

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 409

Short Title: Agricultural Employer Appeals/AB.

(Public)

Sponsors: Representatives Yongue; Bonner, Brown, and Culp.

Referred to: Agriculture.

March 6, 1997

A BILL TO BE ENTITLED

AN ACT CLARIFYING WHERE APPEALS FROM AGRICULTURAL EMPLOYERS
WILL BE HEARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-227 reads as rewritten:

"§ 95-227. Enforcement.

For the purpose of enforcing the standards provided by this Article, the provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall apply under this Article in a similar manner as they apply to places of employment under OSHANC; however, ~~G.S. 95-129(4), 95-130(2) and (6), and 95-137(b)(4)~~ G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to migrant housing. For the purposes of this Article, the term:

- (1) 'Employer' in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed to mean an operator;
- (2) 'Employee' shall be construed to mean a migrant; and
- (3) 'Director' shall mean the agent designated by the Commissioner to assist in the administration of this Article.

The Commissioner may establish a new division to enforce this Article."

Section 2. G.S. 150B-1(e) reads as rewritten:

1 "(e) Exemptions From Contested Case Provisions. – The contested case provisions
2 of this Chapter apply to all agencies and all proceedings not expressly exempted from the
3 Chapter. The contested case provisions of this Chapter do not apply to the following:

- 4 (1) The Department of Human Resources and the Department of
5 Environment, Health, and Natural Resources in complying with the
6 procedural safeguards mandated by Section 680 of Part H of Public Law
7 99-457 as amended (Education of the Handicapped Act Amendments of
8 1986).
- 9 (2) Repealed by Session Laws 1993, c. 501, s. 29.
- 10 (3) The North Carolina Low-Level Radioactive Waste Management
11 Authority in administering the provisions of G.S. 104G-9, 104G-10, and
12 104G-11.
- 13 (4) The North Carolina Hazardous Waste Management Commission in
14 administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.
- 15 (5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public
16 Law 93-122), as amended and federal regulations promulgated
17 thereunder. G.S. 150B-51(a) is considered a contested case hearing
18 provision that does not apply to these hearings.
- 19 (6) The Department of Revenue.
- 20 (7) The Department of Correction.
- 21 (8) The Department of Transportation, except as provided in G.S. 136-29.
- 22 (9) The Occupational Safety and Health Review ~~Board in all actions that do~~
23 ~~not involve agricultural employers.~~ Board.
- 24 (10) The North Carolina Global TransPark Authority with respect to the
25 acquisition, construction, operation, or use, including fees or charges, of
26 any portion of a cargo airport complex.
- 27 (11) Hearings that are provided by the Department of Human Resources
28 regarding the eligibility and provision of services for eligible assaultive
29 and violent children, as defined in G.S. 122C-3(13a), shall be conducted
30 pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

31 Section 3. This act is effective when it becomes law.