

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 282*
Human Resources Committee Substitute Adopted 5/3/89

Short Title: Communicable Disease Law Change.

(Public)

Sponsors:

Referred to:

February 27, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE COMMUNICABLE DISEASE LAW.
3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 130A-148 reads as rewritten:

5 "**§ 130A-148. Laboratory tests for AIDS virus infection.**

6 (a) For the protection of the public health, the Commission shall adopt rules
7 establishing standards for the certification of laboratories to perform tests for Acquired
8 Immune Deficiency Syndrome (AIDS) virus infection. The rules shall address, but not
9 be limited to, proficiency testing, record maintenance, adequate staffing and
10 confirmatory testing. Tests for AIDS virus infection shall be performed only by
11 laboratories certified pursuant to this subsection and only on specimens submitted by a
12 physician licensed to practice medicine. This subsection shall not apply to testing
13 performed solely for research purposes under the approval of an institutional review
14 board.

15 (b) Prior to obtaining consent for donation of blood, semen, tissue or organs, a
16 facility or institution seeking to obtain blood, tissue, semen or organs for transfusion,
17 implantation, transplantation or administration shall provide the potential donor with
18 information about AIDS virus transmission, and information about who should not
19 donate.

20 (c) No blood or semen may be transfused or administered when blood from the
21 donor has not been tested or has tested positive for AIDS virus infection by a standard
22 laboratory test.

1 (d) No tissue or organs may be transplanted or implanted when blood from the
2 donor has not been tested or has tested positive for AIDS virus infection by a standard
3 laboratory test unless consent is obtained from the recipient, or from the recipient's
4 guardian or a responsible adult relative of the recipient if the recipient is not competent
5 to give such consent.

6 (e) Any facility or institution that obtains or transfuses, implants, transplants, or
7 administers blood, tissue, semen, or organs shall be immune from civil or criminal
8 liability that otherwise might be incurred or imposed for transmission of AIDS virus
9 infection if the provisions specified in subsections (b), (c), and (d) of this section have
10 been complied with.

11 (f) Specimens may be tested for AIDS virus infection for research or
12 epidemiologic purposes without consent of the person from whom the specimen is
13 obtained if all personal identifying information is removed from the specimen prior to
14 testing.

15 (g) Persons tested for AIDS virus infection shall be notified of test results and
16 counseled appropriately. This subsection shall not apply to tests performed by or for
17 entities governed by Article 34 of G.S. Chapter 58, the Insurance Information and
18 Privacy Protection Act, provided that said entities comply with the notice requirements
19 thereof.

20 (h) No test for AIDS virus infection may be performed without informed consent
21 of the person being tested except:

22 (1) When the parents or legal guardian of a minor 12 years of age or
23 younger refuse to consent and there is reasonable suspicion that the
24 minor is infected with AIDS virus infection or that the child has been
25 sexually abused;

26 (2) Under circumstances in a health care facility when a patient is unable
27 to give informed consent and the patient's spouse, parent, guardian,
28 nearest relative or other person authorized to give consent is
29 unavailable; or

30 (3) As provided in any law that specifically requires testing for AIDS
31 virus infection.

32 The Commission may authorize or require laboratory tests for AIDS virus infection
33 when necessary to protect the public health.

34 (i) Except as provided in subsection (h) of this section, no test for AIDS virus
35 infection shall be required, performed, or used to determine suitability for continuous
36 employment, housing, or public services, or for the use of places of public
37 accommodation, as defined in G.S. 168A-3(8), or public transportation. It shall be
38 further unlawful to discriminate against persons to determine suitability for continuous
39 employment, housing, or public services, or for the use of places of public
40 accommodation, as defined in G.S. 168A-3(8), or public transportation who has or is
41 perceived to have AIDS virus infection. Any person so aggrieved shall be entitled to
42 institute a civil action pursuant to G.S. 168A-11 of the Handicapped Persons Protection
43 Act, or G.S. 41A-7 of the State Fair Housing Act.

1 (j) Nothing in this act shall be construed so as to prohibit an employer from
2 requiring a test for AIDS virus infection for job applicants in preemployment medical
3 examinations required by the employer; or to prohibit an employer from denying
4 employment to a job applicant based solely on a confirmed positive test for AIDS virus
5 infection; or to prohibit an employer from taking the appropriate employment action,
6 including reassignment or termination of employment, if an employee who is infected
7 with the AIDS virus develops manifestations or complications of that infection that
8 would reasonably pose a risk to the health of the employee, coworkers, or the public, or
9 that would render the employee unqualified to perform the normally assigned duties of
10 the job."

11 Sec. 2. Restaurants issued a permit pursuant to G.S. 130A-248 shall be
12 exempted from G.S. 130A-148(i), as it applies to suitability for continued employment,
13 until July 1, 1991.

14 Sec. 3. This act is effective upon ratification provided that G.S. 130A-148(i)
15 shall terminate July 1, 1991.