

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 179

Committee Substitute Favorable 3/17/93

Senate Environment & Natural Resources Committee Substitute Adopted 7/20/93

Short Title: Delete Env. Reports./Tech Corr.

(Public)

Sponsors:

Referred to:

February 17, 1993

A BILL TO BE ENTITLED

AN ACT TO DELETE THE REQUIREMENT THAT CERTAIN REPORTS ON ENVIRONMENTAL ISSUES BE MADE TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS, TO AUTHORIZE MARINE FISHERIES INSPECTORS TO ASSIST IN THE ENFORCEMENT OF LAWS WHEN A CRIME HAS BEEN COMMITTED IN THEIR PRESENCE OR WHEN A STATE OR LOCAL LAW ENFORCEMENT OFFICER HAS REQUESTED THEIR ASSISTANCE, TO SET A DATE BY WHICH LOCAL GOVERNMENTS SHALL SUBMIT LOCAL WATER SUPPLY PLANS, AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-309.12(c) reads as rewritten:

"(c) The Department shall report ~~on an annual basis beginning 1 September 1992 to the Joint Legislative Commission on Governmental Operations and to annually on or before 1 September to the Environmental Review Commission~~ as to the condition of the Solid Waste Management Trust Fund and as to the use of all funds allocated from the Solid Waste Management Trust Fund."

Sec. 2. (a) Section 2 of Chapter 1082 of the 1989 Session Laws, as rewritten by Section 1 of Chapter 20 of the 1991 Session Laws and Section 8 of Chapter 990 of the 1991 Session Laws, is repealed.

1 (b) G.S. 130A-295.02(k) is amended by adding a new subsection to read:

2 "(k) The Department shall report annually on or before 1 September to the
3 Environmental Review Commission on the implementation of the resident inspectors
4 program."

5 Sec. 3. G.S. 74-54.1 reads as rewritten:

6 "**§ 74-54.1. Permit fees.**

7 (a) The Commission may establish a fee schedule for the processing of permit
8 applications and permit renewals and modifications. The fees may vary on the basis of
9 the acreage, size, and nature of the proposed or permitted operations or modifications.
10 In establishing the fee schedule, the Commission shall consider the administrative and
11 personnel costs incurred by the Department for processing applications for permits and
12 permit renewals and modifications and for related compliance activities and safeguards
13 to prevent unusual fee assessments that would impose a serious economic burden on an
14 individual applicant or a class of applicants.

15 (b) The total amount of permit fees collected for any fiscal year may not exceed
16 one-third of the total personnel and administrative costs incurred by the Department for
17 processing applications for permits and permit renewals and modifications and for
18 related compliance costs in the prior fiscal year. A fee for an application for a new
19 permit may not exceed two thousand five hundred dollars (\$2,500), and a fee for an
20 application to renew or modify a permit may not exceed five hundred dollars (\$500.00).
21 Fees collected under this section shall be applied to the costs of administering this
22 Article.

23 (c) The Department shall ~~make an annual~~ annually report on or before 1
24 September to the ~~Joint Legislative Commission on Governmental Operations and the~~
25 ~~Director of the Fiscal Research Division~~ Environmental Review Commission on the
26 cost of ~~the State's mining permit program.~~ implementing this Article. The report shall
27 include the fees established, collected, and disbursed under this section and any other
28 information requested by the General Assembly or the Commission."

29 Sec. 4. Section 3 of Chapter 197 of the 1993 Session Laws reads as
30 rewritten:

31 "Sec. 3. This act becomes effective 1 January ~~1~~, 1994. The Department of
32 Administration and the Department of Transportation shall ~~prepare~~ make the first report
33 to the Environmental Review Commission on or before 1 October ~~1~~, 1994."

34 Sec. 5. G.S. 113-136(d1) reads as rewritten:

35 "(d1) In addition to law enforcement authority granted elsewhere, a protector or
36 inspector has the authority to enforce criminal laws under the following circumstances:

37 (1) When the protector or inspector has probable cause to believe that a
38 person committed a criminal offense in his presence and at the time of
39 the violation the protector or inspector is engaged in the enforcement
40 of laws otherwise within his jurisdiction; or

41 (2) When the protector or inspector is asked to provide temporary
42 assistance by the head of a State or local law enforcement agency or
43 his designee and the request is within the scope of the agency's subject
44 matter jurisdiction.

1 While acting pursuant to this subsection, a protector or inspector shall have the same
2 powers invested in law enforcement officers by statute or common law. When acting
3 pursuant to (2) of this subsection a protector or inspector shall not be considered
4 an officer, employee, or agent for the state or local law enforcement agency or designee
5 asking for temporary assistance. Nothing in this subsection shall be construed to
6 expand the authority of protectors or inspectors to initiate or conduct an independent
7 investigation into violations of criminal laws outside the scope of their subject matter or
8 territorial jurisdiction."

9 Sec. 6. G.S. 106-769(a) reads as rewritten:

10 "(a) There is created the Genetic Engineering Review Board in the Department of
11 Agriculture. The Board shall consist of 10 members as follows:

- 12 (1) The Secretary of Environment, Health, and Natural Resources or his
13 designee;
- 14 (2) ~~The Secretary of Human Resources~~ State Health Director or his
15 designee;
- 16 (3) The Commissioner of Agriculture or his designee;
- 17 (4) The President of the North Carolina Biotechnology Center or his
18 designee;
- 19 (5) The Dean of the College of Agriculture and Life Sciences at North
20 Carolina State University, or his designee, and the Dean of the School
21 of Agriculture at North Carolina Agricultural and Technical State
22 University, or his designee;
- 23 (6) The Dean of the School of Public Health of the University of North
24 Carolina at Chapel Hill or his designee;
- 25 (7) A practicing farmer who is an active member of a farm organization,
26 appointed by the General Assembly upon the recommendation of the
27 Speaker of the House of Representatives;
- 28 (8) A representative of a nonprofit public interest organization appointed
29 by the General Assembly upon the recommendation of the President
30 Pro Tempore of the Senate; and
- 31 (9) A representative of the biotechnology industry appointed by the
32 Governor."

33 Sec. 7. G.S. 130A-33 reads as rewritten:

34 **"§ 130A-33. Commission for Health Services – regular and special meetings.**

35 Each year there shall be four regular meetings of the Commission for Health
36 Services, one of which shall be held ~~during the annual meeting and~~ jointly with a
37 general session of the annual meeting of the North Carolina Medical ~~Society at which~~
38 ~~time and place the annual report shall be submitted by the Secretary of Environment, Health,~~
39 ~~and Natural Resources or his designee.~~ Society. The State Health Director shall submit an
40 annual report on public health at this meeting. The other three meetings shall be at such
41 times and places as the chairman of the Commission shall designate. Special meetings
42 of the Commission may be called by the chairman, or by a majority of the members of
43 the Commission."

44 Sec. 8. (a) G.S. 143-355(l) reads as rewritten:

1 "(l) Each unit of local government that provides public water services or that
2 plans to provide ~~such~~ public water service shall, either individually or together with
3 other ~~such~~ units of local government, prepare a local water supply ~~plan~~ and submit it to
4 the Department. The Department shall provide technical assistance with the preparation
5 of ~~such~~ plans to units of local government upon request and to the extent that the
6 Department has resources available to provide ~~such~~ assistance. At a minimum, local
7 units of government shall include in local water supply plans ~~such information as all~~
8 information that is readily available to them. However this subsection shall be
9 construed to require the preparation of local water supply plans only to the extent that
10 technical assistance is made available to units of local government from the
11 Department. ~~Such plans~~ Plans shall include present and projected ~~population~~ population,
12 industrial development, and water use within the service area, present and future water
13 supplies, an estimate of ~~such~~ the technical assistance ~~as that~~ may be needed at the local
14 level to address projected water needs, and ~~such~~ any other related information as the
15 Department may require in the preparation of a State water supply plan. Local plans
16 shall be revised to reflect changes in relevant data and projections at least once each five
17 years unless the Department requests more frequent revisions. Local plans and revised
18 plans shall be submitted to the Department once they have been approved by the unit(s)
19 of local government."

20 (b) Each unit of local government that is required to submit a plan under G.S.
21 143-355(l) shall submit its plan to the Department on or before 1 January 1995.

22 Sec. 9. G.S. 74-24.4(c) reads as rewritten:

23 "(c) ~~The Division of Health Services of the Department of Environment, Health, and~~
24 ~~Natural Resources~~ State Health Director shall have primary responsibility for research
25 and the recommendation of health standards to the Commissioner to effectuate the
26 purposes of this Article, and nothing in this subsection shall affect the authority of the
27 Commissioner with respect to the promulgation and enforcement of both safety and
28 health standards."

29 Sec. 10. G.S. 110-91(2) reads as rewritten:

30 "(2) Health-Related Activities. – Each child in a day-care facility shall
31 receive nutritious food and refreshments under rules to be adopted by
32 the Commission. After consultation with the ~~Division of Health Services~~
33 ~~of the Department of Environment, Health, and Natural Resources,~~ State
34 Health Director, nutrition standards shall provide for specific
35 requirements for infants. Nutrition standards shall provide for specific
36 requirements for children older than infants, including a daily food
37 plan for meals and snacks served that shall be adequate for good
38 nutrition. The number and size of servings and snacks shall be
39 appropriate for the ages of the children and shall be planned according
40 to the number of hours the child is in care. Menus for meals and snacks
41 shall be planned at least one week in advance, dated, and posted where
42 they can be seen by parents.

43 Each day-care facility shall arrange for each child in care to be out-
44 of-doors each day if weather conditions permit.

1 Each day-care facility shall have a rest period for each child in care
2 after lunch or at some other appropriate time.

3 No day-care facility shall care for more than 25 children in one
4 group. Facilities providing care for 26 or more children shall provide
5 for two or more groups according to the ages of children and shall
6 provide separate supervisory personnel for each group."

7 Sec. 11. G.S. 147-54.12(2) reads as rewritten:

8 "(2) 'Environmental license' means any certificate, permit, or other
9 approval by whatever name called, pertaining to a regulatory or
10 management program related to the protection, conservation, or use of
11 or interference with the resources of land, air, or water, which is
12 required to be obtained from a State agency or instrumentality,
13 including, but not limited to, any certificate, permit, or other approval
14 by whatever name called, pertaining to a pollution control rule or
15 standard established by the ~~Division of Health Services, Department of~~
16 ~~Human Resources or the Secretary of the Department of Human Resources.~~
17 Commission for Health Services."

18 Sec. 12. G.S. 105-164.13(38) reads as rewritten:

19 "(38) Food and other items lawfully purchased with coupons issued
20 under the Food Stamp Program, 7 U.S.C. § 51, and supplemental
21 foods lawfully purchased with a food instrument issued under the
22 Special Supplemental Food Program, 42 U.S.C. § ~~1786-1786,~~ and
23 supplemental foods purchased for direct distribution by the Special
24 Supplemental Food Program."

25 Sec. 13. G.S. 130A-247, as amended by Section 1 of Chapter 262 of the 1993
26 Session Laws, reads as rewritten:

27 **"§ 130A-247. Definitions.**

28 The following definitions shall apply throughout this Part:

29 (1) ~~'Establishment' means an establishment that prepares or serves drink,~~
30 ~~an establishment that prepares or serves food, or an establishment that~~
31 ~~provides lodging. (i) an establishment that prepares or serves drink, (ii)~~
32 ~~an establishment that prepares or serves food, (iii) an establishment~~
33 ~~that provides lodging, or (iv) a bed and breakfast inn.~~

34 (1a) 'Permanent house guest' means a person who receives room or board
35 for periods of a week or longer. The term includes visitors of the
36 permanent house guest.

37 (2) 'Private club' means an ~~establishment~~ organization that maintains
38 selective members, is operated by the membership, does not provide
39 food or lodging for pay to anyone who is not a member or a member's
40 guest, and is either incorporated as a nonprofit corporation in
41 accordance with Chapter 55A of the General Statutes or is exempt
42 from federal income tax under the Internal Revenue Code as defined in
43 G.S. 105-130.2(1).

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

20 Sec. 14. G.S. 130A-248(a), as amended by Section 2 of Chapter 262 of the
21 1993 Session Laws, reads as rewritten:

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

30 Sec. 15. G.S. 130A-250, as amended by Section 4 of Chapter 262 of the 1993
31 Session Laws, reads as rewritten:

32 "**§ 130A-250. Exemptions.**

33 The following shall be exempt from this Part:

- 34 (1) ~~Lodging establishments~~ Establishments that provide lodging described
35 in G.S. 130A-248(a1) with four or fewer lodging units;
- 36 (2) Condominiums;
- 37 (3) Establishments that prepare or serve food or provide lodging to regular
38 boarders or permanent house guests only;
- 39 (4) Private homes that occasionally offer lodging accommodations, which
40 may include the providing of food, for two weeks or less to persons
41 attending special events, provided these homes are not bed and
42 breakfast homes or bed and breakfast inns;
- 43 (5) Private clubs;
- 44 (6) Curb markets operated by the State Agricultural Extension Service;

- 1 (7) Establishments that prepare or serve food or drink for pay no more
2 frequently than once a month for a period not to exceed two
3 consecutive days; and
4 (8) Establishments that put together, portion, set out, or hand out only
5 drinks using single service containers that are not reused on the
6 premises."
7 Sec. 16. This act is effective upon ratification.