

# ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 1133

AMENDMENT NO. A1  
(to be filled in by  
Principal Clerk)

H1133-ASU-70 [v.9]

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Comm. Sub. [NO]  
Amends Title [NO]  
Fourth Edition

Date \_\_\_\_\_, 2014

Senator Hartsell

1 moves to amend the bill on page 15, lines 37-44, by rewriting the lines to read:

2  
3 "(e) Any inmate of a local confinement facility who possesses any tobacco products,  
4 ~~including vapor products,~~ as defined in G.S. 148-23.1, other than for authorized religious  
5 purposes, or who possesses a mobile telephone or other wireless communications device or a  
6 component of one of those devices, is guilty of a Class 1 misdemeanor.

7 (f) Notwithstanding subsection (c) of this section, local confinement facilities may give  
8 or sell vapor products or FDA-approved tobacco cessation products, such as over-the-counter  
9 nicotine replacement therapies, including nicotine gum, patches, and lozenges, to inmates while  
10 in the custody of the local confinement facility."; and

11  
12 on page 20, line 27, by deleting "G.S. 18B-1004(7)" and substituting "G.S. 18B-1104(7)"; and

13  
14 on page 22, line 50, through page 23, line 10, those being Section 32, by rewriting the lines to  
15 read:

16 "SECTION 32. Reserved."; and

17  
18 on page 23, lines 25-28, those being Section 34, by rewriting the lines to read:

19 "SECTION 34. Reserved."; and

20  
21 on page 38, lines 16 and 17, by adding the following new section between the lines:

22  
23 "SECTION 49.5. G.S. 115C-174.26, as recodified by Section 12 of S.L. 2014-5,  
24 reads as rewritten:

25 "...

26 (h) ~~Beginning October 1, 2014;~~ November 15, 2014, the State Board of Education shall  
27 report annually to the Joint Legislative Education Oversight Committee on advanced courses in  
28 North Carolina. The report shall include, at a minimum, the following information:

29 (1) The North Carolina Advanced Placement Partnership's report to the  
30 Department of Public Instruction as required by subsection (g) of this section  
31 and the State Board's assessment of that report.



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- 1 (2) Number of students enrolled in advanced courses and participating in
- 2 advanced course examinations, including demographic information by
- 3 gender, race, and free and reduced-price lunch status.
- 4 (3) Student performance on advanced course examinations, including
- 5 information by course, local school administrative unit, and school.
- 6 (4) Number of students participating in 10th grade PSAT/NMSQT testing.
- 7 (5) Number of teachers attending summer institutes offered by the North
- 8 Carolina Advanced Placement Partnership.
- 9 (6) Distribution of funding appropriated for advanced course testing fees and
- 10 professional development by local school administrative unit and school.
- 11 (7) Status and efforts of the North Carolina Advanced Placement Partnership.
- 12 (8) Other trends in advanced courses and examinations.""; and
- 13

14 on page 40, lines 8-9, by adding the following new section between the lines:

15  
16 **"SECTION 55.3.(a)** G.S. 126-5(e) reads as rewritten:

17 "(e) An exempt employee may be transferred, demoted, or separated from his or her  
18 position by the department head authorized to designate the exempt position ~~except~~except as  
19 follows:

- 20 (1) When an employee who has the minimum service requirements described in
- 21 G.S. 126-1.1 but less than 10 years of cumulative service in subject positions
- 22 prior to placement in an exempt position is removed from an exempt
- 23 position, for reasons other than just cause, the employee shall have priority
- 24 to any position that becomes available for which the employee is qualified,
- 25 according to rules and regulations regulating and defining priority as
- 26 promulgated by the State Human Resources ~~Commission~~Commission.
- 27 (2) When an employee who has 10 years or more cumulative service, including
- 28 the immediately preceding 12 months, in subject positions prior to
- 29 placement in an exempt position is removed from an exempt position, for
- 30 reasons other than just cause, the employee shall be reassigned to a subject
- 31 position within the same department or agency, or if necessary within
- 32 another agency, and within a 35 mile radius of the exempt position, at the
- 33 same grade and salary, including all across-the-board increases since
- 34 placement in the position designated as exempt, as his or her most recent
- 35 subject position.
- 36 (3) When a career State employee as defined by G.S. 126-1.1 who has more
- 37 than two but less than 10 years or more of cumulative service in a subject
- 38 position moves from one exempt position covered by this subsection to
- 39 another position covered by this subsection without a break in service and
- 40 that employee is later removed from the last exempt position, for reasons
- 41 other than just cause, the employee shall have priority to any position that
- 42 becomes available for which the employee is qualified, according to the

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rules regulating and defining priority as adopted by the State Human Resources Commission.

(4) When a career State employee as defined by G.S. 126-1.1 who has 10 years or more of cumulative service moves from one exempt position covered by this subsection to another position covered by this subsection without a break in service and that employee is later removed from the last exempt position, for reasons other than just cause, the employee shall be reassigned to a subject position within the same department or agency, or if necessary, within another department or agency. The employee shall be paid at the same grade and salary as the employee's most recent subject position, including all across-the-board legislative increases awarded since the employee's placement in the position that was designated as exempt."

**SECTION 55.3.(b)** G.S. 126-14.2(c) reads as rewritten:

"(c) It is a violation of this section ~~giving rise to the remedies set forth in G.S. 126-14.4~~ if:"

**SECTION 55.3.(c)** G.S. 126-25(b) reads as rewritten:

"(b) An employee, former employee, or applicant for employment who objects to material in the employee's file because he or she considers it inaccurate or misleading may seek the removal of such material from the file in accordance with a grievance procedure ~~established by that department.~~ approved by the State Human Resources Commission. If the agency determines that material in the employee's file is inaccurate or misleading, the agency shall remove or amend the inaccurate material to ensure that the file is accurate. Nothing in this subsection shall be construed to permit an employee to appeal the contents of a performance appraisal or written disciplinary action."

**SECTION 55.3.(d)** G.S. 126-34.02(b)(5) reads as rewritten:

"(5) Failure to post or give priority consideration. – An applicant for State employment or a State employee may allege that he or she was denied hiring or promotion because a position was not posted in accordance with this ~~Chapter~~ Chapter; or a career State employee may allege that ~~because he or she was denied hiring or a promotion as a result of a failure to give priority consideration for promotion or reemployment as required by G.S. 126-7.1.~~ G.S. 126-7.1; or a career State employee may allege that he or she was denied hiring as a result of the failure to give him or her a reduction-in-force priority."

**SECTION 55.3.(e)** G.S. 126-82(d) reads as rewritten:

"(d) Any eligible veteran who has reason to believe that he or she did not receive a veteran's preference in accordance with the provisions of this Article or rules adopted under it may appeal ~~directly to the State Human Resources Commission.~~ that denial as provided by G.S. 126-34.01 and G.S. 126-34.02."

**SECTION 55.3.(f)** G.S. 135-44(ff)(1) reads as rewritten:

"(ff) Retroactive Membership Service. – A member who is reinstated to service as an employee as defined in G.S. 135-1(10) or as a teacher as defined in G.S. 135-1(25) retroactively to the date of prior involuntary termination with back pay, as defined by the State

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1 Human Resources Commission, and associated benefits may be allowed membership service,  
2 after submitting clear and convincing evidence of the reinstatement, payment of back pay, and  
3 restoration of associated benefits, as follows:

4 (1) When the reinstatement to service is by court order, final decision of an  
5 Administrative Law Judge, or ~~decision of the State Human Resources~~  
6 Commission, with the approval of the Office of State Human Resources  
7 Director, and is:

- 8 a. Within 90 days of the involuntary termination, by the payment of
- 9 employee and employer contributions that would have been paid; or
- 10 b. After 90 days of the involuntary termination, by the payment of the
- 11 employee and employer contributions that would have been paid plus
- 12 interest compounded annually at a rate equal to the greater of the
- 13 average yield on the pension accumulation fund for the preceding
- 14 calendar year or the actuarial investment rate-of-return assumption,
- 15 as adopted by the Board of Trustees."

16 **SECTION 55.3.(g)** Section 8.3 of S.L. 2013-382 reads as rewritten:

17 "**SECTION 8.3.** This Part is effective when it becomes law and expires ~~June 30, 2014.~~ June  
18 30, 2015. The Office of State Personnel and the Office of State Budget and Management shall  
19 report to the Joint Legislative Commission on Governmental Operations on January 31, 2014,  
20 April 30, 2014, ~~and September 1, 2014.~~ September 1, 2014, January 31, 2015, April 30, 2015,  
21 and September 1, 2015."

22 **SECTION 55.3.(h)** The Codifier of Rules shall make all necessary changes in  
23 nomenclature in Title 25 of the North Carolina Administrative Rules as follows:

- 24 (1) To change the name of the Office of State Personnel to the Office of State
- 25 Human Resources.
- 26 (2) To change the name of the State Personnel Commission to the State Human
- 27 Resources Commission.
- 28 (3) To change the name of the Director of the Office of State Personnel to the
- 29 Director of the Office of State Human Resources.
- 30 (4) To change the name of the Office of State Personnel Director to the Office
- 31 of State Human Resources Director.
- 32 (5) Any other change consistent with this section."

SIGNED \_\_\_\_\_

Amendment Sponsor

**The official copy of this document, with signatures  
and vote information, is available in the  
Senate Principal Clerk's Office**