

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 636  
HOUSE BILL 420

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION AND TO MAKE TECHNICAL AMENDMENTS TO THE LAWS REGULATING ABSENTEE BALLOTS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of subsection (e) of Section 33 of Chapter 1066 of the 1989 Session Laws (1990 Regular Session) reads as rewritten:

"This ~~act~~ section shall become effective July 15, 1990."

Sec. 2. Chapter 823 of the 1989 Session Laws (1990 Regular Session) is amended:

- (1) In the introductory language of subdivision (4) by deleting "G.S. 122C-163(d)" and substituting in lieu thereof "G.S. 122C-263(d)";
- (2) In the introductory language of subdivision (5) by deleting "G.S. 122C-165(e)" and substituting in lieu thereof "G.S. 122C-265(e)".

Sec. 3. Consistent with G.S. 97-1.1, the Revisor of Statutes is authorized to change the terms "Workmen's Compensation Act", "Workmen's Compensation", and "workmen's compensation" to "Workers' Compensation Act", "Workers' Compensation", and "workers' compensation", respectively, wherever these terms are used in the General Statutes.

Sec. 4. (a) G.S. 25-8-313(1)(j) reads as rewritten:

"(j) With respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraphs (a), (b), (c), (d), or (g), at the time the ~~transfer~~ transferor has signed a security agreement containing a description of the security and value is given by the secured party."

(b) G.S. 25-8-313(2) is amended by deleting the words "paragraphs (c), (d), (i), and (g)" and inserting in lieu thereof "paragraphs (c), (d)(i), and (g)".

(c) G.S. 25-8-317(4) reads as rewritten:

"(4) The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the ~~interests~~ interest of the debtor appears."

Sec. 5. G.S. 88-23.1(b)(2) is amended by deleting the period appearing in the phrase "ten thousand dollars (\$10.000)" and inserting a comma in lieu thereof.

Sec. 6. G.S. 90-202.8(a) is amended in the introductory language by deleting "General Assembly" and substituting in lieu thereof "General Statutes".

Sec. 7. G.S. 106-65.31(a) and (b) are amended by deleting "G.S. 106-65.27(e)(3)" wherever this reference appears and substituting in lieu thereof "G.S. 106-65.27(d)(3)".

Sec. 8. The catch line of G.S. 113-292 is amended by deleting the word "rule" in the phrase "in rule of inland fishing" and substituting in lieu thereof the word "regulation".

Sec. 9. G.S. 115C-81(f)(1) is amended by deleting "G.S. 115C-81(f) and 115C-82" and substituting in lieu thereof the words "this subsection".

Sec. 10. G.S. 115C-238.6(a) is amended by deleting "G.S. 115C-238.3(e)" and substituting in lieu thereof "G.S. 115C-238.3(d)".

Sec. 11. G.S. 115D-90(d) reads as rewritten:

"(d) Any license shall be restricted to the programs of instruction or courses or subjects specifically indicated in the application for a license. The holder of a license shall present a supplementary application as may be directed by the ~~State Superintendent~~ President of the Community College System for approval of additional programs of instruction, courses, or subjects, in which it is desired to offer instruction during the effective period of the license."

Sec. 12. The first paragraph of G.S. 119-18 reads as rewritten:

"For the purpose of defraying the expenses of enforcing the provisions of this Article there shall be paid to the Secretary of Revenue a charge of one fourth of one cent ( $\frac{1}{4}$  of 1¢) per gallon upon all kerosene and motor fuel. The inspection tax shall be due and payable at the same time that the per gallon excise tax is due and payable under the provisions of G.S. 105-434 to 105-436, and payment shall be made concurrently with payment of said per gallon excise tax, unless the Secretary of Revenue shall by rule and regulation prescribe other methods for the collection of such tax. There shall, from time to time, be allotted by the ~~Budget Bureau~~ Office of State Budget and Management, from the inspection fees collected under authority of the inspection laws of this State, such sums as may be necessary to administer and effectively enforce the provisions of the inspection laws."

Sec. 13. The first sentence of G.S. 120-4.29 reads as rewritten:

"Except for the applications of the provisions of G. S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension, annuity, or retirement allowance, to the return of contributions, or to the receipt of the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Article, and the moneys in the various funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as this Article specifically provides."

Sec. 14. G.S. 125-11.9(1) is amended by deleting the words "this act" and substituting in lieu thereof the words "this Article".

Sec. 15. G.S. 135-39.5B is amended by deleting the fifth sentence thereof as it appears in the November 1990 Replacement Pamphlet in the General Statutes.

Sec. 16. G.S. 143-204.8(b) reads as rewritten:

"(b) An allotment shall only be made under this section upon evidence submitted to the Governor and Council of State by the Secretary of Cultural Resources that during the immediately preceding season of production, the drama was operated at a deficit because of inclement weather or other circumstances beyond the control of the corporation or trust and that contributions or gifts made to the corporation or trust are deductible ~~from net income for income tax purposes under G.S. 105-147(15)~~ for income tax purposes under the Internal Revenue Code."

Sec. 17. G.S. 143-299.3(b) is amended by deleting the words "this act" and substituting in lieu thereof the words "this section".

Sec. 18. G.S. 161-10 is amended by deleting the words "G.S. 130-40 or".

Sec. 19. (a) The term "area mental health, mental retardation, and substance abuse director" is deleted wherever it appears in G.S. 7A-647(3), and the term "area mental health, developmental disabilities, and substance abuse director" is substituted in lieu thereof.

(b) The term "Commission for Mental Health, Mental Retardation, and Substance Abuse Services" is deleted wherever it appears in G.S. 15A-1002, 20-179(m) and (t), 90-96.01(a), 131D-10.4, and 131D-32(g) and the term "Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services" is substituted in lieu thereof.

(c) The terms "Area Mental Health, Mental Retardation, and Substance Abuse Authority", "Area Mental Health, Mental Retardation, and Substance Abuse Authorities", "area mental health, mental retardation, and substance abuse authority", and "area mental health, mental retardation, and substance abuse authorities" are deleted wherever they appear in G.S. 20-179(m), 90-96.01(a), 108A-103(b), 131D-3, and 131D-4, and the terms "Area Mental Health, Developmental Disabilities, and Substance Abuse Authority", "Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities", "area mental health, developmental disabilities, and substance abuse authority", and "area mental health, developmental disabilities, and substance abuse authorities", respectively, are substituted in lieu thereof.

(d) The term "Division of Mental Health, Mental Retardation and Substance Abuse Services" is deleted in G.S. 143B-153(8) and the term "Division of Mental Health, Developmental Disabilities, and Substance Abuse Services" is substituted in lieu thereof.

Sec. 20. (a) G.S. 128-27(e)(5) is amended by deleting the words "of this section" in the phrase "subdivision (3a) of this section" and substituting in lieu thereof the words "of this subsection".

(b) G.S. 163-278.42(d) is amended by deleting the words "section (e)" in the phrase "section (e) of this section" and substituting "subsection (e)" in lieu thereof.

Sec. 21. Chapter 991 of the 1989 Session Laws is amended by deleting "60 days" wherever it appears and substituting "50 days". Article 20 of Chapter 163 of the

General Statutes is amended by deleting "60 days" wherever it appears and substituting "50 days".

Sec. 22. G.S. 81A-8 reads as rewritten:

**"§ 81A-8. Standards of weights and measures.**

Weights and measures that are traceable to the U.S. Prototype Standards supplied by the United States, or approved as being satisfactory by the ~~National Bureau of Standards~~ National Institute of Standards and Technology, shall be the State primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the ~~National Bureau of Standards~~ National Institute of Standards and Technology. All secondary standards may be prescribed by the Commissioner and shall be verified upon their initial receipt and as often thereafter as deemed necessary by the Commissioner or his authorized agent. Complete record of the standards belonging to the State shall be maintained by the Commissioner."

Sec. 23. G.S. 81A-9 reads as rewritten:

**"§ 81A-9. Definitions.**

The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) Adjustment. – 'Adjustment' is an act involving the tightening or loosening, or lengthening or shortening, or movement, of any part of a ~~scale or weighing or measuring~~ device, or the coordination of mechanical action of parts or electronic components with or upon each other, so as to make the ~~scale or weighing or measuring~~ device give correct indications of applied weight or measure values within legal tolerance, and the correctness of indications shall be determined by test provided for under definition of the term 'service' as defined in this Chapter.
- (2) Authorized Agent. – An 'authorized agent' is any employee of the North Carolina Department of Agriculture designated by the Commissioner to enforce any provisions of this Chapter and who is designated by an official identification card issued by the Commissioner.
- (3) Barrel. – The term 'barrel,' when used in connection with beer, ale, porter, and other similar fermented liquor is a unit of 31 liquid gallons; fractional parts of a barrel shall be understood to mean like fractional parts of 31 gallons.
- (4) Bulk Sale. – The term 'bulk sale' is the sale of commodities when the quantity is determined at the time of sale.
- (5) Bushel. – The term 'bushel' when used in connection with dry measure and standard containers is a unit of 2150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and one-sixty-fourth parts.
- (6) Commissioner of Agriculture. – 'Commissioner' is the Commissioner of Agriculture of the State of North Carolina.

- (7) **Condemned Equipment.** – 'Condemned equipment' is equipment that is permanently out of service.
- (8) **Cord.** – 'Cord' when used in connection with purchases of wood is a quantity of wood consisting of any number of sticks, bolts or pieces laid parallel and together so as to form a rick or stack occupying a space four feet wide, four feet high and eight feet long, or such other dimensions that will when multiplied together equal 128 cubic feet by volume, construed as being seventy percent (70%) solid and thirty percent (30%) air space or 90 solid cubic feet.
- (9) **Correct.** – 'Correct' is conformance to all applicable requirements of this Chapter.
- (10) **Flour.** – 'Flour' is any finely ground product of wheat, or other grain, corn, peas, beans, seed or other substance, with or without added ingredients, intended for use as food for man.
- (11) **Gallon.** – 'Gallon' when used in connection with liquid measure is a unit of 231 cubic inches, of which the liquid quart, liquid pint and gill are, respectively, the quarter, the one-eighth and the one-thirty-second parts.
- (12) **Installation.** – 'Installation' is an act involving the erection, or building, or assembling of parts, or the placing or setting up of a ~~scale or~~ weighing or measuring device so as to give correct indications of applied weight or measure values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under definition of the term 'service' as defined in this Chapter.
- (13) **Maintenance.** – 'Maintenance' is an act pursuant to the retention of a ~~scale or weighing~~ or measuring device in such working condition as to give correct applied weight or measure value indications within legal tolerance when used as intended, which may involve either or both adjustment or repair before or after inaccuracy develops in fact, and the correctness of indications shall be determined by test provided for under the term 'service' as defined in this Chapter.
- (14) **Meal.** – 'Meal' is any product of grain, corn, peas, beans, seed or other substance coarsely ground, with or without added ingredients, either bolted, or unbolted, including grits and hominy, intended for use as food for man.
- (15) **Package.** – 'Package' is any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.
- (16) **Person.** – 'Person' is both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, firms, societies, and associations.
- (17) **Pound.** – 'Pound,' used in connection with weight is the avoirdupois pound as declared by act of the United States Congress, except in those

cases where it is common practice to use the 'troy' pound or 'apothecaries' pound, and the 'ounce' is one-sixteenth part of an avoirdupois pound.

- (18) Primary Standards. – 'Primary standards' are the physical standards of the State which serve as the legal reference from which all other standards, weights and measures are derived.
- (19) Rejected Equipment. – 'Rejected equipment' is equipment that is incorrect, which is considered susceptible of proper repair.
- (20) Repair. – 'Repair' is an act involving the replacement or mending of a broken or nonadjustable part or parts and the restoration of a ~~scale or~~ weighing or measuring device to such working condition as to give correct indications of applied weight or measure values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under the term 'service' as defined in this Chapter.
- (21) Sale or Sell. – 'Sale' or 'sell' is the ordinary meaning of said words and includes barter and exchange.
- (22) Scale Technician. – A 'scale technician' is any person who, for hire or award, renders service involving adjustment, installation, repair, or maintenance of a scale or weighing device, either used or intended to be used in determining weight value, or values, by either physical act, instruction, or supervision.
- (23) Secondary Standards. – 'Secondary standards' are the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations.
- (24) Service. – 'Service' is activity involving adjustment, installation, repair, or maintenance or a combination of two or more of these activities with respect to a ~~scale or weighing or measuring device, and, in addition thereto, a test for determination of the accuracy of weight value indication in the following manner: Applying a series of loads of standard weight on a platter or platform up to capacity on a scale of 30 pounds capacity, and on all other scales except vehicle scales, standard weight loads equal to the first dial and/or unit weight on dial scales, and on beam scales and digital instruments a standard weight load equal to three fourths scale capacity shall be applied. On vehicle scales up to and including 10 tons a minimum of 5,000 pounds of standard weight load and 5,000 pounds of build up load equally distributed. On vehicle scales with a rated capacity in excess of 10 tons a standard weight load (build up load if standard weights are not available) of not less than 20,000 pounds. If scale is so equipped all tare mechanisms shall be included in test.~~
- (25) Ton. – 'Ton' is a unit of 2,000 pounds, avoirdupois weight.

- (26) Weight. – 'Weight' when used in connection with any commodity is net weight; provided, however, where the label declares that the product is sold by drained weight, weight means net drained weight.
- (27) Weight(s) and (or) Measure(s). – 'Weight(s) and (or) measure(s)' are all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices."

Sec. 24. G.S. 81A-15(8) reads as rewritten:

"(8) Weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with this Chapter or regulations promulgated pursuant thereto. In carrying out the provisions of this section, recognized sampling procedures, ~~such as are designated in National Bureau of Standards Handbook 67, "Checking Prepackaged Commodities,"~~ shall be used."

Sec. 25. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives