

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 662

Short Title: Labor/Farmworkers' Health & Safety Amendments. (Public)

Sponsors: Senators McKissick, Kinnaird (Primary Sponsors); and Parmon.

Referred to: Rules and Operations of the Senate.

April 4, 2013

A BILL TO BE ENTITLED

AN ACT AMENDING THE LABOR LAWS OF NORTH CAROLINA RELATING TO
AGRICULTURAL WORKERS' HOUSING AND EMPLOYMENT CONDITIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 95-225 reads as rewritten:

"§ 95-225. **Adoption of standards and interpretations.**

(a) Unless otherwise provided, all established federal standards are adopted and shall be enforced by the Department of Labor of North Carolina.

(b) The Commissioner shall provide for publication in the North Carolina Register any modification by the federal government of the established federal standards within 30 days of their adoption.

(c) For the protection of the public health, the Commission for Public Health shall adopt and the Department of Environment and Natural Resources shall enforce rules that establish water quality and water sanitation standards for migrant housing under this Article.

(d) The requirements for the collection, treatment, and disposal of sewage, as provided in Article 11 of Chapter 130A, and the rules adopted pursuant to that Article shall apply to migrant housing.

(e) Whenever the outside temperature falls below 50 degrees Fahrenheit and the migrant housing is occupied, heating equipment shall be provided and operable. Regardless of outside temperature, this equipment must be capable of maintaining living areas of 65 degrees Fahrenheit. If housing is to be occupied from May 15 until September 1 only, no heating equipment shall be required at the time of preoccupancy inspection.

(f) All migrant housing shall comply with the standards regarding fire safety for migrant housing as adopted by the Commission for Public Health and in effect on January 1, 1989.

(g) For purposes of this Article, the established federal standard provided in 29 C.F.R. 1910.142(i) does not apply. The following standards shall apply to migrant housing:

- (1) Food preparation facilities and eating areas shall be provided and maintained in a clean and sanitary manner;
- (2) A kitchen facility shall be provided with an operable stove with at least one burner per five people, and in no event with less than two burners; an operable refrigerator with .75 cubic feet per person minimum; a table; and a sink with running hot and cold water;
- (3) Surfaces with which food or drink come in contact shall be easily accessible for cleaning, and shall be nontoxic, resistant to corrosion, nonabsorbent, and free of open crevices;



- 1 (4) Acceptable storage facilities shall be provided and shall be kept clean and
2 free of vermin; and
3 (5) All food service facilities, other than those where migrants procure and
4 prepare food for their own or their family's consumption, shall comply with
5 the standards regarding kitchen and dining room facilities for migrant
6 housing, as adopted by the Commission for Public Health and in effect on
7 January 1, 1989.

8 (h) Each migrant shall be provided with a bed that shall include a mattress in good
9 repair with a clean cover. The Department of Labor of North Carolina inspector shall determine
10 the condition of the mattress and cover during the preoccupancy inspection. If the mattress or
11 cover is damaged beyond normal wear and tear during the migrant's occupancy of the housing,
12 the operator may charge the migrant the reasonable cost of replacing the mattress or cover.

13 (i) All doors opening to the exterior shall have functioning deadbolt locks, and each
14 migrant shall be provided a key to any door that opens into a common area and to any door that
15 opens into his or her sleeping quarters.

16 (j) All exterior windows shall have functioning locks.

17 (k) A migrant is entitled to receive visitors to the migrant housing provided for lawful
18 purposes. Nothing in this subsection prohibits an owner from banning or barring any visitors
19 who are engaged in criminal activity.

20 (l) Each migrant shall be provided an individual suitable storage facility such as a wall
21 locker for clothing and personal articles in the room used for sleeping purposes. Such storage
22 facility shall have a functioning padlock, combination lock, or dial lock, and the migrant shall
23 be provided with the key or combination, as applicable. The storage facility must be affixed to
24 the structure of the housing.

25 (m) Operators shall provide access to laundry facilities and detergent.

26 (n) Operators shall be responsible for all maintenance of the migrant housing unit and
27 surrounding grounds.

28 (o) Operators shall provide one shower head within a separate shower for every 10
29 migrants."

30 **SECTION 2.** G.S. 95-227 is amended by adding new subsections to read:

31 **"§ 95-227. Enforcement.**

32 (a) For the purpose of enforcing the standards provided by this Article, the provisions
33 of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall apply under this
34 Article in a similar manner as they apply to places of employment under OSHANC; however,
35 G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to migrant housing. For the purposes of
36 this Article, the term:

37 (1) "Employer" in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through
38 G.S. 95-142 shall be construed to mean an operator.

39 (2) "Employee" shall be construed to mean a migrant.

40 (3) Repealed by Session Laws 2007-548, s. 5, effective August 31, 2007.

41 (b) The Commissioner may establish a new division to enforce this Article.

42 (c) The Department of Labor of North Carolina shall maintain a list of operators and the
43 physical address of their migrant housing units, number of beds, and the date of the annual
44 preoccupancy inspection and certification.

45 (d) The Department of Labor of North Carolina shall maintain a summary of any
46 inspections filed annually with the Division that enforce this Article, including the number and
47 type of citations issued and the violations found, if any.

48 (d1) The Department of Labor of North Carolina shall establish and implement
49 procedures to identify and prosecute the most serious violators of this Article, including the
50 failure to apply for and obtain permits to operate migrant housing pursuant to this Article.

1 (d2) The requirements of this Article shall be performed by employees of the Department
2 of Labor of North Carolina who, to the extent feasible, shall be bilingual in both English and
3 Spanish.

4 (e) The Commissioner shall report no later than May 1 of each year to the Chairpersons
5 of the Senate Appropriations Committee on Natural and Economic Resources and the
6 Chairpersons of the House of Representatives Appropriations Subcommittee on Natural and
7 Economic Resources regarding the number of annual preoccupancy certifications issued, the
8 number of operators with one hundred percent (100%) compliance at the preoccupancy
9 inspection, the number of postoccupancy inspections conducted by the Department of Labor of
10 North Carolina, the number and type of citations and fines issued, the total number of migrant
11 worker beds in the State, and the identification of operators who fail to apply for or obtain
12 permits to operate migrant housing pursuant to this Article."

13 **SECTION 3.** This act is effective when it becomes law.