

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 282*

Human Resources Committee Substitute Adopted 5/3/89

Judiciary III Committee Substitute #2 Adopted 5/5/89

Short Title: Communicable Disease Law Change.

(Public)

Sponsors:

Referred to:

February 27, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE COMMUNICABLE DISEASE LAW.

The General Assembly of North Carolina enacts:

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

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

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

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

(c) No blood or semen may be transfused or administered when blood from the donor has not been tested or has tested positive for AIDS virus infection by a standard 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) A test for the AIDS virus infection may be performed based solely upon the
21 certification and order submitted by a physician licensed to practice medicine, and,
22 except as otherwise expressly required herein, the duty of the physician to the patient to
23 obtain consent for such testing shall not be affected by this Chapter. The Commission
24 may also authorize or require laboratory tests for AIDS virus infection when necessary
25 to protect the public health.

26 (i) Except as provided in subsection (j) of this section, no test for AIDS virus
27 infection shall be required, performed, or used to determine suitability for continuous
28 employment, housing, or public services, or for the use of places of public
29 accommodation, as defined in G.S. 168A-3(8), or public transportation. It shall be
30 further unlawful to discriminate against persons to determine suitability for continuous
31 employment, housing, or public services, or for the use of places of public
32 accommodation, as defined in G.S. 168A-3(8), or public transportation who has or is
33 perceived to have AIDS virus infection. Provided, however that where public services
34 or places of public accommodation may apply to the provision of health care, it shall not
35 be discrimination for a State licensed health care professional to treat a person
36 differently or refer the person to another professional or facility, where to do otherwise
37 would in the clinical judgment of the health care professional increase the risk of
38 transmission of the infection. Any person so aggrieved shall be entitled to institute a
39 civil action pursuant to G.S. 168A-11 of the Handicapped Persons Protection Act, or
40 G.S. 41A-7 of the State Fair Housing Act.

41 (j) Nothing in this act shall be construed so as to prohibit an employer from
42 requiring a test for AIDS virus infection for job applicants in preemployment medical
43 examinations required by the employer; or to prohibit an employer from denying
44 employment to a job applicant based solely on a confirmed positive test for AIDS virus

1 infection; or to prohibit an employer from taking the appropriate employment action,
2 including reassignment or termination of employment, if an employee who is infected
3 with the AIDS virus would reasonably pose a risk to the health of the employee,
4 coworkers, or the public, or that would render the employee unqualified to perform the
5 normally assigned duties of the job."

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

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