

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 570

Committee Substitute Favorable 4/22/93

Senate Environment and Natural Resources Committee Substitute Adopted 5/31/93

Short Title: Clarify Sanitation Laws.

(Public)

Sponsors:

Referred to:

March 25, 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.

- 1           (4) ~~'Where drink is prepared or served' means a place where drink is put~~  
2 ~~together, portioned, set out or handed out.~~ 'Establishment that prepares or  
3 serves drink' means a business or other entity that puts together,  
4 portions, sets out, or hands out drinks in unpackaged portions using  
5 containers ~~which~~ that are reused on the premises rather than single-  
6 service containers.
- 7           (5) ~~'Where food is prepared or served' means a place where food is cooked, put~~  
8 ~~together, portioned, set out or handed out.~~ 'Establishment that prepares or  
9 serves food' means a business or other entity that cooks, puts together,  
10 portions, sets out, or hands out food in unpackaged portions for human  
11 consumption.
- 12           (6) 'Bed and breakfast inn' means a business establishment of not more  
13 than 12 guest rooms that offers bed and breakfast accommodations to  
14 at least nine but not more than 23 persons per night for a period of less  
15 than one week, and that:
- 16           a. Does not serve food or drink to the general public for pay;  
17           b. Serves only the breakfast meal, and that meal is served only to  
18 overnight guests of the establishment;  
19           c. Includes the price of breakfast in the room rate; and  
20           d. Is the permanent residence of the owner or the manager of the  
21 establishment."

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

23 **"§ 130A-248. Regulation of restaurants and hotels.**

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

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

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

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

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

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

22 (b) No ~~facility establishment~~ shall commence or continue operation without a  
23 permit or transitional permit issued by the Department. The permit or transitional  
24 permit shall be issued to the owner or operator of the ~~facility establishment~~ and shall not  
25 be transferable. If the establishment is leased, the permit or transitional permit shall be  
26 issued to the lessee and shall not be transferable. If the location of an establishment  
27 changes, a new permit shall be obtained for the establishment. A permit shall be issued  
28 only when the ~~facility establishment~~ satisfies all of the requirements of the rules. The  
29 Commission shall adopt rules establishing the requirements that must be met before a  
30 transitional permit may be issued, and the period for which a transitional permit may be  
31 issued. The Department may also impose conditions on the issuance of a permit or  
32 transitional permit in accordance with rules adopted by the Commission. A permit or  
33 transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d)  
34 for failure of the ~~facility establishment~~ to maintain a minimum grade of C. A permit or  
35 transitional permit may otherwise be suspended or revoked in accordance with G.S.  
36 130A-23.

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

40 (c) If ownership of a ~~facility an establishment~~ is ~~transferred,~~ transferred or the  
41 establishment is leased, the new owner or ~~operator lessee~~ shall apply for a new permit.  
42 The new owner or ~~operator lessee~~ may also apply for a transitional permit. A  
43 transitional permit may be issued upon the transfer of ownership or lease of an  
44 establishment to allow the correction of construction and equipment problems that do

1 not represent an immediate threat to the public health. Upon issuance of a new permit  
2 or a transitional permit for an establishment, any previously issued permit for an  
3 establishment in that location becomes void.

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

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

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

20 "**§ 130A-249. Inspections; report and grade card.**

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

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

40 "**§ 130A-250. Exemptions.**

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

1 month; and private homes that occasionally offer lodging accommodations, which may include the providing of food, for two weeks or less to persons attending special events, provided those homes are not bed and breakfast homes nor bed and breakfast inns. A mobile food unit or pushcart shall be operated in conjunction with a permitted restaurant. The following shall be exempt from this Part:

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

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

24 "**§ 153A-226. Sanitation and food.**

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

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

1 facility and its kitchen or other place for preparing food is approved or disapproved for  
2 public health purposes. If the facility is disapproved, the situation shall be rectified  
3 according to the procedures of G.S. 153A-223."

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

5 "**§ 130A-237. ~~Inspections, reports, corrective~~ Corrective action.**

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

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