

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE DRS75046-LD-12B (2/13)

Short Title: Adverse Reactions to Smallpox Vaccination. (Public)

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Sponsors: Senator Rand.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT STATE EMPLOYEES WHO VOLUNTEER FOR VACCINATION AGAINST SMALLPOX INCIDENT TO THE ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH PROFESSIONALS UNDER SECTION 304 OF THE FEDERAL HOMELAND SECURITY ACT OF 2002 AND ANY FAMILY MEMBERS LIVING IN THE HOMES OF THESE VACCINATED EMPLOYEES WILL BE ABLE TO RECOVER FOR ANY ADVERSE MEDICAL REACTIONS DUE TO THE VACCINATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-40.6(8) reads as rewritten:

"(8) Other Covered Charges. –

...

u. Treatment of adverse reactions to vaccinations undertaken as smallpox countermeasures: Necessary medical services provided to a covered individual for infection with smallpox, infection with vaccinia, or any adverse medical reaction due to the vaccination."

**SECTION 2.** G.S. 97-53 reads as rewritten:

**"§ 97-53. Occupational diseases enumerated; when due to exposure to chemicals.**

The following diseases and conditions only shall be deemed to be occupational diseases within the meaning of this Article:

...

(29) Infection with smallpox, infection with vaccinia, or any adverse medical reaction when the infection or adverse reaction is due to the employee voluntarily receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures

1 by Health Professionals, section 304 of the Homeland Security Act,  
2 Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C  
3 § 233(p)).

4 ...."

5 **SECTION 3.** Article 31 of Chapter 143 of the General Statutes is amended  
6 by adding a new section to read:

7 **"§ 143-300.1A. Claims arising from certain smallpox vaccinations of State**  
8 **employees.**

9 The North Carolina Industrial Commission shall have jurisdiction to hear and  
10 determine claims in accordance with the procedures set forth in this Article made  
11 against the State by a person who is a family member living in the home of a State  
12 employee who voluntarily receives in employment vaccination against smallpox  
13 incident to the Administration of Smallpox Countermeasures by Health Professionals,  
14 section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be  
15 codified at 42 U.S.C. § 233(p)) when the person contracts an infection with smallpox or  
16 an infection with vaccinia or has any adverse medical reaction due to the vaccination. A  
17 person covered by this section shall be entitled to recover from the State damages  
18 incurred by the person that are directly attributable to the vaccination of the State  
19 employee under this section. No showing of negligence is required under this section.  
20 The provisions of G.S 143-299.1 shall not apply to claims made under this section, and  
21 contributory negligence is not a defense for claims under this section. Damages awarded  
22 under this section shall be paid in accordance with G.S. 143-291(a1) and shall be  
23 subject to the same limits as those which apply to tort claims under this Article."

24 **SECTION 4.** Article 3 of Chapter 126 of the General Statutes is amended by  
25 adding a new section to read:

26 **"§ 126-8.4. No sick leave taken for absences by State employees resulting from**  
27 **adverse reactions to vaccination of certain health professionals against**  
28 **smallpox.**

29 (a) Absence from work by a State employee shall not count against the  
30 employee's sick leave, and the employee's salary shall continue during the absence when  
31 the employee voluntarily receives in employment vaccination against smallpox incident  
32 to the Administration of Smallpox Countermeasures by Health Professionals, section  
33 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified  
34 at 42 U.S.C. § 233(p)) and the absence is due to the employee having an adverse  
35 medical reaction resulting from the vaccination.

36 (b) Absence from work by a State employee shall not count against the  
37 employee's sick leave, and the employee's salary shall continue during the absence when  
38 the employee is a family member living in the home of the person who voluntarily  
39 receives in employment vaccination against smallpox incident to the Administration of  
40 Smallpox Countermeasures by Health Professionals, section 304 of the Homeland  
41 Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p))  
42 and the absence is due to the employee having an adverse medical reaction resulting  
43 from the vaccination."

44 **SECTION 5.** This act is effective when it becomes law.