

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 760\*  
Judiciary I Committee Substitute Adopted 5/6/93  
Third Edition Engrossed 5/10/93  
House Committee Substitute Favorable 6/21/93

Short Title: No Gifts/Pub. Contr. Officials.

(Public)

Sponsors:

Referred to:

April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE GIVING OR RECEIPT OF GIFTS OR FAVORS TO  
GOVERNMENTAL OFFICERS AND EMPLOYEES CHARGED WITH  
PREPARING, AWARDING, ADMINISTERING, OR SUPERVISION OF PUBLIC  
CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. The heading of Article 31 of Chapter 14 of the General Statutes  
reads as rewritten:

"Misconduct in Public Office and Employment."

Sec. 2. Chapter 14 of the General Statutes is amended by adding the  
following new section to read:

**"§ 14-252.1. Gifts and favors to public officers and employees from public  
contractors prohibited.**

(a) It shall be unlawful for any contractor, subcontractor, or supplier who:

Has a contract with a governmental agency;

Has performed under such a contract within the past year; or

Anticipates bidding on, negotiating, or entering into such a contract in  
the future

to make gifts or to give favors to any officer or employee of a governmental agency  
who is charged with the duty of:

1                    Preparing plans, specifications, or estimates for public contract;  
2                    Awarding or administering public contracts; or  
3                    Inspecting or supervising construction.

4        (b)    It shall also be unlawful for any officer or employee of a governmental  
5 agency who is charged by law with the duty of:

6                    (1)    Preparing plans, specifications, or estimates for public contracts;

7                    (2)    Awarding or administering public  
8                    contracts; or

9                    (3)    Inspecting or supervising construction

10 willfully to receive or accept any such gift or favor.

11        (c)    A violation of this section shall be a misdemeanor.

12        (d)    Gifts or favors made unlawful by this section shall not be allowed as a  
13 deduction for North Carolina tax purposes by any contractor, subcontractor, or supplier  
14 or its officers or employees.

15        (e)    This section does not apply to:

16                    (1)    Reimbursement for participating in meetings, limited in amount to the  
17 actual travel and subsistence incurred in that participation;

18                    (2)    Advertising items or souvenirs not exceeding twenty-five dollars  
19 (\$25.00) in annual aggregate value from any one person;

20                    (3)    Meals and entertainment furnished at banquets;

21                    (4)    Donations to professional organizations to defray meeting expenses  
22 where governmental officers and employees are members of the  
23 professional organizations, or the participation of governmental  
24 officers and employees who are members of professional organizations  
25 in all scheduled meeting functions available to all members of the  
26 professional organization attending the meeting;

27                    (5)    Customary gifts or favors between governmental officers and  
28 employees and their friends and relatives or the friends and relatives of  
29 their spouses, minor children, or members of their household where it  
30 is clear that it is that relationship rather than the business of the  
31 individual concerned which is the motivating factor for the gift or  
32 favor. However, all such gifts knowingly made or received are  
33 required to be reported by the donee to the agency head if the gifts are  
34 made by a contractor, subcontractor, or supplier doing business  
35 directly or indirectly with the governmental agency employing the  
36 recipient of such a gift.

37        (f)    The following definitions apply in this section:

38                    (1)    Contractor. – a person entering into a public contract with a  
39 governmental agency.

40                    (2)    Governmental Agency. – The State of North Carolina, its agencies,  
41 institutions, and political subdivisions, all municipal corporations and  
42 all other public units, agencies, and authorities which are authorized to  
43 enter into public contracts for construction or repair or for procurement  
44 of goods or services.

1           (3) Person. – Any individual doing business as a contractor, subcontractor,  
2           or supplier, or any partnership, corporation, association, or other entity  
3           formed for that purpose.

4           (4) Public Contract. – An agreement between, or on behalf of, a  
5           governmental agency and any person for the procurement of goods,  
6           services, or construction or repair."

7           Sec. 3. G.S. 133-32 is repealed.

8           Sec. 4. This act becomes effective December 1, 1993, and applies to offenses  
9 committed on or after that date. Notwithstanding the repeal of G.S. 133-32 by Section 3  
10 of this act, prosecutions for offenses committed under the former Section 133-32 prior  
11 to December 1, 1993, shall not be affected.