

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 597

Short Title: Clarify Sanitation Laws.

(Public)

Sponsors: Senator Walker.

Referred to: Environment and Natural Resources.

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE FOOD AND LODGING SANITATION LAW, TO AMEND THE SCOPE OF SANITATION INSPECTIONS OF LOCAL CONFINEMENT FACILITIES, AND TO REPEAL THE REQUIREMENT THAT PRINCIPALS CONDUCT SANITATION INSPECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-247 reads as rewritten:

"§ 130A-247. Definitions.

The following definitions shall apply throughout this Part:

- (1) 'Permanent house guest' means a person who receives room or board for periods of a week or longer. The term includes visitors of the permanent house guest.
- (2) 'Private club' means an establishment which maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is ~~not profit oriented.~~ either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Code as defined in G.S. 105-130.2(1).
- (3) 'Regular boarder' means a person who receives food for periods of a week or longer.
- (4) ~~'Where drink is prepared or served' means a place where drink is put together, portioned, set out or handed out.~~ 'Establishment that prepares or serves drink' means a business or other entity that puts together,

1 portions, sets out, or hands out drinks in unpackaged portions using
2 containers which are reused on the premises rather than single-service
3 containers.

4 (5) ~~'Where food is prepared or served' means a place where food is cooked, put~~
5 ~~together, portioned, set out or handed out~~ 'Establishment that prepares or
6 serves food' means a business or other entity that cooks, puts together,
7 portions, sets out, or hands out food in unpackaged portions for human
8 consumption.

9 (6) 'Bed and breakfast inn' means a business establishment of not more
10 than 12 guest rooms that offers bed and breakfast accommodations to
11 at least nine but not more than 23 persons per night for a period of less
12 than one week, and that:

- 13 a. Does not serve food or drink to the general public for pay;
- 14 b. Serves only the breakfast meal, and that meal is served only to
15 overnight guests of the establishment;
- 16 c. Includes the price of breakfast in the room rate; and
- 17 d. Is the permanent residence of the owner or the manager of the
18 establishment."

19 Sec. 2. G.S. 130A-248 reads as rewritten:

20 **"§ 130A-248. Regulation of restaurants and hotels.**

21 (a) For the protection of the public health, the Commission shall adopt rules
22 governing the sanitation of restaurants, school cafeterias, summer camps, food or drink
23 stands, ~~caterers, sandwich manufacturing operations, mobile food units, pushcarts and~~
24 ~~other facilities where food or drink is prepared or served~~ establishments that prepare or
25 serve food or drink for pay. However, any ~~facility where food or drink is prepared or served~~
26 ~~establishment that prepares or serves food or drink~~ to the public, regardless of pay, shall
27 be subject to the provisions of this Article if the facility establishment holds an ABC
28 permit, meets the definition of an establishment pursuant to G.S. 18B-1000(2), (4), (5), or (6)
29 any of the definitions in G.S. 18B-1000 and does not meet the definition of a private
30 club as provided in G.S. 130A-247(2).

31 (a1) For the protection of the public health, the Commission shall adopt rules
32 governing the sanitation of hotels, motels, tourist homes, and other ~~facilities~~
33 establishments that provide lodging where lodging is provided for pay.

34 (a2) For the protection of the public health, the Commission shall adopt rules
35 governing the sanitation of private homes offering bed and breakfast accommodations
36 to eight or ~~less~~ fewer persons per night, and rules governing the sanitation of bed and
37 breakfast inns as defined in G.S. 130A-247. In carrying out this function, the
38 Commission shall adopt requirements that are the least restrictive so as to protect the
39 public health and not unreasonably interfere with the operation of bed and breakfast
40 inns.

41 (a3) The rules adopted by the Commission pursuant to subsections (a), (a1), and
42 (a2) of this section shall address, but not be limited to, the following:

- 43 (1) Establishment of sanitation requirements for cleanliness of floors,
44 walls, ceilings, storage spaces, utensils, and other areas and items;

- 1 (2) The adequacy of:
- 2 a. Lighting, ventilation, and water supply;
- 3 b. ~~Sewage~~ Wastewater collection, treatment, and disposal facilities;
- 4 and
- 5 c. ~~Lavatory facilities, Lavatories, food protection facilities,~~
- 6 protection, and waste disposal;
- 7 (3) The cleaning and bactericidal treatment of eating and drinking utensils
- 8 and other food-contact surfaces;
- 9 (3a) The appropriate and reasonable use of gloves or utensils by employees
- 10 who handle unwrapped food;
- 11 (4) The methods of food preparation, transportation, catering, storage, and
- 12 serving;
- 13 (5) The health of employees; and
- 14 (6) Animal and vermin control.

15 The rules shall contain a system for grading ~~facilities, establishments,~~ such as Grade A,

16 Grade B, and Grade C.

17 (b) No ~~facility-establishment~~ shall commence or continue operation without a

18 permit or transitional permit issued by the Department. The permit or transitional

19 permit shall be issued to the owner or operator of the ~~facility-establishment~~ and shall not

20 be transferable. If the establishment has been leased, the permit or transitional permit

21 shall be issued to the lessee and shall not be transferable. If the location of an

22 establishment changes, a new permit shall be obtained for the establishment. A permit

23 shall be issued only when the ~~facility-establishment~~ satisfies all of the requirements of

24 the rules. The Commission shall adopt rules establishing the requirements that must be

25 met before a transitional permit may be issued, and the period for which a transitional

26 permit may be issued. The Department may also impose conditions on the issuance of a

27 permit or transitional permit in accordance with rules adopted by the Commission. A

28 permit or transitional permit shall be immediately revoked in accordance with G.S.

29 130A-23(d) for failure of the ~~facility-establishment~~ to maintain a minimum grade of C.

30 A permit or transitional permit may otherwise be suspended or revoked in accordance

31 with G.S. 130A-23.

32 (b1) A permit shall expire one year after a ~~facility-an establishment~~ closes unless

33 the permit is the subject of a contested case pursuant to Article 3 of Chapter 150B.

34 (c) If ownership of a ~~facility-an establishment~~ is ~~transferred,~~ transferred or the

35 establishment is leased, the new owner or ~~operator-lessee~~ shall apply for a new permit.

36 The new owner or ~~operator-lessee~~ may also apply for a transitional permit. A

37 transitional permit may be issued upon the transfer of ownership or lease of an

38 establishment to allow the correction of construction and equipment problems that do

39 not represent an immediate threat to the public health. Upon issuance of a new permit

40 or a transitional permit for an establishment, all previously issued permits for

41 establishments in that location shall be void.

42 (c1) The Commission shall adopt rules governing the sanitation of pushcarts and

43 mobile food units. A pushcart or mobile food unit shall be operated in conjunction with

44 a permitted restaurant.

1 (d) The Department shall charge each facility subject to this section, except
2 nutrition programs for the elderly administered by the Division of Aging of the
3 Department of Human Resources and public school cafeterias, an annual fee of twenty-
4 five dollars (\$25.00). The Department shall charge an additional twenty-five dollar
5 (\$25.00) late payment fee to any facility that fails to pay the required fee within 45 days
6 after billing by the Department. The Department may, in accordance with G.S. 130A-
7 23, suspend or revoke the permit of a facility that fails to pay the required fee within 60
8 days after billing by the Department. The Commission shall adopt rules to implement
9 this subsection. Fees collected under this subsection shall be used for State and local
10 public health programs and activities. No more than thirty-three and one-third percent
11 (33-1/3%) of the fees collected may be used to support State health programs and
12 activities."

13 Sec. 3. G.S. 130A-249 reads as rewritten:

14 **"§ 130A-249. Inspections; report and grade card.**

15 The Secretary may enter any facility-establishment that is subject to the provisions of
16 G.S. 130A-248 for the purpose of making inspections. The Secretary shall inspect each
17 restaurant at least quarterly, except that the quarterly inspection requirement shall not
18 apply to temporary food ~~facilities-establishments.~~ The person responsible for the
19 management or control of a facility-an establishment shall permit the Secretary to inspect
20 every part of the facility-establishment and shall render all aid and assistance necessary
21 for the inspection. The Secretary shall leave a copy of the inspection form and a card or
22 cards showing the grade of the facility-establishment with the responsible person. The
23 Secretary shall post the grade card in a conspicuous place as determined by the
24 Secretary where it may be readily observed by the public upon entering the facility
25 establishment or upon picking up food prepared inside but received and paid for outside
26 the facility-establishment through delivery windows or other delivery devices. If a
27 single facility-establishment has one or more outside delivery service stations and an
28 internal delivery system, that facility-establishment shall have a grade card posted where
29 it may be readily visible upon entering the facility-establishment and one posted where it
30 may be readily visible in each delivery window or delivery device upon picking up the
31 food outside the facility-establishment. The grade card or cards shall not be removed by
32 anyone, except by or upon the instruction of the Secretary."

33 Sec. 4. G.S. 130A-250 reads as rewritten:

34 **"§ 130A-250. Exemptions.**

35 ~~This Part shall not apply to: (i) facilities which provide food or lodging to regular~~
36 ~~boarders or permanent house guests only; (ii) private clubs; (iii) curb markets operated~~
37 ~~by the State Agricultural Extension Service; (iv) occasional fund raising events~~
38 ~~conducted by the same person no more frequently than two consecutive days every~~
39 ~~month; and private homes that occasionally offer lodging accommodations, which may~~
40 ~~include the providing of food, for two weeks or less to persons attending special events,~~
41 ~~provided those homes are not bed and breakfast homes nor bed and breakfast inns. A~~
42 ~~mobile food unit or pusheart shall be operated in conjunction with a permitted~~
43 ~~restaurant. The following shall be exempt from this Part:~~

- 1 (1) Lodging establishments described in G.S. 130A-248(a1) with four or
 2 fewer lodging units;
 3 (2) Condominiums;
 4 (3) Establishments which provide food or lodging to regular boarders or
 5 permanent house guests only;
 6 (4) Private homes that occasionally offer lodging accommodations, which
 7 may include the providing of food for two weeks or less to persons
 8 attending special events, provided these homes are not bed and
 9 breakfast homes or bed and breakfast inns;
 10 (5) Private clubs;
 11 (6) Curb markets operated by the State Agricultural Extension Service;
 12 and
 13 (7) Establishments that prepare or serve food or drink for pay no more
 14 frequently than once a month for a period not to exceed two
 15 consecutive days."

16 Sec. 5. G.S. 153A-226 reads as rewritten:

17 **"§ 153A-226. Sanitation and food.**

18 (a) The Commission for Health Services shall adopt rules ~~and regulations~~
 19 governing the sanitation of ~~local confinement facilities, including the kitchens and other~~
 20 places where food is prepared for ~~prisoners.~~ prisoners in local confinement facilities.
 21 ~~The rules and regulations shall cover such matters as shall address but shall not be limited~~
 22 to the cleanliness of floors, walls, ceilings, storage spaces, utensils, utensils; and other
 23 ~~facilities; adequacy of lighting, ventilation, water, lavatory facilities, facilities used by~~
 24 food service personnel, bedding, food protection facilities, treatment of eating and
 25 drinking utensils, and waste disposal; and methods of food preparation, handling,
 26 storage, and serving; serving. adequacy of diet; and any other item necessary to the health of
 27 ~~the prisoners or the public.~~

28 (b) The Commission for Health Services shall prepare a score sheet to be used by
 29 ~~sanitarians of local or district health departments in inspecting~~ kitchens and other places
 30 where food is prepared for prisoners in local confinement facilities. ~~The sanitarians local~~
 31 health departments shall inspect local confinement facilities as often as may be required
 32 by the Commission for Health Services. If an inspector of the Department finds
 33 conditions that reflect hazards or deficiencies in the sanitation or food service of a local
 34 confinement facility, he shall immediately notify the local or district health department.
 35 The health department shall promptly cause a sanitarian to inspect the facility. After
 36 making his-its inspection, the sanitarian local health department shall forward a copy of
 37 his-its report to the Department of Human Resources and to the unit operating the
 38 facility, on forms prepared by the Department of Environment, Health, and Natural
 39 Resources. The report shall indicate whether the facility and its kitchen or other place
 40 where food is prepared for prisoners for preparing food is approved or disapproved for
 41 public health purposes. If the facility kitchen or other place where food is prepared for
 42 prisoners is disapproved, the situation shall be rectified according to the procedures of
 43 G.S. 153A-223."

44 Sec. 6. G.S. 130A-237 is repealed.

1 Sec. 7. This act is effective upon ratification.