

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 53\*  
Corrected Copy 3/10/93  
Committee Substitute Favorable 5/7/93

Short Title: Family and Medical Leave Act.

(Public)

Sponsors:

Referred to:

February 4, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENTITLE EMPLOYEES TO FAMILY AND MEDICAL LEAVE.  
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 95 of the General Statutes is amended by adding a new  
5 Article to read:

6 **"ARTICLE 23.**  
7 **"FAMILY AND MEDICAL LEAVE ACT.**

8 **"§ 95-270. Purpose.**

9 It is the purpose of this Article:

- 10 (1) To balance the demands of the workplace with the needs of families,  
11 and to promote national interests in preserving family integrity;  
12 (2) To entitle employees to take reasonable leave for medical reasons, for  
13 the birth or adoption of a child, spouse, or parent who has a serious  
14 health condition;  
15 (3) To accomplish the purposes described in subdivisions (1) and (2) in a  
16 manner that accommodates the legitimate interests of employers;  
17 (4) To accomplish the purposes described in subdivisions (1) and (2) in a  
18 manner that, consistent with the Equal Protection Clause of the  
19 Fourteenth Amendment to the Constitution of the United States,  
20 minimizes the potential for employment discrimination on the basis of  
21 sex by ensuring generally that leave is available for eligible medical

- 1 reasons (including maternity-related disability) and for compelling  
2 family reasons, on a gender-neutral basis; and  
3 (5) To promote the goal of equal employment opportunities for women  
4 and men, pursuant to the Equal Protection Clause.

5 **"§ 95-271. Definitions.**

6 The following definitions apply in this Article:

- 7 (1) Commissioner. – The term 'Commissioner' means the Commissioner  
8 of Labor or the Commissioner's authorized representative.  
9 (2) Employee. – The term 'employee' means any individual who is  
10 employed by an employer, has been employed by the employer for at  
11 least 12 months, and was employed by the employer for at least 1,250  
12 hours of service during the previous 12-month period. The term does  
13 not include an employee who is employed at a worksite at which the  
14 employer employs less than 50 employees if the total number of  
15 employees employed by the employer within 75 miles of that worksite  
16 is less than 50. For purposes of determining whether an employee  
17 meets the hours of service requirement of this definition, the legal  
18 standards established under section 7 of the Fair Labor Standards Act  
19 of 1938 (29 U.S.C. § 207) shall apply.  
20 (3) Employer. – The term 'employer' means any individual, firm,  
21 partnership, corporation, organization, or governmental agency that (i)  
22 employs 50 or more employees for each working day during each of  
23 20 or more calendar workweeks in the current calendar year, or (ii)  
24 employed 50 or more employees for each working day during each of  
25 20 or more calendar workweeks in the preceding calendar year. The  
26 term includes any person who acts directly or indirectly in the interest  
27 of an employer in relation to an employee and any successor in the  
28 interest of an employer.  
29 (4) Employment Benefits. – The term 'employment benefits' means all  
30 benefits provided or made available to employees by an employer,  
31 including group life insurance, health insurance, disability insurance,  
32 sick leave, annual leave, educational benefits, and pensions, regardless  
33 of whether such benefits are provided by a practice or written policy of  
34 an employer or through an 'employee benefit plan', as defined in  
35 section 3(3) of the Employee Retirement Income Security Act of 1974  
36 (29 U.S.C. § 1002(3)).  
37 (5) Health Care Provider. – The term 'health care provider' means:  
38 a. A licensed physician who is authorized to practice medicine,  
39 surgery, chiropractic, or podiatry by the State in which the  
40 physician practices; or  
41 b. Any other person determined by the United States Secretary of  
42 Labor pursuant to the United States Family and Medical Leave  
43 Act of 1993 (P.L. 103-3) to be capable of providing health care  
44 services.

- 1           (6) Parent. – The term 'parent' means the biological parent of an employee  
2 or an individual who stood **in loco parentis** to an employee when the  
3 employee was a son or daughter.
- 4           (7) Person. – The term 'person' has the same meaning given such term in  
5 section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. §  
6 203(a)).
- 7           (8) Reduced Leave Schedule. – The term 'reduced leave schedule' means a  
8 leave schedule that reduces the usual number of hours per workweek,  
9 or hours per workday, of an employee.
- 10          (9) Serious Health Condition. – The term 'serious health condition' means  
11 an illness, injury, impairment, or physical or mental condition that  
12 involves:
- 13           a. Inpatient care in a hospital, hospice, or residential medical care  
14 facility; or
- 15           b. Continuing treatment by a health care provider.
- 16          (10) Son or Daughter. – The term 'son or daughter' means a biological,  
17 adopted, or foster child, a stepchild, a legal ward, or a child of a person  
18 standing **in loco parentis**, who is:
- 19           a. Under 18 years of age; or
- 20           b. 18 years of age or older and incapable of self-care because of a  
21 mental or physical disability.
- 22          (11) Spouse. – The term 'spouse' means a husband or wife, as the case may  
23 be.

24 **"§ 95-272. Leave requirement.**

25          (a) Entitlement to Leave. – Subject to G.S. 95-273, an eligible employee shall be  
26 entitled to a total of 12 workweeks of leave during any 12-month period for one or more  
27 of the following:

- 28           (1) Because of the birth of a son or daughter of the employee and in order  
29 to care for such son or daughter.
- 30           (2) Because of the placement of a son or daughter with the employee for  
31 adoption or foster care.
- 32           (3) In order to care for the spouse, or a son, daughter, or parent, of the  
33 employee, if such spouse, son, daughter, or parent has a serious health  
34 condition.
- 35           (4) Because of a serious health condition that makes the employee unable  
36 to perform the functions of the position of such employee.

37 The entitlement to leave under subdivisions (1) and (2) of this subsection for a birth or  
38 placement of a son or daughter shall expire at the end of the 12-month period beginning  
39 on the date of such birth or placement.

40          (b) Leave Taken Intermittently or on a Reduced Leave Schedule. –

- 41           (1) In General. – Leave under subdivision (1) or (2) of this section shall  
42 not be taken by an employee intermittently or on a reduced leave  
43 schedule unless the employee and the employer of the employee agree  
44 otherwise. Subject to subdivision (2) of this subsection, subject to

1            subdivision (e)(2) of this section, and subject to G.S. 95-273(b)(5),  
2            leave under subdivisions (a)(3) and (a)(4) of this section may be taken  
3            intermittently or on a reduced leave schedule when medically  
4            necessary. The taking of leave intermittently or on a reduced leave  
5            schedule pursuant to this subdivision shall not result in a reduction in  
6            the total amount of leave to which the employee is entitled under  
7            subsection (a) of this section beyond the amount of leave actually  
8            taken.

9            (2) Alternative Position. – If an employee requests intermittent leave, or  
10           leave on a reduced leave schedule, under subdivision (a)(3) or (a)(4) of  
11           this section, that is foreseeable based on planned medical treatment,  
12           the employer may require that employee to transfer temporarily to an  
13           available alternative position offered by the employer for which the  
14           employee is qualified and that:

15           a.    Has equivalent pay and benefits; and

16           b.    Better accommodates recurring periods of leave than the regular  
17           employment position of the employee.

18           (c) Unpaid Leave Permitted. – Except as provided in subsection (d) of this  
19           section, leave granted under subsection (a) of this section may consist of unpaid leave.  
20           Where an employee is otherwise exempt under regulations issued by the United States  
21           Secretary of Labor pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938  
22           (29 U.S.C. § 213(a)(1)), the compliance of an employer with this title by providing  
23           unpaid leave shall not affect the exempt status of the employee under such section.

24           (d) Relationship to Paid Leave. –

25           (1) Unpaid Leave. – If an employer provides paid leave for fewer than 12  
26           workweeks, the additional weeks of leave necessary to attain the 12  
27           workweeks of leave required under this title may be provided without  
28           compensation.

29           (2) Substitution of Paid Leave. –

30           a.    In General. – An eligible employee may elect, or an employer  
31           may require the employee, to substitute any of the accrued paid  
32           vacation leave, personal leave, or family leave of the employee  
33           for leave provided under subdivisions (a)(1), (a)(2), or (a)(3) of  
34           this section for any part of the 12-week period of such leave  
35           under such subsection.

36           b.    Serious Health Condition. – An eligible employee may elect, or  
37           an employer may require the employee, to substitute any of the  
38           accrued paid vacation leave, personal leave, or medical or sick  
39           leave of the employee for leave provided under subdivision  
40           (a)(3) or (a)(4) of this section for any part of the 12-week period  
41           of such leave under such subsection, except that nothing in this  
42           title shall require an employer to provide paid sick leave or paid  
43           medical leave in any situation in which such employer would  
44           not normally provide any such paid leave.

1 (e) Foreseeable Leave. –

2 (1) Requirement of Notice. – In any case in which the necessity for leave  
3 under subdivision (a)(1) or (a)(2) is foreseeable based on an expected  
4 birth or placement, the employee shall provide the employer with not  
5 less than 30 days' notice, before the date the leave is to begin, of the  
6 employee's intention to take leave under that subdivision, except that if  
7 the date of the birth or placement requires leave to begin in less than  
8 30 days, the employee shall provide such notice as is practicable.

9 (2) Duties of Employee. – In any case in which the necessity for leave  
10 under subdivision (a)(3) or (a)(4) of this section is foreseeable based  
11 on planned medical treatment, the employee:

12 a. Shall make a reasonable effort to schedule the treatment so as  
13 not to disrupt unduly the operations of the employer, subject to  
14 the approval of the health care provider of the employee or the  
15 health care provider of the son, daughter, spouse, or parent of  
16 the employee, as appropriate; and

17 b. Shall provide the employer with not less than 30 days' notice,  
18 before the date the leave is to begin, of the employee's intention  
19 to take leave under that subdivision, except that if the date of  
20 the treatment requires leave to begin in less than 30 days, the  
21 employee shall provide such notice as is practicable.

22 (f) Spouses Employed by the Same Employer. – In any case in which a husband  
23 and wife entitled to leave under subsection (a) of this section are employed by the same  
24 employer, the aggregate number of workweeks of leave to which both may be entitled  
25 may be limited to 12 workweeks during any 12-month period, if such leave is taken:

26 (1) Under subdivision (a)(1) or (a)(2) of this section; or

27 (2) To care for a sick parent under subdivision (a)(3) of this section.

28 **"§ 95-273. Certification.**

29 (a) In General. – An employer may require that a request for leave under G.S.  
30 95-272(a)(3) or G.S. 95-272(a)(4) be supported by a certification issued by the health  
31 care provider of the eligible employee or of the son, daughter, spouse, or parent of the  
32 employee, as appropriate. The employee shall provide, in a timely manner, a copy of  
33 such certification to the employer.

34 (b) Sufficient Certification. – Certification provided under subsection (a) of this  
35 section shall be sufficient if it states:

36 (1) The date on which the serious health condition commenced;

37 (2) The probable duration of the condition;

38 (3) The appropriate medical facts within the knowledge of the health care  
39 provider regarding the condition;

40 (4) a. For the purposes of leave under G.S. 95-272(a)(3), a statement that  
41 the eligible employee is needed to care for the son, daughter, spouse,  
42 or parent and an estimate of the amount of time that such employee is  
43 needed to care for the son, daughter, spouse, or parent; and

- 1                   b.     For purposes of leave under G.S. 95-272(a)(4), a statement that  
2                   the employee is unable to perform the functions of the position  
3                   of the employee;
- 4                   (5)   In the case of certification for intermittent leave, or leave on a reduced  
5                   leave schedule, for planned medical treatment, the dates on which such  
6                   treatment is expected to be given and the duration of such treatment;
- 7                   (6)   In the case of certification for intermittent leave, or leave on a reduced  
8                   leave schedule, under G.S. 95-272(a)(4), a statement of the medical  
9                   necessity for the intermittent leave or leave on a reduced leave  
10                  schedule, and the expected duration of the intermittent leave or  
11                  reduced leave schedule; and
- 12                  (7)   In the case of certification for intermittent leave, or leave on a reduced  
13                  leave schedule, under G.S. 95-272(a)(3), a statement that the  
14                  employee's intermittent leave or leave on a reduced leave schedule is  
15                  necessary for the care of the son, daughter, parent, or spouse who has a  
16                  serious health condition, or will assist in their recovery, and the  
17                  expected duration and schedule of the intermittent leave or reduced  
18                  leave schedule.
- 19                  (c)   Second Opinion. –
- 20                   (1)   In General. – In any case in which the employer has reason to doubt  
21                   the validity of the certification provided under subsection (a) of this  
22                   section for leave under G.S. 95-272(a)(3) or G.S. 95-272(a)(4), the  
23                   employer may require, at the expense of the employer, that the eligible  
24                   employee obtain the opinion of a second health care provider  
25                   designated or approved by the employer concerning any information  
26                   certified under subsection (b) of this section for such leave.
- 27                   (2)   Limitation. – A health care provider designated or approved under  
28                   subdivision (1) of this subsection shall not be employed on a regular  
29                   basis by the employer.
- 30                  (d)   Resolution of Conflicting Opinions. –
- 31                   (1)   In General. – In any case in which the second opinion described in  
32                   subsection (c) of this section differs from the opinion in the original  
33                   certification provided under subsection (a) of this section, the  
34                   employer may require, at the expense of the employer, that the  
35                   employee obtain the opinion of a third health care provider designated  
36                   or approved jointly by the employer and the employee concerning the  
37                   information certified under subsection (b) of this section.
- 38                   (2)   Finality. – The opinion of the third health care provider concerning the  
39                   information certified under subsection (b) of this section shall be  
40                   considered to be final and shall be binding on the employer and the  
41                   employee.
- 42                  (e)   Subsequent Recertification. – The employer may require that the eligible  
43                  employee obtain subsequent recertifications on a reasonable basis, at the employer's  
44                  expense.

1 **"§ 95-274. Employment and benefits protection.**

2 (a) Restoration to Position. –

3 (1) In General. – Except as provided in subsection (b) of this section, any  
4 eligible employee who takes leave under G.S. 95-272 for the intended  
5 purpose of the leave shall be entitled, on return from such leave:

6 a. To be restored by the employer to the position of employment  
7 held by the employee when the leave commenced; or

8 b. To be restored to an equivalent position with equivalent  
9 employment benefits, pay, and other terms and conditions of  
10 employment.

11 (2) Loss of Benefits. – The taking of leave under G.S. 95-272 shall not  
12 result in the loss of any employment benefit accrued prior to the date  
13 on which the leave commenced.

14 (3) Limitations. – Nothing in this section shall be construed to entitle any  
15 restored employee to:

16 a. The accrual of any seniority or employment benefits during any  
17 period of leave; or

18 b. Any right, benefit, or position of employment other than any  
19 right, benefit, or position to which the employee would have  
20 been entitled had the employee not taken the leave.

21 (4) Certification. – As a condition of restoration under subdivision (1) of  
22 this subsection for an employee who has taken leave under G.S. 95-  
23 272(a)(4), the employer may have a uniformly applied practice or  
24 policy that requires each such employee to receive certification from  
25 the health care provider of the employee that the employee is able to  
26 resume work, except that nothing in this subdivision shall supersede a  
27 valid State or local law or a collective bargaining agreement that  
28 governs the return to work of such employees.

29 (5) Construction. – Nothing in this subsection shall be construed to  
30 prohibit an employer from requiring an employee on leave under G.S.  
31 95-272 to report periodically to the employer on the status and  
32 intention of the employee to return to work.

33 (b) Exemption Concerning Certain Highly Compensated Employees. –

34 (1) Denial of Restoration. – An employer may deny restoration under  
35 subsection (a) of this section to any eligible employee described in  
36 subdivision (2) of this subsection if:

37 a. The denial is necessary to prevent substantial and grievous  
38 economic injury to the operations of the employer;

39 b. The employer notifies the employee of the intent of the  
40 employer to deny restoration on such basis at the time the  
41 employer determines that such injury would occur; and

42 c. In any case in which the leave has commenced, the employee  
43 elects not to return to employment after receiving such notice.

1           (2) Affected Employees. – An eligible employee described in subdivision  
2           (1) of this subsection is a salaried eligible employee who is among the  
3           highest paid ten percent (10%) of the employees employed by the  
4           employer within 75 miles of the facility at which the employee is  
5           employed.

6 **"§ 95-275. Maintenance of health benefits.**

7           (a) Coverage. – Except as provided in subsection (b) of this section, during any  
8           period that an eligible employee takes leave under G.S. 95-272, the employer shall  
9           maintain coverage under any 'group health plan' (as defined in section 5000(b)(1) of the  
10           Internal Revenue Code of 1986) for the duration of such leave at the level and under the  
11           conditions coverage would have been provided if the employee had continued in  
12           employment continuously for the duration of such leave.

13           (b) Failure to Return From Leave. – The employer may recover the premium that  
14           the employer paid for maintaining coverage for the employee under such group health  
15           plan during any period of unpaid leave under G.S. 95-272 if:

16           (1) The employee fails to return from leave under G.S. 95-272 after the  
17           period of leave to which the employee is entitled has expired; and

18           (2) The employee fails to return to work for a reason other than:

19           a. The continuation, recurrence, or onset of a serious health  
20           condition that entitles the employee to leave under G.S. 95-  
21           272(a)(3) or G.S. 95-272(a)(4); or

22           b. Other circumstances beyond the control of the employee under  
23           regulations adopted by the United States Secretary of Labor  
24           under the United States Family and Medical Leave Act of 1993  
25           (P.L. 103-3).

26           (c) Certification. –

27           (1) Issuance. – An employer may require that a claim that an employee is  
28           unable to return to work because of the continuation, recurrence, or  
29           onset of the serious health condition described in sub-subdivision  
30           (b)(2)a. of this section be supported by:

31           a. A certification issued by the health care provider of the son,  
32           daughter, spouse, or parent of the employee, as appropriate, in  
33           the case of an employee unable to return to work because of a  
34           condition specified in G.S. 95-272(a)(3); or

35           b. A certification issued by the health care provider of the eligible  
36           employee, in the case of an employee unable to return to work  
37           because of a condition specified in G.S. 95-272(a)(4).

38           (2) Copy. – The employee shall provide, in a timely manner, a copy of  
39           such certification to the employer.

40           (3) Sufficiency of Certification. –

41           a. Leave Due to Serious Health Condition of Employee. – The  
42           certification described in sub-subdivision (1)b. of this  
43           subsection shall be sufficient if the certification states that a  
44           serious health condition prevented the employee from being

1           able to perform the functions of the position of the employee on  
2           the date that the leave of the employee expired.

- 3           b.   Leave Due to Serious Health Condition of Family Member. –  
4           The certification described in sub-subdivision (1)a. of this  
5           subsection shall be sufficient if the certification states that the  
6           employee is needed to care for the son, daughter, spouse, or  
7           parent who has a serious health condition on the date that the  
8           leave of the employee expired.

9    **"§ 95-276. Prohibited acts.**

10       (a)   Denial of Rights. – It shall be unlawful for any employer to interfere with,  
11       restrain, or deny the exercise of or the attempt to exercise, any right provided under this  
12       Article.

13       (b)   Discrimination. – It shall be unlawful for any employer to discharge or in any  
14       other manner discriminate against any individual for opposing any practice made  
15       unlawful by this Article. It shall be unlawful for any person to discharge or in any other  
16       manner discriminate against any individual because such individual:

17           (1)   Has filed any charge, or has instituted or caused to be instituted any  
18           proceeding, under or related to this Article;

19           (2)   Has given, or is about to give, any information in connection with any  
20           inquiry or proceeding relating to any right provided under this Article;  
21           or

22           (3)   Has testified, or is about to testify, in any inquiry or proceeding  
23           relating to any right provided under this Article.

24    **"§ 95-277. Civil action; action by Commissioner; remedies.**

25       (a)   Action by Employee. – One or more employees may bring a civil action in  
26       the superior court of the county where the violation occurred, where one or more  
27       complainants reside, or where the respondent resides or has its principal place of  
28       business. The employee may bring the action on behalf of other employees similarly  
29       situated.

30       (b)   Action by Commissioner. – At an employee's request, the Commissioner may  
31       bring a civil action in the superior court of the county where the violation occurred,  
32       where one or more complainants reside, or where the respondent resides or has its  
33       principal place of business. Any sums that the Commissioner recovers on behalf of the  
34       employee shall be held in a special deposit account and shall be paid promptly and  
35       directly to the affected employee. When the Commissioner conducts such an action on  
36       behalf of, or at the request of, the employee, the employee retains the right to approve or  
37       reject proposed settlements. Before initiating any action under this section, the  
38       Commissioner shall exhaust all administrative remedies, including giving the employer  
39       notice of the pending action and the opportunity to be heard on the matters at issue.

40       (c)   Remedies for Denial of Rights. – For a violation of G.S. 95-276(a), the  
41       employee or the Commissioner may seek and the court may award any or all of the  
42       following types of relief:

43           (1)   An injunction against continued violation of this Article.

- 1           (2) Reinstatement of the employee to the same position held before the  
2 violation of this Article.
- 3           (3) Compensation for lost wages or salary, lost benefits, or other  
4 compensation denied or lost to the employee by reason of the  
5 violation.
- 6           (4) Any actual monetary losses sustained by the employee as a direct  
7 result of the violation, such as the cost of providing care, up to a sum  
8 equal to 12 weeks of wages or salary for the employee.
- 9           (5) Interest on the amount awarded under subdivisions (3) and (4) of this  
10 subsection at the legal rate set in G.S. 24-1.
- 11           (6) Any other equitable relief that the court deems appropriate, including,  
12 without limitation, employment, reinstatement, transfer, reassignment,  
13 and promotion.

14       (d) Liquidated Damages. – In addition to the amounts awarded under subsection  
15 (c), the court shall award liquidated damages in an amount equal to the amount found to  
16 be due as provided in subsection (c). If the employer shows to the court's satisfaction  
17 that the act or omission constituting the violation was in good faith and that the  
18 employer had reasonable grounds for believing that the act or omission was not a  
19 violation of this Article, the court may, in its discretion, reduce the liquidated damages  
20 or award no liquidated damages.

21       (e) Remedies for Discrimination. – For a violation of G.S. 95-276(b), the  
22 employee or the Commissioner may seek and the court may award any of the types of  
23 relief described in G.S. 95-243(c).

24       (f) Costs. – The court shall award to the plaintiff and assess against the defendant  
25 the reasonable costs and expenses, including attorneys' fees, of the plaintiff in bringing  
26 an action under this section. If the court determines that the plaintiff's action is  
27 frivolous, it may award to the defendant and assess against the plaintiff the reasonable  
28 costs and expenses, including attorneys' fees, of the defendant in defending the action  
29 under this section.

30       (g) Default Judgment. – In an action brought by the Commissioner in which a  
31 default judgment is entered, the clerk shall order the defendant to pay attorneys' fees of  
32 three hundred dollars (\$300.00).

33       (h) Jury Trial. – In any action under this section, the plaintiff has the right to trial  
34 by jury.

35       (i) Statute of Limitations. – Actions under this section must be brought within  
36 two years following the date of the last event constituting the alleged violation for  
37 which the action is brought. Where an action is brought for a willful violation of G.S.  
38 95-276, the action may be brought within three years of the date of the last event  
39 constituting the alleged violation for which the action is brought.

40 **"§ 95-278. Investigation and enforcement authority; record keeping.**

41       (a) In General. – The Commissioner shall receive, investigate, and attempt to  
42 resolve complaints of violations of G.S. 95-276 in the same manner the Commissioner  
43 receives, investigates, and attempts to resolve complaints of violations of Article 2A of  
44 this Chapter (Wage and Hour Act). For this purpose, the Commissioner shall have,

1 subject to subsection (c), the same investigative and enforcement authority provided  
2 under G.S. 95-25.15(a) and G.S. 95-25.16 in the Wage and Hour Act.

3 (b) Obligation to Keep and Preserve Records. – Any employer shall make, keep  
4 and preserve records pertaining to compliance with this Article in accordance with  
5 section 11(c) of the Fair Labor Standards Act and in accordance with the regulation  
6 issued by United States Secretary of Labor. Any employer who violates this subsection  
7 shall be subject to a civil money penalty assessed and collected in the same manner as  
8 record-keeping violations under the Wage and Hour Act.

9 (c) Required Submission Generally Limited to an Annual Basis. – The  
10 Commissioner shall not under the authority of this section require any employer or any  
11 plan, fund, or program to submit to the Commissioner any books or records more than  
12 once during any 12-month period, unless the Commissioner has reasonable cause to  
13 believe there may exist a violation of this Article or any rule issued pursuant to this  
14 Article, or is investigating a charge pursuant to subsection (a) of this section.

15 **"§ 95-279. Notice.**

16 (a) Employer's Duty to Post. – Each employer shall post and keep posted, in  
17 conspicuous places on the employer's premises where notices to employees and  
18 applications for employment are customarily posted, a notice, to be prepared or  
19 approved by the Commissioner, setting forth excerpts from, or summaries of, the  
20 pertinent provisions of this act and information pertaining to rights and remedies.

21 (b) Penalty. – Any employer that willfully violates this section shall be subject to  
22 a civil money penalty assessed and collected in the same manner as record-keeping  
23 violations under the Wage and Hour Act.

24 **"§ 95-280. Regulations.**

25 The Commissioner shall promulgate rules to carry out and promote full compliance  
26 with this act.

27 **"§ 95-281. Effect of Article on other rights.**

28 Nothing in this Article shall be deemed to diminish the rights or remedies of any  
29 employee under any collective bargaining agreement, employment contract, other  
30 statutory rights or remedies, or at common law.

31 **"§ 95-282. Encouragement of more generous leave policies.**

32 Nothing in this Article shall be deemed to discourage employers from adopting or  
33 retaining leave policies more generous than any policies that comply with the  
34 requirements under this Article."

35 Sec. 2. The Commissioner shall commence rule making under this act within  
36 60 days after the act's effective date.

37 Sec. 3. There is appropriated from the General Fund to the North Carolina  
38 Department of Labor the sum of fifty thousand dollars (\$50,000) for the 1993-94 fiscal  
39 year to implement the provisions of this act.

40 Sec. 4. This act becomes effective six months after ratification. However, in  
41 the case of a collective bargaining agreement in effect on the effective date, this act  
42 shall apply on the earlier of either (i) the date of the termination of the agreement; or (ii)  
43 the date that occurs 12 months after the date of ratification.