

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1171*

Short Title: Well Setback Distances.

(Public)

Sponsors: Senators Foxx; Ballantine, Blust, Carpenter, Cochrane, Forrester, Horton, Jenkins, Kerr, Ledbetter, McDaniel, Purcell, Rucho, and Webster.

Referred to: Commerce.

May 20, 1998

A BILL TO BE ENTITLED

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

8 The General Assembly of North Carolina enacts:

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

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

12 (a) For protection of the public health, the Commission shall adopt rules to
13 establish sanitation requirements for all institutions and facilities at which individuals are
14 provided room or board and for which a license to operate is required to be obtained or a
15 certificate for payment is obtained from the Department. The rules shall also apply to
16 facilities that provide room and board to individuals but are exempt from licensure under
17 G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation
18 requirements for these institutions and facilities. The Department shall issue a license to
19 operate or a certificate for payment to such an institution or facility only upon compliance

1 with all applicable sanitation rules of the Commission, and the Department may suspend
2 or revoke a license or a certificate for payment for violation of these rules. In adopting
3 rules pursuant to this section, the Commission shall define categories of standards to
4 which such institutions and facilities shall be subject and shall establish criteria for the
5 placement of any such institution or facility into one of the categories. This section shall
6 not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10).

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

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

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

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

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

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

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

36 (2) Requirements for:

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

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

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

40 (2a) Water supply requirements. Rules adopted pursuant to this subdivision
41 shall allow for an existing water supply well that is located a minimum
42 of 10 feet but less than 25 feet from a building that is a private home
43 offering bed and breakfast accommodations to eight or fewer persons

1 per night, or a bed and breakfast inn as defined in G.S. 130A-247(6),
2 and is the source of water for the bed and breakfast establishment.
3 These wells shall be deemed to meet sanitation requirements for water
4 supplies provided that the results of the following tests do not exceed
5 acceptable levels applicable to establishments covered by this
6 subdivision:

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

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

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