

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1392*

Short Title: Fatality & Injury Reports.

(Public)

Sponsors: Representatives Fitch, Barnes, Cunningham, Howard, Sam Hunt, McLaughlin, Payne, H. Hunter; Blue, Albertson, Barnhill, Beard, Black, Bowen, Bowie, Bowman, Brown, Buchanan, Chapin, Colton, N. J. Crawford, Dawkins, Decker, DeVane, Dial, Diamont, Easterling, Ethridge, Fletcher, Fussell, Gamble, Gist, Gottovi, Green, Greenwood, Hackney, Hardaway, Hensley, R. Hunter, Jeffus, Kennedy, Lilley, Lineberry, Luebke, McAllister, McLawhorn, Mercer, Michaux, Miller, Nesbitt, Oldham, Redwine, Stamey, Stewart, Wainwright, Warner, and Wicker.

Referred to: Constitutional Courts, Justice Amendments and Referenda.

May 28, 1992

A BILL TO BE ENTITLED

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2 AN ACT TO REQUIRE EMPLOYERS TO REPORT AT LEAST ANNUALLY ON
3 FATALITIES AND SERIOUS INJURIES IN THE WORKPLACE, TO REQUIRE
4 THE REPORTING OF CERTAIN SAFETY DATA TO THE COMMISSIONER
5 OF LABOR BY VARIOUS AGENCIES, AND TO ENSURE, WHERE
6 APPROPRIATE, THE CONFIDENTIALITY OF DATA RELEASED TO THE
7 COMMISSIONER.

8 The General Assembly of North Carolina enacts:

9 Section. 1. G.S. 95-143 reads as rewritten:

10 "**§ 95-143. Record keeping and reporting.**

11 (a) Each employer shall make available to the Commissioner, or his agents, in
12 such manner as the Commissioner shall require, copies of the same records and reports
13 regarding his activities relating to this Article as are required to be made, kept, or
14 preserved by section 8(c) of the Federal Occupational Safety and Health Act of 1970
15 (P.L. 91-596) and regulations made pursuant thereto.

16 (b) Each employer shall make, keep and preserve and make available to the
17 Commissioner such records regarding his activities relating to this Article as the
18 Commissioner may prescribe by regulation as necessary and appropriate for the

1 enforcement of this Article or for developing information regarding the causes and
2 prevention of occupational accidents and illnesses. In order to carry out the provisions
3 of this section such regulations may include provisions requiring employers to conduct
4 periodic inspections. The Commissioner shall also issue regulations requiring that
5 employers, through posting of notices or other appropriate means, keep the employees
6 informed of their protections and obligations under this Article, including the provisions
7 of applicable standards. The Commissioner shall prescribe regulations requiring
8 employers to maintain accurate records of, and to make ~~periodic~~ reports at least annually
9 on, work-related deaths, injuries and illnesses other than minor injuries requiring only
10 first-aid treatment and which do not involve medical treatment, loss of consciousness,
11 restriction of work or motion, or transfer to another job.

12 (c) The Commissioner shall issue regulations requiring employers to maintain
13 accurate records of employee exposure to potentially toxic materials of [or] harmful
14 physical agents which are required to be monitored or measured under this Article. Such
15 regulations shall provide employees or their representatives with an opportunity to
16 observe such monitoring or measuring, and to have access to the records thereof. Such
17 regulations shall also make appropriate provisions for each employee or former
18 employee to have access to such records as will indicate his own exposure to toxic
19 materials or harmful physical agents. Each employer shall promptly notify any
20 employee who has been or is being exposed to toxic materials or harmful physical
21 agents in concentrations or at levels which exceed those prescribed by an applicable
22 safety and health standard promulgated under this Article and shall inform any
23 employee who is being thus exposed of the corrective action being taken.

24 (d) Any information obtained by the Commissioner or his duly authorized agents
25 under this Article shall be obtained with a minimum burden upon employers, especially
26 those operating small businesses. Unnecessary duplication of efforts in obtaining
27 information shall be reduced to the maximum extent feasible."

28 Sec. 2. G.S. 97-81 reads as rewritten:

29 **"§ 97-81. Blank forms and literature; statistics; safety provisions; accident reports;**
30 **studies and investigations and recommendations to General Assembly; to**
31 **cooperate with other agencies for prevention of injury.**

32 (a) The Commission shall prepare and cause to be printed, and upon request
33 furnish, free of charge to any employee or employer, such blank forms and literature as
34 it shall deem requisite to facilitate or prompt the efficient administration of this Article.

35 (b) The Commission shall tabulate the accident reports received from employers
36 in accordance with G.S. 97-92 and shall publish the same in the annual report of the
37 Commission and as often as it may deem advisable, in such detailed or aggregate form
38 as it may deem best. The name of the employer or employee shall not appear in such
39 publications, and the employers' reports shall be private records of the Commission, and
40 shall not be open for public inspection except for the inspection of the parties directly
41 involved, and only to the extent of such ~~interest-interest~~, and except for inspection by
42 the Department of Labor and other State or federal agencies pursuant to subsections (d)
43 and (e) of this section. These reports shall not be used as evidence against any
44 employer in any suit at law brought by any employee for the recovery of damages.

1 (c) The Commission shall make studies and investigations with respect to safety
2 provisions and the causes of injuries in employments covered by this Article, and shall
3 from time to time make to the General Assembly and to employers and carriers such
4 recommendations as it may deem proper as to the best means of preventing such
5 injuries.

6 (d) In making such studies and investigations the Commission ~~is authorized shall:~~

7 (1) ~~To cooperate~~ Cooperate with any agency of the United States charged
8 with the duty of enforcing any law securing safety against injury in
9 any employment covered by this Article, or with any State agency
10 engaged in enforcing any laws to assure safety for employees, and

11 (2) ~~To permit~~ Permit any such agency to have access to the records of the
12 Commission.

13 In carrying out the provisions of this section the Commission or any officer or
14 employee of the Commission is authorized to enter at any reasonable time upon any
15 premises, tracks, wharf, dock, or other landing place, or to enter any building, where an
16 employment covered by this Article is being carried on, and to examine any tool,
17 appliance, or machinery used in such employment.

18 (e) The Commission shall, upon written request from the Department of Labor,
19 provide from the Commission's records the following information from claims filed by
20 employees, and from employer reports of injury to an employee required by G.S. 97-92:

21 (1) Name and business address of the employer;

22 (2) Type of business of the employer;

23 (3) Date the accident, illness, or injury occurred;

24 (4) Nature of the injury or disease reported; and

25 (5) Whether compensation for disability or medical expenses was paid to
26 the injured employee.

27 Information provided to the Department of Labor pursuant to this subsection, and to
28 other State and federal agencies pursuant to subsection (d) of this section, shall be
29 private and exempt from public inspection to the same extent that records of the
30 Commission are so exempt."

31 Sec. 3. G.S. 97-92(b) reads as rewritten:

32 "(b) The records of the Commission, insofar as they refer to accidents, injuries,
33 and settlements shall not be open to the public, but only to the parties satisfying the
34 Commission of their interest in such records and the right to inspect ~~them.~~ them, and to
35 State and federal agencies pursuant to G.S. 97-81."

36 Sec. 4. Chapter 58 of the General Statutes is amended by adding a new
37 section to read:

38 **"§ 58-36-15.1. Bureau to share information with certain State agencies.**

39 The Bureau shall provide to the Department of Labor information from the Bureau's
40 records indicating each employer's experience modification rating established for the
41 purpose of setting premium rates for workers' compensation insurance. Information
42 provided to the Department of Labor under this section shall include the name of the
43 employer and the employer's most current experience modification rating. The
44 information provided to the Department under this section shall be confidential and not

1 open for public inspection. The Bureau shall be immune from civil liability for
2 erroneous information released by the Bureau pursuant to this section provided that the
3 Bureau acted in good faith and without malicious or willful intent to harm in releasing
4 the erroneous information."

5 Sec. 5. Chapter 58 of the General Statutes is amended by adding a new
6 section to read:

7 **"§ 58-2-225. Commissioner to share information with Department of Labor.**

8 The Commissioner shall provide to the Department of Labor, on an annual basis, the
9 name and business address of every employer whose workers' compensation coverage is
10 provided through the assigned-risk pool pursuant to G.S. 58-36-1. Information provided
11 by the Commissioner to the Department of Labor under this section is confidential and
12 not open for public inspection under G.S. 132-6."

13 Sec. 6. G.S. 130A-385(a) reads as rewritten:

14 "(a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall
15 take charge of the body, make inquiries regarding the cause and manner of death, reduce
16 the findings to writing and promptly make a full report to the Chief Medical Examiner
17 on forms prescribed for that purpose. In cases where the death occurred in the course of
18 the decedent's employment, the medical examiner shall include in the information
19 provided to the Chief Medical Examiner the address or location where the death
20 occurred and the name of the deceased person's employer. Within 30 days of receipt of
21 this information from the medical examiner, the Chief Medical Examiner shall forward
22 to the Commissioner of Labor the cause and manner of death, the address or location
23 where the death occurred, and the name of the deceased person's employer.

24 The Chief Medical Examiner or the county medical examiner is authorized to
25 inspect and copy the medical records of the decedent whose death is under
26 investigation. In addition, in an investigation conducted pursuant to this Article, the
27 Chief Medical Examiner or the county medical examiner is authorized to inspect all
28 physical evidence and documents which may be relevant to determining the cause and
29 manner of death of the person whose death is under investigation, including decedent's
30 personal possessions associated with the death, clothing, weapons, tissue and blood
31 samples, cultures, medical equipment, X rays and other medical images. The Chief
32 Medical Examiner or county medical examiner is further authorized to seek an
33 administrative search warrant pursuant to G.S. 15-27.2 for the purpose of carrying out
34 the duties imposed under this Article. In addition to the requirements of G.S. 15-27.2,
35 no administrative search warrant shall be issued pursuant to this section unless the Chief
36 Medical Examiner or county medical examiner submits an affidavit from the office of
37 the district attorney in the district in which death occurred stating that the death in
38 question is not under criminal investigation.

39 The Chief Medical Examiner shall provide directions as to the nature, character and
40 extent of an investigation and appropriate forms for the required reports. The facilities
41 of the central and district offices and their staff services shall be available to the medical
42 examiners and designated pathologists in their investigations."

43 Sec. 7. This act is effective upon ratification.