Commission. Effective August 1, 2016.
- Effective August 1, 2016, for undeveloped and unimproved property, allows a property owner to obtain a permit for a private drinking water well to serve the property and for as long as that well is operational, the property may not be required to connect to a public water system, unless one of the following apply:
 - The private drinking water well has failed and cannot be repaired.
 - The water is contaminated.
 - The public water system is being assisted by the Local Government Commission.
 - The public water system is in the process of expanding or repairing the public water system and is actively making progress to having water lines installed directly available to provide water service to that property within the 24 months. (Expires July 1, 2017.)

H97 - 2015 Appropriations Act, Sec. 15.11: Workforce Development Boards/Changes to Conform with Federal Law (SL 2015-241)

Sec. 15.11 of S.L. 2015-241 amends various general statutes to do the following: (i) change the name of the Commission on Workforce Development to the NCWorks Commission; (ii) require the NCWorks Commission to develop performance accountability measures and fiscal control and fund accounting procedures for local workforce development boards; (iii) increase the membership of the NCWorks Commission from 25 to 33 members; and (iv) make other conforming changes required pursuant to the federal Workforce Innovation and Opportunity Act, which became effective July 1, 2015.

This section became effective July 1, 2015.

H97 - 2015 Appropriations Act, Sec. 15.13A: Industrial Commission Study Implementing Drug Formulary in Workers' Compensation Claims (SL 2015-241)

Sec. 15.13A of S.L. 2015-241 directs the Industrial Commission to study the implementation of a drug formulary in workers' compensation claims filed by State employees. By April 1, 2016, the Industrial Commission must report its findings, including any recommendations on the implementation of a drug formulary in workers' compensation claims filed by State employees, to the chairs of the House of Representatives Health Committee and the Senate Health Care Committee and the Fiscal Research Division.

This section became effective July 1, 2015.

H97 - 2015 Appropriations Act, Sec. 15.13B: Industrial Commission/Reimbursement for Prescription Drugs and Professional Pharmaceutical Services (SL 2015-241)

Sec. 15.13B of S.L. 2015-241 amends the law related to drug reimbursement in workers' compensation as follows:

- By adding prescribed over-the-counter drugs as one of the items for which the reimbursement amount must be established by law. Prior to this change, only the reimbursement amount for prescription drugs and professional pharmaceutical services was established by law.
- By setting the reimbursement amount for prescription drugs, prescribed over-the-counter drugs, and professional pharmaceutical services as the lesser of 95% of the average wholesale price of the product, calculated on a per unit basis, as of the date of dispensing, or the reimbursement amount provided for in an agreement between the dispensing health care provider and the payor employer or workers' compensation insurance carrier.
- By requiring all health care providers seeking reimbursement for prescription drugs, prescribed over-the-counter drugs, and professional pharmaceutical services to comply with the requirements for reimbursement in G.S. 97-26.2(b). Prior to this change, only a physician was required to comply with the requirements for reimbursement.

This section became effective October 1, 2015.

H97 - 2015 Appropriations Act, Sec. 30.18: State Workers' Compensation Reform (SL 2015-241)

Sec. 30.18 rewrites Article 63 of Chapter 143 of the General Statutes to provide for centralized coordination of the workplace safety, health, and workers' compensation benefits programs, for State agencies, The University of North Carolina, and the Office of Administrative Hearings. Further, this section amends G.S. 143-166.14 to provide that a State employee remains eligible for salary payments, notwithstanding partial or total incapacity, if the employee's injury results or arises from an episode of violence or resistance, or due to a specialized hazard that occurs while the employee is performing official duties. After two years, the employee becomes subject to the provisions of the Workers' Compensation Act. The time period for which the employee receives salary continuation under G.S. 143-166.14 will be deducted from the person's total eligibility for workers' compensation benefits under Chapter 97 of the General Statutes. "Salary" is re-defined as the total base pay of the person reflected on the person's salary statement, not including overtime pay, shift differential pay, holiday pay, or other additional earnings to which the person may have been eligible prior to such incapacity.

This section became effective July 1, 2015.

H97 - 2015 Appropriations Act, Sec. 26.2: Personal Services Contracts/Temporary Solutions (SL 2015-241)

Sec. 26.2 of S.L. 2015-241, as amended by Sec. 74 of S.L. 2015-264, requires that personal services contracts, including information technology personal contracts, entered into by Executive Branch agencies are subject to the same requirements and procedures as ordinary services contracts, preempting various administrative rules that previously exempted personal services from those requirements. This requirement does not apply to the engagement of experts or expert witnesses who are involved in the planning, prosecution, or defense of any litigation, by the Department of Justice, the Governor, State agencies, or institutions.

This section also requires Executive Branch State agencies that utilize temporary employees to perform work that is not information technology-related to employ those employees through the Temporary Solutions Program administered by the Office of State Human Resources. This requirement applies to Council of State and non-Council of State agencies and builds on a requirement contained in an executive order issued in February of 2013 that imposed a similar requirement but only on non-Council of State Executive Branch agencies.

This section became effective July 1, 2015.

H254 - Protect National Guard Reemployment Rights (SL 2015-161)

S.L. 2015-161 expands employment protections granted to members of the North Carolina National Guard to include members of the National Guards of other states.

This act became effective October 1, 2015, and applies to denials of initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on or after that date.

H495 - Office of State Human Resources Modernization/Technical Changes (SL 2015-260)

S.L. 2015-260 makes changes to the State's system of Human Resources Management, including:

- Amending the definition of "career State employee," effective October 1, 2015, and applies to employees hired before, on or after that date.
- Deleting language that prohibited the State Human Resources Commission from establishing an incentive pay program.
- Changing certain reporting requirements from quarterly to annually.
- Making other organizational and employee policy changes, effective October 1, 2015, and applies to employees separated on or after that date.

Except as otherwise provided, this act became effective September 30, 2015.

H765 - Regulatory Reform Act of 2015, Sec. 2.3: Amend Definition of "Employee" Under the Workers' Compensation Act to Exclude Volunteers and Officers of Certain Nonprofit Corporations and Associations (SL 2015-286)

Sec. 2.3 of S.L. 2015-286 amends the definition of "employee" under the Workers' Compensation Act to exclude volunteers and officers of certain nonprofit corporations and associations. The amended definition provides that an "employee" does not include a person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit, who performs voluntary service receiving no remuneration other than reasonable reimbursement for expenses. The definition applies to nonprofits subject to the following acts: the Unit Ownership Act, the Condominium Act, the Planned Community Act, the Nonprofit Corporation Act, the Uniform Unincorporated Nonprofit Association Act, and any organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. The amendment does not prohibit nonprofit corporations from providing workers' compensation benefits. The amendment clarifies that it does not include certain volunteer public safety workers that are described in the current law.

This section became effective October 22, 2015.

S15 - Unemployment Insurance Law Changes (SL 2015-238)

S.L. 2015-238 makes numerous changes to the unemployment insurance laws as requested by the Division of Employment Security (DES) and recommended by the Joint Legislative Oversight Committee on Unemployment Insurance. The legislation combines three bills recommended by the Joint Legislative Oversight Committee on Unemployment Insurance into one bill.

- Part I of the act enhances the ability of DES to promote program integrity through the use of business intelligence and data analytics within the State's Government Data Analytics Center. The

changes made by this Part became effective September 10, 2015. This Part also requires DES to make periodic reports on its program integrity efforts.

- Part II of the act makes several administrative and programmatic changes requested by DES. Those changes include the use of photo identification to receive unemployment insurance benefits, the ability of DES to use attachment and garnishment of a delinquent employer's credit card receipts to satisfy a judgment for unpaid employment taxes, and the modification of work search requirements. The changes made in this Part have various effective dates. Please see the complete summary for a more comprehensive explanation of the changes and their effective dates.
- Part III of the act confirms the Governor's appointments to the Board of Review, ratifies past unemployment appeal decisions, creates staggered terms for the members of the Board, and provides more clarity to the Board appointment process. This Part also directs the Program Evaluation Division to study the value provided to the State by the Board of Review. The changes made by this Part became effective September 10, 2015.
- Part IV of the act makes changes related to the unemployment insurance tax rate schedules. One of the most notable tax changes is a suspension of the 20% surcharge for the tax year 2016 if the amount in the State's account in the Unemployment Trust Fund equals or exceeds \$1 billion by March 1, 2016. The trigger is projected to be met by March 1st. The 20% surcharge generates approximately \$240 million. It also will begin charging benefits to an employer's account on a quarterly basis. The changes made in this Part have various effective dates. Please see the full summary for a more comprehensive explanation of the changes and their effective dates.

S429 - Labor/2015 Technical and Conforming Changes (SL 2015-221)

S.L. 2015-221 makes technical and conforming changes to various provisions in Chapter 95 of the General Statutes (Department of Labor and Labor Regulations), including the following:

- Deletes Statistics as one of the Divisions of the Department of Labor and replaces it with Occupational Safety and Health.
- Deletes the requirement that the Governor approve certain organizational decisions of the Commissioner of Labor.
- Repeals the Board of Boiler and Pressure Vessels Rules, makes conforming changes related to that repeal, and gives certain powers of that Board to the Commissioner of Labor.
- Amends language regarding appeals of determinations of noncomplying devices in three statutes (for boilers and pressure vessels, elevators, and amusement devices) to provide that actions are final unless the person against whom the action is taken takes exception to the determination within 15 days.
- Deletes statutes related to labor reports to the Governor, certain activities of the Division of Standards and Inspections, and the duties of the Chief Statistician of the Division of Statistics.
- Creates a statutory exception to allow employment of those under 18 years of age at the point-of-sale of alcoholic beverages for off-premises consumption only.

This act became effective August 18, 2015.