

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1329\*

Short Title: Well Setback Distances.

(Public)

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Sponsors: Representatives Mitchell; Baker, Watson, Weatherly.

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Referred to: Environment.

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May 19, 1998

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT A RECOMMENDATION OF THE JOINT LEGISLATIVE  
2 ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO MODIFY  
3 BUILDING FOUNDATION SETBACK REQUIREMENTS AND TO ESTABLISH  
4 MONITORING REQUIREMENTS FOR EXISTING WATER SUPPLY WELLS  
5 SERVING FOSTER CARE HOMES, THERAPEUTIC HOMES FOR CHILDREN  
6 AND ADOLESCENTS, AND BED AND BREAKFAST HOMES AND INNS.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 130A-235 reads as rewritten:

9 "**§ 130A-235. Regulation of sanitation in ~~institutions.~~ institutions; existing water**  
10 **supply well setbacks.**

11 (a) For protection of the public health, the Commission shall adopt rules to  
12 establish sanitation requirements for all institutions and facilities at which individuals are  
13 provided room or board and for which a license to operate is required to be obtained or a  
14 certificate for payment is obtained from the Department. The rules shall also apply to  
15 facilities that provide room and board to individuals but are exempt from licensure under  
16 G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation  
17 requirements for these institutions and facilities. The Department shall issue a license to  
18 operate or a certificate for payment to such an institution or facility only upon compliance  
19 with all applicable sanitation rules of the Commission, and the Department may suspend  
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1 or revoke a license or a certificate for payment for violation of these rules. In adopting  
2 rules pursuant to this section, the Commission shall define categories of standards to  
3 which such institutions and facilities shall be subject and shall establish criteria for the  
4 placement of any such institution or facility into one of the categories. This section shall  
5 not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10).

6 (b) Rules adopted pursuant to subsection (a) of this section shall allow for an  
7 existing water supply well that is located a minimum of 10 feet but less than 25 feet from  
8 a building that houses a family foster home as defined in G.S. 131D-10.2(8), or a  
9 therapeutic home for children and adolescents as defined by the Commission for Mental  
10 Health, Developmental Disabilities, and Substance Abuse Services, and that is a source  
11 of water for a family foster home, or a therapeutic home for children and adolescents.  
12 These wells shall be deemed to meet sanitation requirements for water supplies provided  
13 that results from the following tests do not exceed acceptable levels applicable to all other  
14 institutions and facilities covered by subsection (a) of this section:

15 (1) For nitrates and bacteria, a sample shall be collected and analyzed prior  
16 to initial licensure, and prior to relicensure thereafter.

17 (2) For pesticides, a sample shall be collected and analyzed prior to initial  
18 licensure, and following any subsequent treatments for structural pests.

19 An existing water supply well that is located 25 feet or greater from a building that  
20 houses a family foster home as defined in G.S. 131D-10.2(8) or a therapeutic home for  
21 children and adolescents as defined by the Commission for Mental Health,  
22 Developmental Disabilities, and Substance Abuse Services, and that is a source of water  
23 for a family foster home, or therapeutic home for children and adolescents shall comply  
24 with the monitoring requirements established by the Commission. Family foster homes  
25 as defined in G.S. 131D-10.2(8) and therapeutic homes for children and adolescents as  
26 defined by the Commission for Mental Health, Developmental Disabilities, and  
27 Substance Abuse Services shall comply with all other applicable sanitation requirements  
28 established by the Commission. The Department may suspend or revoke a license for  
29 violation of this subsection or Commission rules."

30 Section 2. G.S. 130A-248(a3) reads as rewritten:

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

33 (1) Sanitation requirements for cleanliness of floors, walls, ceilings, storage  
34 spaces, utensils, ventilation equipment, and other areas and items;

35 (2) Requirements for:

36 a. ~~Lighting and water supply;~~ Lighting;

37 b. Wastewater collection, treatment, and disposal facilities; and

38 c. Lavatory and toilet facilities, food protection, and waste disposal;

39 (2a) Water supply requirements. Rules adopted pursuant to this subdivision  
40 shall allow for an existing water supply well that is located a minimum  
41 of 10 feet but less than 25 feet from a building that is a private home  
42 offering bed and breakfast accommodations to eight or fewer persons  
43 per night, or a bed and breakfast inn as defined in G.S. 130A-247(6),

1 and is the source of water for the bed and breakfast establishment.  
2 These wells shall be deemed to meet sanitation requirements for water  
3 supplies provided that the results of the following tests do not exceed  
4 acceptable levels applicable to establishments covered by this  
5 subdivision:

6 a. For nitrates and bacteria, a sample shall be collected and  
7 analyzed prior to the issuance of a permit or transitional permit,  
8 and annually thereafter.

9 b. For pesticides, a sample shall be collected and analyzed prior to  
10 to the issuance of a permit or transitional permit, and following  
11 any subsequent treatments for structural pests.

12 An existing water supply well that is located 25 feet or greater from a  
13 building that is a private home offering bed and breakfast  
14 accommodations to eight or fewer persons per night, or a bed and  
15 breakfast inn as defined in G.S. 130A-247(6), and that is the source of  
16 water for the home or inn shall comply with the monitoring  
17 requirements established by the Commission. A private home offering  
18 bed and breakfast accommodations to eight or fewer persons per night,  
19 or a bed and breakfast inn as defined in G.S. 130A-247(6), shall  
20 comply with all other applicable sanitation requirements established by  
21 the Commission;

22 (3) The cleaning and bactericidal treatment of eating and drinking utensils  
23 and other food-contact surfaces. A requirement imposed under this  
24 subdivision to sanitize multiuse eating and drinking utensils and other  
25 food-contact surfaces does not apply to utensils and surfaces provided in  
26 the guest room of the lodging unit for guests to prepare food while  
27 staying in the guest ~~room~~-room;

28 (3a) The appropriate and reasonable use of gloves or utensils by employees  
29 who handle unwrapped food;

30 (4) The methods of food preparation, transportation, catering, storage, and  
31 serving;

32 (5) The health of employees;

33 (6) Animal and vermin control; and

34 (7) The prohibition against the offering of unwrapped food samples to the  
35 general public unless the offering and acceptance of the samples are  
36 continuously supervised by an agent of the entity preparing or offering  
37 the samples or by an agent of the entity on whose premises the samples  
38 are made available. As used in this subdivision, "food samples" means  
39 unwrapped food prepared and made available for sampling by and  
40 without charge to the general public for the purpose of promoting the  
41 food made available for sampling. This subdivision does not apply to  
42 unwrapped food prepared and offered in buffet, cafeteria, or other style  
43 in exchange for payment by the general public or by the person or entity

1                   arranging for the preparation and offering of such unwrapped food. This  
2                   subdivision shall not apply to open air produce markets nor to farmer  
3                   market facilities operated on land owned or leased by the State of North  
4                   Carolina or any local government.

5                   The rules shall contain a system for grading establishments, such as Grade A, Grade B,  
6                   and Grade C. The rules shall be written in a manner that promotes consistency in both the  
7                   interpretation and application of the grading system."

8                   Section 3. The Commission for Health Services shall adopt temporary rules  
9                   necessary to implement Sections 1 and 2 of this act within 90 days of the effective date of  
10                  this act.

11                  Section 4. The Department of Health and Human Services shall use funds  
12                  available to cover the cost of implementing Section 1 of this act.

13                  Section 5. No later than January 1, 1999, the Commission for Health Services  
14                  shall adopt a temporary rule in accordance with G.S. 150B-21.1 that provides specific  
15                  guidelines for waiving the existing water supply well setback requirements contained in  
16                  15A NCAC 18A .1720. In adopting this rule, the Commission shall determine specific  
17                  criteria under which 15A NCAC 18A .1720 may be waived while still protecting the  
18                  public health.

19                  Section 6. The Commission for Health Services shall report to the Joint  
20                  Legislative Administrative Procedure Oversight Committee no later than October 1,  
21                  1998, on the implementation of this act.

22                  Section 7. This act is effective when it becomes law.