

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 597

Environment and Natural Resources Committee Substitute Adopted 5/3/93

Short Title: Clarify Sanitation Laws.

(Public)

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Sponsors:

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Referred to:

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March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE FOOD AND LODGING SANITATION LAW.

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) 'Establishment' means an establishment that prepares or serves drink, an establishment that prepares or serves food, or an establishment that provides lodging.

(+) (1a) '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~~ that 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 Internal Revenue 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

1 serves drink' means a business or other entity that puts together,  
2 portions, sets out, or hands out drinks in unpackaged portions using  
3 containers which ~~that~~ are reused on the premises rather than single-  
4 service containers.

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

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

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

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

21 **"§ 130A-248. Regulation of restaurants and hotels.**

22 (a) For the protection of the public health, the Commission shall adopt rules  
23 governing the sanitation of restaurants, school cafeterias, summer camps, food or drink  
24 stands, ~~sandwich manufacturing operations, mobile food units, pushcarts and other facilities~~  
25 ~~where food or drink is prepared or served~~ establishments that prepare or serve food or drink  
26 for pay. However, any facility where food or drink is prepared or served ~~establishment that~~  
27 prepares or serves food or drink to the public, regardless of pay, shall be subject to the  
28 provisions of this Article if the facility establishment holds an ABC permit, as defined in  
29 G.S. 18B-101, meets the definition of an establishment pursuant to G.S. 18B-1000(2), (4),  
30 (5), or (6) any of the definitions in G.S. 18B-1000, and does not meet the definition of a  
31 private club as provided in G.S. 130A-247(2).

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

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

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

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

18 The rules shall contain a system for grading ~~facilities, establishments,~~ such as Grade A,  
 19 Grade B, and Grade C.

20          (b) No ~~facility-establishment~~ shall commence or continue operation without a  
 21 permit or transitional permit issued by the Department. The permit or transitional permit  
 22 shall be issued to the owner or operator of the ~~facility-establishment~~ and shall not be  
 23 transferable. If the establishment is leased, the permit or transitional permit shall be  
 24 issued to the lessee and shall not be transferable. If the location of an establishment  
 25 changes, a new permit shall be obtained for the establishment. A permit shall be issued  
 26 only when the ~~facility-establishment~~ satisfies all of the requirements of the rules. The  
 27 Commission shall adopt rules establishing the requirements that must be met before a  
 28 transitional permit may be issued, and the period for which a transitional permit may be  
 29 issued. The Department may also impose conditions on the issuance of a permit or  
 30 transitional permit in accordance with rules adopted by the Commission. A permit or  
 31 transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d)  
 32 for failure of the ~~facility-establishment~~ to maintain a minimum grade of C. A permit or  
 33 transitional permit may otherwise be suspended or revoked in accordance with G.S.  
 34 130A-23.

35          (b1) A permit shall expire one year after a ~~facility-an establishment~~ closes unless  
 36 the permit is the subject of a contested case pursuant to Article 3 of Chapter ~~150B-150B~~  
 37 of the General Statutes.

38          (c) If ownership of a ~~facility-an establishment~~ is ~~transferred,~~ transferred or the  
 39 establishment is leased, the new owner or ~~operator-lessee~~ shall apply for a new permit.  
 40 The new owner or ~~operator-lessee~~ may also apply for a transitional permit. A transitional  
 41 permit may be issued upon the transfer of ownership or lease of an establishment to  
 42 allow the correction of construction and equipment problems that do not represent an  
 43 immediate threat to the public health. Upon issuance of a new permit or a transitional

1 permit for an establishment, any previously issued permit for an establishment in that  
2 location becomes void.

3 (c1) The Commission shall adopt rules governing the sanitation of pushcarts and  
4 mobile food units. A pushcart or mobile food unit shall be operated in conjunction with  
5 a permitted restaurant.

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

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

19 **"§ 130A-249. Inspections; report and grade card.**

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

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

39 **"§ 130A-250. Exemptions.**

40 ~~This Part shall not apply to: (i) facilities which provide food or lodging to regular~~  
41 ~~boarders or permanent house guests only; (ii) private clubs; (iii) curb markets operated~~  
42 ~~by the State Agricultural Extension Service; (iv) occasional fund raising events~~  
43 ~~conducted by the same person no more frequently than two consecutive days every~~  
44 ~~month; and private homes that occasionally offer lodging accommodations, which may~~

1 include the providing of food, for two weeks or less to persons attending special events,  
 2 provided those homes are not bed and breakfast homes nor bed and breakfast inns. A  
 3 mobile food unit or pushcart shall be operated in conjunction with a permitted  
 4 restaurant. The following shall be exempt from this Part:

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

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

23 **"§ 153A-226. Sanitation and food.**

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

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

1 public health purposes. If the facility is disapproved, the situation shall be rectified  
2 according to the procedures of G.S. 153A-223."

3 Sec. 6. G.S. 130A-237 reads as rewritten:

4 "**§ 130A-237. ~~Inspections, reports, corrective~~ Corrective action.**

5 ~~A principal or administrative head of a public, private or religious school shall~~  
6 ~~inspect the facility every month to monitor the level of sanitation and to assure~~  
7 ~~compliance with the sanitation rules. —A principal or administrative head of a public,~~  
8 ~~private, or religious school shall immediately take action to correct conditions which~~  
9 ~~that do not satisfy the sanitation rules. Sample inspection report forms may be obtained~~  
10 ~~from the Department upon request."~~

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