

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**HOUSE BILL 1112
Senate Agricultural/Environment/Natural Resources Committee Substitute
Adopted 6/18/03**

Short Title: Amend Environmental Laws-2.

(Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND CERTAIN LAWS RELATED TO THE ENVIRONMENT AND
3 ENVIRONMENTAL HEALTH TO (1) REMOVE OUTDATED LANGUAGE
4 RELATED TO SANITATION OF FOOD AND LODGING FACILITIES, (2) TO
5 CLARIFY WHAT CONSTITUTES A BASE OF OPERATIONS FOR MOBILE
6 FOOD UNITS AND PUSHCARTS, AND (3) TO CLARIFY THE FREEBOARD
7 REQUIREMENTS APPLICABLE TO LAGOONS THAT ARE COMPONENTS
8 OF ANIMAL WASTE MANAGEMENT SYSTEMS.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 130A-248(a4) reads as rewritten:

11 "(a4) For the protection of the public health, the Commission shall adopt rules
12 governing the sanitation of limited food service establishments. In adopting the rules,
13 the Commission shall not limit the number of days that limited food service
14 establishments may operate. Limited food service establishment permits shall be issued
15 only to political subdivisions of the State, establishments operated by volunteers that
16 prepare or serve food in conjunction with amateur athletic events, ~~or for establishments~~
17 ~~operated by other charitable organizations. On and after January 1, 1996, limited food~~
18 ~~service establishment permits shall be issued only to political subdivisions of the State,~~
19 ~~establishments operated by volunteers that prepare or serve food in conjunction with~~
20 ~~amateur athletic events, or for establishments operated by organizations that have~~
21 ~~applied for exemption or are exempt from federal income tax under section 501(c)(3) or~~
22 ~~section 501(c)(4) of the Internal Revenue Code. On and after January 1, 1997, limited~~
23 ~~food service establishment permits shall be issued only to political subdivisions of the~~
24 ~~State, establishments operated by volunteers that prepare or serve food in conjunction~~
25 ~~with amateur athletic events, or for establishments operated by organizations that are~~
26 exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the
27 Internal Revenue Code."

28 **SECTION 2.** G.S. 130A-248(c1) reads as rewritten:

1 "(c1) The Commission shall adopt rules governing the sanitation of pushcarts and
2 mobile food units. A permitted restaurant or commissary shall serve as a base of
3 operations for a pushcart or mobile food unit shall be operated in conjunction with a
4 permitted restaurant unit."

5 **SECTION 3.** G.S. 143-215.10C(b) reads as rewritten:

6 "(b) An animal waste management system shall be designed, constructed, and
7 operated so that the animal operation served by the animal waste management system
8 does not cause pollution in the waters of the State except as may result because of
9 rainfall from a storm event more severe than the 25-year, 24-hour storm. In order to
10 protect the structural integrity of a lagoon that is a component of an animal waste
11 management system, the owner or operator of a lagoon shall maintain a minimum of 12
12 inches of freeboard. The owner or operator of a lagoon shall maintain sufficient
13 additional freeboard to contain the runoff and direct precipitation that results from the
14 25-year, 24-hour storm, or from chronic rainfall. The Commission shall specify in the
15 permit the minimum additional freeboard that the owner or operator is required to
16 maintain. An owner or operator shall not be deemed to have violated the permit
17 requirement to maintain additional freeboard if all of the following apply: (i) the owner
18 or operator reports any failure to maintain the required minimum additional freeboard to
19 the Division in a timely manner, (ii) the owner or operator promptly takes appropriate
20 action to reduce the level of the lagoon so as to restore the required additional freeboard,
21 (iii) the owner or operator at all times maintains a minimum of 12 inches of structural
22 freeboard, and (iv) the failure to maintain the required additional freeboard does not
23 cause pollution in the waters of the State. An owner or operator shall be deemed to have
24 violated the permit if any of the following apply: (i) the owner or operator fails to report
25 any failure to maintain the required structural freeboard or the required minimum
26 additional freeboard to the Division in a timely manner, (ii) the owner or operator fails
27 to promptly take appropriate action to reduce the level of the lagoon so as to restore the
28 required structural or minimum additional freeboard, (iii) the owner or operator at any
29 time fails to maintain a minimum of 12 inches of structural freeboard, or (iv) if any
30 failure to maintain the required structural or minimum additional freeboard causes
31 pollution in the waters of the State. As used in this subsection:

32 (1) '25-year, 24-hour storm' means a precipitation event that has a
33 probable recurrence interval of once in 25 years as determined by the
34 National Weather Service of the National Oceanic and Atmospheric
35 Administration of the United States Department of Commerce.

36 (2) 'Chronic rainfall' means a series of wet weather conditions that
37 preclude dewatering of a properly maintained lagoon.

38 (3) 'Freeboard' means the distance between the surface of water contained
39 in a lagoon and the top of the lagoon.

40 (4) 'Lagoon' has the same meaning as in G.S. 106-802."

41 **SECTION 4.** Sections 1, 2, and 4 of this act are effective when this act
42 becomes law. Section 3 of this act is effective retroactively to 1 January 2003.