

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 570
Committee Substitute Favorable 4/22/93

Short Title: Clarify Sanitation Laws.

(Public)

Sponsors:

Referred to:

March 25, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE FOOD AND LODGING SANITATION LAW.
3 The General Assembly of North Carolina enacts:

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

5 **"§ 130A-247. Definitions.**

6 The following definitions shall apply throughout this Part:

7 (1) 'Permanent house guest' means a person who receives room or board
8 for periods of a week or longer. The term includes visitors of the
9 permanent house guest.

10 (2) 'Private club' means an establishment which maintains selective
11 members, is operated by the membership, does not provide food or
12 lodging for pay to anyone who is not a member or a member's guest,
13 and is ~~not profit oriented.~~ either incorporated as a nonprofit corporation
14 in accordance with Chapter 55A of the General Statutes or is exempt
15 from federal income tax under the Code as defined in G.S. 105-
16 130.2(1).

17 (3) 'Regular boarder' means a person who receives food for periods of a
18 week or longer.

19 (4) ~~'Where drink is prepared or served' means a place where drink is put~~
20 ~~together, portioned, set out or handed out.~~ 'Establishment that prepares or
21 serves drink' means a business or other entity that puts together,
22 portions, sets out, or hands out drinks in unpackaged portions using

1 containers which are reused on the premises rather than single-service
2 containers.

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

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

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

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

19 **"§ 130A-248. Regulation of restaurants and hotels.**

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

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

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

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

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

- 1 (2) The adequacy of:
- 2 a. ~~Lighting, ventilation, Lighting~~ 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 permit

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

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

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

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

23 only when the ~~facility-establishment~~ satisfies all of the requirements of the rules. The

24 Commission shall adopt rules establishing the requirements that must be met before a

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

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

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

28 transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d)

29 for failure of the ~~facility-establishment~~ to maintain a minimum grade of C. A permit or

30 transitional permit may otherwise be suspended or revoked in accordance with G.S.

31 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 transitional

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

38 allow the correction of construction and equipment problems that do not represent an

39 immediate threat to the public health. Upon issuance of a new permit or a transitional

40 permit for an establishment, all previously issued permits for establishments in that

41 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 (7) Establishments that prepare or serve food or drink for pay no more
 13 frequently than once a month for a period not to exceed two
 14 consecutive days; and
 15 (8) Establishments that put together, portion, set out, or hand out only
 16 drinks using single service containers which are not reused on the
 17 premises."

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

19 **"§ 153A-226. Sanitation and food.**

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

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

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

44 **"§ 130A-237. ~~Inspections, reports, corrective~~ Corrective action.**

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

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