

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 153

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

Sponsors: Senators Rand; Reeves and Shubert.

Referred to: Judiciary I.

February 24, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE THAT STATE EMPLOYEES WHO VOLUNTEER FOR
3 VACCINATION AGAINST SMALLPOX INCIDENT TO THE
4 ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH
5 PROFESSIONALS UNDER SECTION 304 OF THE FEDERAL HOMELAND
6 SECURITY ACT OF 2002 AND ANY FAMILY MEMBERS LIVING IN THE
7 HOMES OF THESE VACCINATED EMPLOYEES WILL BE ABLE TO
8 RECOVER FOR ANY ADVERSE MEDICAL REACTIONS DUE TO THE
9 VACCINATION.

10 The General Assembly of North Carolina enacts:

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

12 "(8) Other Covered Charges. –

13 ...

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

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

20 "**§ 97-53. Occupational diseases enumerated; when due to exposure to chemicals.**

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

23 ...

24 (29) Infection with smallpox, infection with vaccinia, or any adverse
25 medical reaction when the infection or adverse reaction is due to the
26 employee voluntarily receiving in employment vaccination against
27 smallpox incident to the Administration of Smallpox Countermeasures
28 by Health Professionals, section 304 of the Homeland Security Act,

1 Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C
2 § 233(p)).

3 "

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

6 "**§ 143-300.1A. Claims arising from certain smallpox vaccinations of State**
7 **employees.**

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

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

25 "**§ 126-8.4. No sick leave taken for absences by State employees resulting from**
26 **adverse reactions to vaccination of certain health professionals against**
27 **smallpox.**

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

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

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