

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 262
HOUSE BILL 570

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.
- ~~(1)~~(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 serves drink' means a business or other entity that puts together, portions, sets out, or hands out drinks in unpackaged portions using containers which~~that~~are reused on the premises rather than single-service containers.
- (5) ~~'Where food is prepared or served' means a place where food is cooked, put together, portioned, set out or handed out.~~'Establishment that prepares or serves food' means a business or other entity that cooks, puts together, portions, sets out, or hands out food in unpackaged portions for human consumption.
- (6) 'Bed and breakfast inn' means a business establishment of not more than 12 guest rooms that offers bed and breakfast accommodations to at least nine but not more than 23 persons per night for a period of less than one week, and that:

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

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

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

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

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

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

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

- (1) ~~Establishment of sanitation~~ Sanitation requirements for cleanliness of floors, walls, ceilings, storage spaces, utensils, ventilation equipment, and other areas and items;
- (2) The adequacy of:
 - a. ~~Lighting, ventilation,~~ Lighting and water supply;
 - b. ~~Sewage~~ Wastewater collection, treatment, and disposal facilities; and
 - c. ~~Lavatory facilities,~~ Lavatories, food protection facilities, protection, and waste disposal;
- (3) The cleaning and bactericidal treatment of eating and drinking utensils and other food-contact surfaces;
- (3a) The appropriate and reasonable use of gloves or utensils by employees who handle unwrapped food;

- (4) The methods of food preparation, transportation, catering, storage, and serving;
- (5) The health of employees; and
- (6) Animal and vermin control.

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

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

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

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

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

(d) The Department shall charge each ~~facility establishment~~ subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Human Resources and public school cafeterias, an annual fee of twenty-five dollars (\$25.00). The Department shall charge an additional twenty-five dollar (\$25.00) late payment fee to any ~~facility establishment~~ that fails to pay the required fee within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, suspend or revoke the permit of a ~~facility an establishment~~ that fails to pay the required fee within 60 days after billing by the Department. The Commission shall adopt rules to implement this subsection. Fees

collected under this subsection shall be used for State and local public health programs and activities. No more than thirty-three and one-third percent (33-1/3%) of the fees collected may be used to support State health programs and activities."

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

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

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

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

"§ 130A-250. Exemptions.

~~This Part shall not apply to: (i) facilities which provide food or lodging to regular boarders or permanent house guests only; (ii) private clubs; (iii) curb markets operated by the State Agricultural Extension Service; (iv) occasional fund-raising events conducted by the same person no more frequently than two consecutive days every 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 pusheart shall be operated in conjunction with a permitted restaurant. The following shall be exempt from this Part:~~

- (1) Lodging establishments described in G.S. 130A-248(a1) with four or fewer lodging units;
- (2) Condominiums;
- (3) Establishments that prepare or serve food or provide lodging to regular boarders or permanent house guests only;
- (4) 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 these homes are not bed and breakfast homes or bed and breakfast inns;
- (5) Private clubs;

- (6) Curb markets operated by the State Agricultural Extension Service;
- (7) Establishments that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive days; and
- (8) Establishments that put together, portion, set out, or hand out only drinks using single service containers that are not reused on the premises."

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

"§ 153A-226. Sanitation and food.

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

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

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

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

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

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives