

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 442

Short Title: UI Drug Testing Requirements/Funds. (Public)

Sponsors: Representatives Zenger, Pless, Paré, and Moss (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 1, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House

March 23, 2023

A BILL TO BE ENTITLED

AN ACT AMENDING THE EMPLOYMENT SECURITY LAWS TO DISQUALIFY AN INDIVIDUAL FROM RECEIVING UNEMPLOYMENT INSURANCE BENEFITS IF THE INDIVIDUAL FAILS CONTROLLED SUBSTANCES TESTING AND APPROPRIATING FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1. Effective July 1, 2023, G.S. 96-14.7 is amended by adding a new subsection to read:

"(c) Controlled Substances Testing. – An individual is disqualified for benefits if the Division determines that the individual is subject to testing for unlawful use of controlled substances, as defined in G.S. 90-87(5), or a metabolite thereof, and the individual either fails or refuses the testing. An individual shall be subjected to testing for the unlawful use of controlled substances as a condition of eligibility if (i) the individual was discharged for unlawful use of controlled substances by the individual's bona fide employer or (ii) suitable work is only available in an occupation for which drug testing is regularly conducted.

The following occupations are deemed occupations that regularly conduct drug testing for purposes of this subsection:

- (1) An occupation where the Division of Employment Security has a factual basis for finding that employers hiring employees in that occupation conduct pre- or post-hire drug testing as a standard eligibility requirement for obtaining or maintaining employment in the occupation.
- (2) An occupation specifically identified in State or federal law as requiring an employee to be tested for controlled substances.
- (3) An occupation that requires the employee to carry a firearm.
- (4) An occupation identified in 14 C.F.R. § 120.105 by the Federal Aviation Administration, in which the employee must be tested.
- (5) An occupation identified in 46 C.F.R. § 16.201 by the United States Coast Guard, in which the employee must be tested.
- (6) An occupation identified in 49 C.F.R. § 382.103 by the Federal Motor Carrier Safety Administration, in which the employee must be tested.
- (7) An occupation identified in 49 C.F.R. § 219.3 by the Federal Railroad Administration, in which the employee must be tested.
- (8) An occupation identified in 49 C.F.R. § 655.3 by the Federal Transit Administration, in which the employee must be tested.



1 (9) An occupation identified in 49 C.F.R. § 199.2 by the Pipeline and Hazardous
2 Materials Safety Administration, in which the employee must be tested.

3 The Division shall adopt rules to implement this subsection. The testing program shall
4 comply with federal law and, to the extent practicable, with the requirements of Article 20 of
5 Chapter 95 of the General Statutes.

6 Each individual subject to controlled substances testing under this subsection shall pay the
7 cost of the testing. Prior to testing, an individual may notify the person administering the test that
8 the individual is currently taking prescription or over-the-counter medication that may impact
9 the test results and shall provide proof of a prescription for the medication. The test administrator
10 must notify the Division of any prescription or over-the-counter medication disclosed by the
11 individual prior to the test. An individual who fails a controlled substances test may take one or
12 more additional tests at the individual's own expense.

13 An individual who tests positive for the unlawful use of controlled substances may reapply
14 for benefits if the individual can document the successful completion of a substance abuse
15 treatment program offered by a provider approved by the Division and the individual must
16 undergo controlled substances testing, at their own expense, in accordance with rules adopted by
17 the Division.

18 A disqualification for benefits based upon a failed test may be adjudicated under G.S. 96-15
19 only on the issues of whether or not the test was in error or whether the failure to pass the test
20 was due to lawful use of a drug prescribed by a licensed physician as medically necessary for the
21 individual."

22 **SECTION 2.** The Division of Employment Security shall complete as soon as
23 practicable, but no more than 120 days from the date when this act becomes law, an assessment
24 of hiring practices in the construction and agriculture industries in this State to determine whether
25 the eligibility requirement of controlled substances testing under G.S. 96-14.7(c), as enacted by
26 this act, is appropriate for those occupations.

27 **SECTION 3.(a)** There is appropriated from the General Fund to the Department of
28 Commerce, Division of Employment Security, the sum of five hundred thousand dollars
29 (\$500,000) for the 2023-2024 fiscal year and the sum of five hundred thousand dollars (\$500,000)
30 for the 2024-2025 fiscal year to pay the costs of administering the drug testing program required
31 by this act.

32 **SECTION 3.(b)** This section becomes effective July 1, 2023.

33 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
34 law.