

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

3

HOUSE BILL 644
Committee Substitute Favorable 5/14/13
Senate Rules and Operations of the Senate Committee Substitute Adopted 7/15/14

Short Title: Prevent Hazardous Drug Exposure. (Public)

Sponsors:

Referred to:

April 10, 2013

1 A BILL TO BE ENTITLED
2 AN ACT RELATING TO THE HANDLING OF ANTINEOPLASTIC AGENTS TO
3 PREVENT DISEASE AND INJURY CAUSED BY EXPOSURE.

4 Whereas, according to the National Institute for Occupational Safety and Health
5 (NIOSH), early concerns about occupational exposure to antineoplastic agents first appeared in
6 the 1970s; and

7 Whereas, antineoplastic agents may cause skin rashes, infertility, miscarriage, birth
8 defects, and have been linked to a wide variety of cancers; and

9 Whereas, NIOSH published an alert on preventing occupational exposures to
10 antineoplastic agents in health care settings in 2004 with an update in 2010; and

11 Whereas, in this alert, the NIOSH presents a standard precautions or universal
12 precautions approach to handling antineoplastic agents safely, meaning that it recommends that
13 antineoplastic agents be handled as outlined in the alert; Now, therefore,
14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** The General Assembly finds that health care personnel who work
16 with or near hazardous antineoplastic agents in health care settings may be exposed to these
17 agents in the workplace. It is the intent of the General Assembly to require health care facilities
18 to follow rules requiring compliance with all aspects of alerts from the National Institute for
19 Occupational Safety and Health in order to protect health care personnel in this State from
20 hazardous exposure to such agents.

21 **SECTION 2.** G.S. 95-127 reads as rewritten:

22 "**§ 95-127. Definitions.**

23 ~~In this Article, unless the context otherwise requires:~~ As used in this Article, the following
24 definitions apply:

25 (1) ~~The term "Advisory Council" shall mean the Advisory Council. – The~~
26 ~~Advisory Council or body established under this Article.~~

27 (2) Antineoplastic agent. – A chemotherapy drug or cytotoxic drug used to treat
28 cancer patients and some non-cancer patients.

29 (2)(3) ~~The term "Commission" means the Commission. – North Carolina~~
30 ~~Occupational Safety and Health Review Commission established under this~~
31 ~~Article.~~

32 (3)(4) ~~The term "classified service" means a Classified service. – A position~~
33 ~~included in the State Merit System of Personnel Administration subject to~~
34 ~~the laws, rules and regulations of the State Personnel Board as administered~~



1 by the State Personnel Director and as set forth in Chapter 126 of the
2 General Statutes.

3 ~~(4)(5) The term "Commissioner" means the Commissioner. – The Commissioner of~~
4 ~~Labor of North Carolina.~~

5 ~~(5)(6) The term "days" shall mean a Day. – A calendar day unless otherwise noted.~~

6 ~~(6)(7) The term "Department" means the Department. – The North Carolina~~
7 ~~Department of Labor of North Carolina.~~

8 ~~(7)(8) The term "Deputy Commissioner" means the Deputy Commissioner. – The~~
9 ~~Deputy Commissioner of the North Carolina Department of Labor, who is~~
10 ~~appointed by the Commissioner to aid and assist the Commissioner in the~~
11 ~~performance of his duties. The Deputy Commissioner shall exercise such~~
12 ~~power and authority as delegated to him or her by the Commissioner.~~

13 ~~(8)(9) The term "Director" means the Director. – The officer or agent appointed by~~
14 ~~the Commissioner of Labor for the purpose of assisting in the administration~~
15 ~~of the Occupational Safety and Health Act of North Carolina.~~

16 ~~(9)(10) The term "employee" means an Employee. – An employee of an employer~~
17 ~~who is employed in a business or other capacity of his or her employer,~~
18 ~~including any and all business units and agencies owned and/or controlled~~
19 ~~by the employer.~~

20 ~~(10)(11) The term "employer" means a Employer. – A person engaged in a~~
21 ~~business who has employees, including any state or political subdivision of a~~
22 ~~state, but does not include the employment of domestic workers employed in~~
23 ~~the place of residence of his or her employer.~~

24 ~~(11)(12) The term "established federal standard" means any Established federal~~
25 ~~standard. – Any operative occupational safety and health standard~~
26 ~~established by any agency of the United States and presently in effect, or~~
27 ~~contained in any act of Congress in force on the date of enactment of this~~
28 ~~Article, and adopted by the Secretary of Labor under the Occupational~~
29 ~~Safety and Health Act of 1970.~~

30 ~~(12)(13) The term "federal act," as referred to in this Article, means the Federal~~
31 ~~Act. – The Occupational Safety and Health Act of 1970 (Public Law 91-596,~~
32 ~~91st Congress, Act of December 29, 1970, 84 Stat. 1950).~~

33 ~~(13)(14) The term "imminent danger" means any Imminent danger. – Any~~
34 ~~conditions or practices in any place of employment which are such that a~~
35 ~~danger exists which could reasonably be expected to cause death, or serious~~
36 ~~physical harm immediately or before the imminence of such danger can be~~
37 ~~eliminated through the enforcement procedures otherwise provided by this~~
38 ~~Article.~~

39 ~~(14)(15) The term "issue" means an Issue. – An industrial, occupational or hazard~~
40 ~~grouping.~~

41 ~~(15)(16) The term "occupational safety and health standards" means~~
42 ~~a Occupational safety and health standard. – A standard which requires~~
43 ~~conditions, or the adoption or use of one or more practices, means, methods,~~
44 ~~safety devices, operations or processes reasonably necessary and appropriate~~
45 ~~to provide safe and healthful employment and places of employment, and~~
46 ~~shall include all occupational safety and health standards adopted and~~
47 ~~promulgated by the Secretary which also may be and are adopted by the~~
48 ~~State of North Carolina under the provisions of this Article. This term~~
49 ~~includes but is not limited to interim federal standards, consensus standards,~~
50 ~~any proprietary standards or permanent standards, as well as temporary~~
51 ~~emergency standards which may be adopted by the Secretary, promulgated~~

1 as provided by the Occupational Safety and Health Act of 1970, and which
2 standards or regulations are published in the Code of Federal Regulations or
3 otherwise properly promulgated under the federal act or any appropriate
4 federal agencies.

5 ~~(16)~~(17) ~~The term "person" means one~~Person. – One or more individuals,
6 partnerships, associations, corporations, business trusts, legal
7 representatives.

8 ~~(17)~~(18) ~~The term "Secretary" means the~~Secretary. – The United States Secretary
9 of Labor.

10 ~~(18)~~(19) ~~A "serious violation"~~Serious violation. – A violation that shall be
11 deemed to exist in a place of employment if there is a substantial probability
12 that death or serious physical harm could result from a condition which
13 exists, or from one or more practices, means, methods, operations, or
14 processes which have been adopted or are in use at such place of
15 employment, unless the employer did not know, and could not, with the
16 exercise of reasonable diligence, know of the presence of the violation.

17 ~~(19)~~(20) ~~The term "State" means the~~State. – The State of North Carolina."

18 **SECTION 3.** G.S. 94-133(a) reads as rewritten:

19 "(a) There is hereby created and established in the North Carolina Department of Labor
20 a division to be known as the Occupational Safety and Health Division. The Commissioner
21 shall appoint a Director to administer this division who shall be subject to the direction and
22 supervision of the Commissioner. The Director shall carry out the responsibilities of the State
23 of North Carolina as prescribed under the Occupational Safety and Health Act of 1970, and any
24 subsequent federal laws or regulations relating to occupational safety and health, and this
25 Article, as written, revised or amended by legislative enactment and as delegated or authorized
26 by the Commissioner. The Commissioner shall make and promulgate such rules, amendments,
27 or revisions in rules, as ~~hethe~~the Commissioner may deem advisable for the administration of the
28 ~~office, he~~office. The Commissioner shall also accept and use the services, facilities, and
29 personnel of any agency of the State or of any subdivision of State government, either as a free
30 service or by reimbursement. The Director shall devote full time to his or her duties of office
31 and shall not hold any other office. The Director, subject to the approval of the Commissioner,
32 shall select a professional staff of qualified and competent employees to assist in the statewide
33 administration of the Article. All of the employees referred to herein shall be under the
34 classified service, as herein defined in G.S. 95-127, subdivision (3).service."

35 **SECTION 4.** Article 16 of Chapter 95 of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 95-156. Handling of dangerous antineoplastic agents.**

38 (a) The Commissioner of Labor shall adopt rules to establish requirements for the
39 handling of antineoplastic agents in facilities where there is occupational exposure to
40 antineoplastic agents.

41 (b) The rules adopted pursuant to this section shall be consistent with, but not exceed,
42 the recommendations issued by the National Institute for Occupational Safety and Health
43 (NIOSH) of the Centers for Disease Control and Prevention (CDC), as contained in the Alert:
44 Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health
45 Care Settings, as published in 2004 and including subsequent amendments and editions. The
46 Department's adoption of the rules may incorporate updates and changes to NIOSH's guidelines
47 as made by CDC.

48 (c) Rules adopted pursuant to this section shall not apply to an entity that has obtained a
49 permit pursuant to G.S. 90-85.21 or G.S. 90-85.21A.

50 (d) The Commissioner shall enforce these rules and investigate complaints in
51 accordance with the provisions of this Article."

1 **SECTION 5.** The Commissioner of Labor shall adopt the rules to implement this
2 act no later than January 1, 2016. Rules adopted pursuant to this section shall not be subject to
3 G.S. 150B-19.1(e), 150B-19.1(f), 150B-19.1(h), and 150B-21.4. The Commissioner of Labor
4 shall establish an advisory workgroup, consisting of hospitals, organizations representing health
5 care personnel, and other interested stakeholders, for the development of rules as required by
6 this act. Consideration shall be given to what constitutes a reasonable time frame for facilities
7 to implement new requirements.

8 **SECTION 6.** This act is effective when it becomes law.