

# ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 605

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

S605-ATQ-32 [v.1]

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Amends Title [NO]  
Third Edition

Date \_\_\_\_\_, 2021

Senator B. Jackson

1 moves to amend the bill on page 12, line 49, through page 13, line 13, by rewriting the lines to  
2 read:

3  
4 " **RETALIATORY EMPLOYMENT DISCRIMINATION ACT AMENDMENT**

5 **SECTION 13.** G.S. 95-242 reads as rewritten:

6 "**§ 95-242. Complaint; investigation; conciliation.**

7 (a) An employee allegedly aggrieved by a violation of G.S. 95-241 may file a written  
8 complaint with the Commissioner of Labor alleging the violation. The complaint shall be filed  
9 within 180 days of the alleged violation. Within 20 days following receipt of the complaint, the  
10 Commissioner shall forward a copy of the complaint to the person alleged to have committed the  
11 violation and shall initiate an investigation. If the Commissioner determines after the  
12 investigation that there is not reasonable cause to believe that the allegation is true, the  
13 Commissioner shall dismiss the complaint, promptly notify the employee and the respondent,  
14 and issue a right-to-sue letter to the employee that will enable the employee to bring a civil action  
15 pursuant to G.S. 95-243. The right-to-sue letter shall state that the Commissioner has investigated  
16 the complaint and concluded that there is not reasonable cause to believe the allegation is true. If  
17 the Commissioner determines after investigation that there is reasonable cause to believe that the  
18 allegation is true, the Commissioner shall attempt to eliminate the alleged violation by informal  
19 methods which may consist of conference, conciliation, and persuasion. The Commissioner shall  
20 make a determination as soon as possible and, in any event, not later than 90 days after the filing  
21 of the complaint.

22 (b) If the Commissioner is unable to resolve the alleged violation through the informal  
23 methods, the Commissioner shall notify the parties in writing that conciliation efforts have failed.  
24 The Commissioner shall then either file a civil action on behalf of the employee pursuant to G.S.  
25 95-243 or issue a right-to-sue letter to the employee enabling the employee to bring a civil action  
26 pursuant to G.S. 95-243.

27 (b1) The Commissioner may reopen an investigation under this Article for good cause  
28 shown within 30 days of receipt of the right-to-sue letter. If an investigation is reopened pursuant  
29 to this section, the 90-day time limit set forth in G.S. 95-243(b) shall not commence until the new  
30 investigation is complete and either a new right-to-sue letter is issued or the Commissioner  
31 notifies the parties in writing that conciliation efforts have failed.



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1 (c) An employee may make a written request to the Commissioner for a right-to-sue letter  
2 after 90 days following the filing of a complaint if the Commissioner has not issued a notice of  
3 conciliation failure and has not commenced an action pursuant to G.S. 95-242.

4 (d) Nothing said or done during the use of the informal methods described in subsection  
5 (a) of this section may be made public by the Commissioner or used as evidence in a subsequent  
6 proceeding under this Article without the written consent of the persons concerned. However, a  
7 right-to-sue letter issued by the Commissioner when the Commissioner has concluded that there  
8 is not reasonable cause to believe the allegation is true may be used as evidence in a subsequent  
9 proceeding under this Article.

10 (e) The Commissioner's files and the Commissioner's other records relating to  
11 investigations and enforcement proceedings pursuant to this Article shall not be subject to  
12 inspection and examination as authorized by G.S. 132-6 while such investigations and  
13 proceedings are open or pending in the trial court division.

14 (f) In making inspections and investigations under this Article, the Commissioner or his  
15 duly authorized agents may, in addition to exercising the authority granted in G.S. 95-4, issue  
16 subpoenas to require the attendance and testimony of witnesses and the production of evidence  
17 under oath. Witnesses shall be reimbursed for all travel and other necessary expenses which shall  
18 be claimed and paid in accordance with the prevailing travel reimbursement requirements of the  
19 State. In the case of failure or refusal of any person to obey a subpoena under this Article, the  
20 district court judge or superior court judge of the county in which the inspection or investigation  
21 is conducted shall, upon the application of the Commissioner, have jurisdiction to issue an order  
22 requiring compliance."".  
23  
24

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

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