

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

S

D

SENATE DRS55703-LN-297 (2/7)

Short Title: Regulation of Lodging Establishments. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT AMENDING CHAPTER 130A OF THE GENERAL STATUTES TO DEFINE LODGING ESTABLISHMENTS, TO REGULATE SINGLE-ROOM OCCUPANCY, AND TO INCREASE THE MINIMUM SCORE FOR GRADING OF LODGING ESTABLISHMENTS AND APPROPRIATING FUNDS FOR THAT PURPOSE; AUTHORIZING CITIES AND COUNTIES TO REGULATE SINGLE-ROOM OCCUPANCY FACILITIES; ESTABLISHING FEES FOR THE INSPECTION OF LODGING ESTABLISHMENTS; PROVIDING GOOD FAITH IMMUNITY TO INNKEEPERS WHO ASSIST LAW ENFORCEMENT PERSONNEL IN CRIMINAL INVESTIGATIONS; AND MAKING CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 1 of the General Statutes is amended by adding a new Article to read:

" Article 43F.

"Innkeepers' Immunity.

**"§ 1-539.27. Innkeepers' immunity.**

(a) The following definitions apply in this section:

- (1) Guest. – Any person who pays for the services of a lodging establishment as defined by G.S. 130A-247(6) or a single-room occupancy establishment as defined by G.S. 130A-247(9).
- (2) Innkeeper. – An owner, operator, or employee of a lodging establishment as defined by G.S. 130A-247(6) or a single-room occupancy establishment as defined by G.S. 130A-247(9).
- (3) Law enforcement officer. – Includes the following:
  - a. A full-time or part-time paid employee of a law enforcement agency who possesses the power of arrest, who has taken the

1 law enforcement oath administered under the authority of the  
2 State as prescribed by G.S. 11-11, and who is certified as a law  
3 enforcement officer under the provisions of Chapter 17C of the  
4 General Statutes or certified as a deputy sheriff under the  
5 provisions of Chapter 17E of the General Statutes. The term  
6 also means the sheriff of the county.

7 b. A civil or law enforcement officer of the United States. The  
8 term also means a military police officer.

9 (b) An innkeeper who in good faith discloses information about a current or  
10 former guest to a law enforcement officer upon request of the law enforcement officer is  
11 immune from civil liability and is not liable in civil damages to the current or former  
12 guest for that disclosure or any consequences of the disclosure. This immunity shall not  
13 apply when a current or former guest shows by a preponderance of the evidence any of  
14 the following:

15 (1) The information disclosed by the innkeeper was false, and the  
16 innkeeper knew or reasonably should have known that the information  
17 was false.

18 (2) The innkeeper disclosed the information in bad faith.

19 (c) This section does not affect any privileges or immunities from civil liability  
20 established by another section of the General Statutes or available at common law. This  
21 subsection does not apply to any civil cause of action brought by a federal, State, or  
22 local government against an innkeeper."

23 **SECTION 2.** G.S. 130A-247 reads as rewritten:

24 **"§ 130A-247. Definitions.**

25 The following definitions shall apply throughout this Part:

26 (1) ~~"Establishment" means (i) an establishment that prepares or serves~~  
27 ~~drink, (ii) an establishment that prepares or serves food, (iii) an~~  
28 ~~establishment that provides lodging, (iv) a bed and breakfast inn, or (v)~~  
29 ~~an establishment that prepares and sells meat food products as defined~~  
30 ~~in G.S. 106-549.15(14) or poultry products as defined in~~  
31 ~~G.S. 106-549.51(26).~~

32 (1a) ~~"Permanent house guest" means a person who receives room or board~~  
33 ~~for periods of a week or longer. The term includes visitors of the~~  
34 ~~permanent house guest.~~

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

42 (3) ~~"Regular boarder" means a person who receives food for periods of a~~  
43 ~~week or longer.~~

- 1           (4)    ~~"Establishment that prepares or serves drink" means a business or~~  
2           ~~other entity that prepares or serves beverages made from raw apples or~~  
3           ~~potentially hazardous beverages made from other raw fruits or~~  
4           ~~vegetables or that otherwise puts together, portions, sets out, or hands~~  
5           ~~out drinks for human consumption.~~  
6           (5)    ~~"Establishment that prepares or serves food" means a business or other~~  
7           ~~entity that cooks, puts together, portions, sets out, or hands out food~~  
8           ~~for human consumption.~~  
9           (6)    ~~"Bed and breakfast inn" means a business of not more than 12 guest~~  
10           ~~rooms that offers bed and breakfast accommodations to at least nine~~  
11           ~~but not more than 23 persons per night for a period of less than one~~  
12           ~~week, and that:~~  
13           ~~a.     Does not serve food or drink to the general public for pay;~~  
14           ~~b.     Serves only the breakfast meal, and that meal is served only to~~  
15           ~~overnight guests of the business;~~  
16           ~~c.     Includes the price of breakfast in the room rate; and~~  
17           ~~d.     Is the permanent residence of the owner or the manager of the~~  
18           ~~business.~~  
19           (7)    ~~"Limited food services establishment" means an establishment as~~  
20           ~~described in G.S. 130A-248(a4), with food handling operations that~~  
21           ~~are restricted by rules adopted by the Commission pursuant to~~  
22           ~~G.S. 130A-248(a4) and that prepares or serves food only in~~  
23           ~~conjunction with amateur athletic events.~~  
24           (1)    Bed and breakfast inn. – A business of not more than 12 guest rooms  
25           that offers bed and breakfast accommodations to at least nine but not  
26           more than 23 persons per night for a period of less than one week and  
27           that:  
28           a.     Does not serve food or drink to the general public for pay;  
29           b.     Serves only the breakfast meal, and that meal is served only to  
30           overnight guests of the business;  
31           c.     Includes the price of breakfast in the room rate; and  
32           d.     Is the permanent residence of the owner or the manager of the  
33           business.  
34           (2)    Establishment. – Includes each of the following:  
35           a.     An establishment that prepares or serves drink.  
36           b.     An establishment that prepares or serves food.  
37           c.     A bed and breakfast inn.  
38           d.     An establishment that prepares and sells meat food products as  
39           defined in G.S. 106-549.15(14) or poultry products as defined  
40           in G.S. 106-549.51(26).  
41           (3)    Establishment that prepares or serves drink. – A business or other  
42           entity that prepares or serves beverages made from raw apples or  
43           potentially hazardous beverages made from other raw fruits or

1 vegetables or that otherwise puts together, portions, sets out, or hands  
2 out drinks for human consumption.

3 (4) Establishment that prepares or serves food. – A business or other  
4 entity that cooks, puts together, portions, sets out, or hands out food  
5 for human consumption.

6 (5) Limited food services establishment. – An establishment as described  
7 in G.S. 130A-248(a4), with food handling operations that are restricted  
8 by rules adopted by the Commission pursuant to G.S. 130A-248(a4)  
9 and that prepares or serves food only in conjunction with amateur  
10 athletic events.

11 (6) Lodging establishment. – A hotel, motel, bed and breakfast inn, or  
12 other facility or business that provides overnight lodging and is  
13 required to obtain a permit under rules established by the Commission.

14 (7) Private club. – An organization that maintains selective members, is  
15 operated by the membership, does not provide food or lodging for pay  
16 to anyone who is not a member or a member's guest, and is either  
17 incorporated as a nonprofit corporation in accordance with Chapter  
18 55A of the General Statutes or is exempt from federal income tax  
19 under the Internal Revenue Code as defined in G.S. 105-130.2(1).

20 (8) Regular boarder. – A person who receives food for periods of a week  
21 or longer.

22 (9) Single-room occupancy (SRO) facility. – A building or buildings that  
23 exclusively offers transient residential accommodations or residence  
24 for periods of one week or longer and is not required to obtain a permit  
25 under rules established by the Commission."

26 **SECTION 3.** G.S. 130A-248 reads as rewritten:

27 **"§ 130A-248. Regulation of food and lodging establishments.**

28 (a) For the protection of the public health, the Commission shall adopt rules  
29 governing the sanitation of establishments that prepare or serve drink or food for pay  
30 and establishments that prepare and sell meat food products or poultry products.  
31 However, any establishment that prepares or serves food or drink to the public,  
32 regardless of pay, shall be subject to the provisions of this Article if the establishment  
33 that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101,  
34 meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a  
35 private club as provided in ~~G.S. 130A-247(2)~~.G.S 130A-247(7).

36 ~~(a1) For the protection of the public health, the Commission shall adopt rules~~  
37 ~~governing the sanitation of hotels, motels, tourist homes, and other establishments that~~  
38 ~~provide lodging for pay.~~

39 ~~(a2) For the protection of the public health, the Commission shall adopt rules~~  
40 ~~governing the sanitation of private homes offering bed and breakfast accommodations~~  
41 ~~to eight or fewer persons per night, and rules governing the sanitation of bed and~~  
42 ~~breakfast inns as defined in G.S. 130A 247. In carrying out this function, the~~  
43 ~~Commission shall adopt requirements that are the least restrictive so as to protect the~~

1 ~~public health and not unreasonably interfere with the operation of bed and breakfast~~  
2 ~~inns.~~

3 (a3) The Commission shall adopt rules governing the sanitation of establishments.  
4 The rules adopted by the Commission pursuant to ~~subsections (a), (a1), and (a2)~~  
5 subsection (a) of this section shall address, but not be limited to, the following:

6 (1) Sanitation requirements for cleanliness of floors, walls, ceilings,  
7 storage spaces, utensils, ventilation equipment, and other areas and  
8 ~~items;~~items.

9 (2) Requirements for:

10 a. Lighting and water supply;

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

12 c. Lavatory and toilet facilities, food protection, and waste  
13 ~~disposal;~~disposal.

14 (3) The cleaning and bactericidal treatment of eating and drinking utensils  
15 and other food-contact surfaces. A requirement ~~imposed~~ under this  
16 subdivision to sanitize multiuse eating and drinking utensils and other  
17 food-contact surfaces does not apply to utensils and surfaces provided  
18 in ~~the any~~ guest room of the lodging unit establishment for guests to  
19 prepare food while staying in the guest room.

20 (3a) The appropriate and reasonable use of gloves or utensils by employees  
21 who handle unwrapped ~~food;~~food.

22 (4) The methods of food preparation, transportation, catering, storage, and  
23 ~~serving;~~serving.

24 (5) The health of ~~employees;~~employees.

25 (6) Animal and vermin ~~control;~~ and control.

26 (7) The prohibition against the offering of unwrapped food samples to the  
27 general public unless the offering and acceptance of the samples are  
28 continuously supervised by an agent of the entity preparing or offering  
29 the samples or by an agent of the entity on whose premises the samples  
30 are made available. As used in this subdivision, "food samples" means  
31 unwrapped food prepared and made available for sampling by and  
32 without charge to the general public for the purpose of promoting the  
33 food made available for sampling. This subdivision does not apply to  
34 unwrapped food prepared and offered in buffet, cafeteria, or other style  
35 in exchange for payment by the general public or by the person or  
36 entity arranging for the preparation and offering of such unwrapped  
37 food. This subdivision shall not apply to open air produce markets nor  
38 to farmer market facilities operated on land owned or leased by the  
39 State of North Carolina or any local government.

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

43 (a4) For the protection of the public health, the Commission shall adopt rules  
44 governing the sanitation of limited food service establishments. In adopting the rules,

1 the Commission shall not limit the number of days that limited food service  
2 establishments may operate. Limited food service establishment permits shall be issued  
3 only to political subdivisions of the State, establishments operated by volunteers that  
4 prepare or serve food in conjunction with amateur athletic events, or for establishments  
5 operated by organizations that are exempt from federal income tax under section  
6 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.

7 (b) No establishment shall commence or continue operation without a permit or  
8 transitional permit issued by the Department. The permit or transitional permit shall be  
9 issued to the owner or operator of the establishment and shall not be transferable. If the  
10 establishment is leased, the permit or transitional permit shall be issued to the lessee and  
11 shall not be transferable. If the location of an establishment changes, a new permit shall  
12 be obtained for the establishment. A permit shall be issued only when the establishment  
13 satisfies all of the requirements of the rules. The Commission shall adopt rules  
14 establishing the requirements that must be met before a transitional permit may be  
15 issued, and the period for which a transitional permit may be issued. The Department  
16 may also impose conditions on the issuance of a permit or transitional permit in  
17 accordance with rules adopted by the Commission. A permit or transitional permit shall  
18 be immediately revoked in accordance with G.S. 130A-23(d) for failure of the  
19 establishment to maintain a minimum grade of C. A permit or transitional permit may  
20 otherwise be suspended or revoked in accordance with G.S. 130A-23.

21 (b1) A permit shall expire one year after an establishment closes unless the permit  
22 is the subject of a contested case pursuant to Article 3 of Chapter 150B of the General  
23 Statutes.

24 (c) If ownership of an establishment is transferred or the establishment is leased,  
25 the new owner or lessee shall apply for a new permit. The new owner or lessee may also  
26 apply for a transitional permit. A transitional permit may be issued upon the transfer of  
27 ownership or lease of an establishment to allow the correction of construction and  
28 equipment problems that do not represent an immediate threat to the public health.  
29 Upon issuance of a new permit or a transitional permit for an establishment, any  
30 previously issued permit for an establishment in that location becomes void.

31 (c1) The Commission shall adopt rules governing the sanitation of pushcarts and  
32 mobile food units. A permitted restaurant or commissary shall serve as a base of  
33 operations for a pushcart or mobile food unit.

34 (d) The Department shall charge each establishment subject to this section,  
35 except nutrition programs for the elderly administered by the Division of Aging of the  
36 Department of Health and Human Services, establishments that prepare and sell meat  
37 food products or poultry products, and public school cafeterias, an annual fee of fifty  
38 dollars (\$50.00). The Commission shall adopt rules to implement this subsection. Fees  
39 collected under this subsection shall be used for State and local food, lodging, and  
40 institution sanitation programs and activities. No more than thirty-three and one-third  
41 percent (33 1/3%) of the fees collected under this subsection may be used to support  
42 State health programs and activities.

43 (d1) The Department shall charge a twenty-five dollar (\$25.00) late payment fee to  
44 any establishment subject to this section, except nutrition programs for the elderly

1 administered by the Division of Aging of the Department of Health and Human  
2 Services, establishments that prepare and sell meat food products or poultry products,  
3 and public school cafeterias, that fails to pay the fee required by subsection (d) of this  
4 section within 45 days after billing by the Department. The Department may, in  
5 accordance with G.S. 130A-23, suspend the permit of an establishment that fails to pay  
6 the required fee within 60 days after billing by the Department. The Department shall  
7 charge a reinstatement fee of one hundred fifty dollars (\$150.00) to any establishment  
8 that requests reinstatement of its permit after the permit has been suspended. The  
9 Commission shall adopt rules to implement this subsection.

10 The clear proceeds of civil penalties collected pursuant to this subsection shall be  
11 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

12 (e) In addition to the fees under subsection (d) of this section, the Department  
13 may charge a fee of two hundred dollars (\$200.00) for plan review of plans for  
14 prototype franchised or chain facilities for food establishments subject to this section.  
15 All of the fees collected under this subsection may be used to support the State food,  
16 lodging, and institution sanitation programs and activities under this Part.

17 (f) Any local health department may charge a fee not to exceed two hundred  
18 dollars (\$200.00) for plan review by that local health department of plans for food  
19 establishments subject to this section that are not subject to subsection (e) of this  
20 section. All of the fees collected under this subsection may be used for local food,  
21 lodging, and institution sanitation programs and activities. No food establishment that  
22 pays a fee under subsection (e) of this section is liable for a fee under this subsection."

23 **SECTION 4.** Article 8 of Chapter 130A of the General Statutes is amended  
24 by adding a new section to read:

25 "**§ 130A-248.1. Regulation of lodging establishments.**

26 (a) For the protection of the public health, the Commission shall adopt rules  
27 governing the sanitation of lodging establishments.

28 (b) For the protection of the public health, the Commission shall adopt rules  
29 governing the sanitation of private homes offering bed and breakfast accommodations  
30 to eight or fewer persons per night and rules governing the sanitation of bed and  
31 breakfast inns as defined in G.S. 130A-247.

32 (c) For the protection of the public health, the Commission shall adopt rules  
33 governing the sanitation and equipment requirements for lodging establishments that  
34 prepare and serve a continental breakfast to overnight guests and the price is included in  
35 the room rate.

36 (d) The rules adopted by the Commission pursuant to subsection (a) and of this  
37 section shall address, but not be limited to, the following:

38 (1) Sanitation requirements for cleanliness of floors, walls, ceilings,  
39 storage spaces, utensils, ice machines, and ventilation equipment in  
40 guestrooms, public spaces, public restrooms, meeting rooms, and  
41 stairways.

42 (2) Requirements for:

43 a. Lighting and water supply;

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

1           c. Lavatory and toilet facilities, food protection, and waste  
2           disposal.

3           (3) The cleaning and bactericidal treatment of eating and drinking utensils  
4           and other food-contact surfaces. The requirement to sanitize multiuse  
5           eating and drinking utensils and other food-contact surfaces does not  
6           apply to utensils and surfaces provided in the guest room of the  
7           lodging unit for guests to prepare food while staying in the guest room.

8           (4) The appropriate and reasonable use of gloves or utensils by employees  
9           who handle unwrapped food.

10          (5) The methods of any food preparation, transportation, catering, storage,  
11          and serving.

12          (6) The health of employees.

13          (7) Animal and vermin control.

14          The rules shall contain a system for numerically grading establishments. A numeric  
15          score of 90 to 100 shall be a Grade A and a numeric score of 85 to 89 shall be a Grade  
16          B. The rules shall be written and enforced in a manner that promotes consistency in both  
17          the interpretation and application of the grading system statewide.

18          (e) No establishment shall commence or continue operation without a permit or  
19          transitional permit issued by the Department.

20          (f) The permit or transitional permit shall be issued to the owner or operator of  
21          the establishment for a specific location and shall not be transferable. If the  
22          establishment is leased, the permit or transitional permit shall be issued to the lessee for  
23          a specific location and shall not be transferable. A permit shall be issued only when the  
24          establishment satisfies all of the requirements of the rules.

25          (g) The Commission shall adopt rules establishing the requirements that must be  
26          met before a transitional permit may be issued, and the period for which a transitional  
27          permit may be issued. The Department may also impose conditions on the issuance of a  
28          permit or transitional permit in accordance with rules adopted by the Commission.

29          (h) A permit or transitional permit shall be immediately revoked in accordance  
30          with G.S. 130A-23(d) for failure of the establishment to maintain a minimum grade of  
31          B. A permit or transitional permit may otherwise be suspended or revoked in  
32          accordance with G.S. 130A-23.

33          (i) A permit shall expire sixty days after an establishment closes unless the  
34          permit is the subject of a contested case pursuant to Article 3 of Chapter 150B of the  
35          General Statutes.

36          (j) If ownership of a lodging establishment is transferred or the lodging  
37          establishment is leased, the new owner or lessee shall apply for a new permit. The new  
38          owner or lessee may also apply for a transitional permit. A transitional permit may be  
39          issued upon the transfer of ownership or lease of an establishment to allow the  
40          correction of construction and equipment problems that do not represent an immediate  
41          threat to the public health. Upon issuance of a new permit or a transitional permit for a  
42          lodging establishment, any previously issued permit for that establishment in that  
43          location becomes void.



1       (k) The Department shall charge each lodging establishment an annual fee of one  
2 hundred fifty dollars (\$150.00). The Commission shall adopt rules to implement this  
3 subsection. Fees collected under this subsection shall be used for State and local food,  
4 lodging, and institution sanitation programs and activities. No more than thirty-three  
5 and one-third percent (33 1/3%) of the fees collected under this subsection may be used  
6 to support State health programs and activities.

7       (l) The Department shall charge a twenty-five dollar (\$25.00) late payment fee to  
8 any establishment subject to this section that fails to pay the fee required by this section  
9 within 45 days after billing by the Department. The Department may, in accordance  
10 with G.S. 130A-23, suspend the permit of an establishment that fails to pay the required  
11 fee within 60 days after billing by the Department. The Department shall charge a  
12 reinstatement fee of one hundred fifty dollars (\$150.00) to any establishment that  
13 requests reinstatement of its permit after the permit has been suspended. The  
14 Commission shall adopt rules to implement this subsection. The clear proceeds of civil  
15 penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and  
16 Forfeiture Fund in accordance with G.S. 115C-457.2."

17       **SECTION 5.** G.S. 130A-249 reads as rewritten:

18       **"§ 130A-249. Inspections; report and grade card.**

19       (a) The Secretary may enter any establishment that is subject to the provisions of  
20 G.S. 130A-248 for the purpose of making inspections. The Secretary shall inspect each  
21 food service establishment at a frequency established by the Commission. In  
22 establishing a schedule for inspections, the Commission shall consider the risks to the  
23 population served by the establishment and the type of food or drink served by the  
24 establishment. Lodging establishments shall be inspected at least once each year. If  
25 during an inspection of a lodging establishment the inspector notes what he or she  
26 believes to be a violation of the State or a local building code, the inspector shall notify  
27 the appropriate building code enforcement authority. If the building code enforcement  
28 authority confirms upon inspection that a building code violation exists, then the  
29 Secretary may suspend a permit issued under this section until the building code  
30 violation has been corrected.

31       (b) The person responsible for the management or control of an establishment  
32 shall permit the Secretary to inspect every guest room or other part of the establishment  
33 and shall render all aid and assistance necessary for the inspection.

34       (c) The Secretary shall leave a copy of the inspection form and a card or cards  
35 showing the grade of the establishment with the responsible person. The Secretary shall  
36 post the grade card in a conspicuous place as determined by the Secretary where it may  
37 be readily observed by the public upon entering the ~~establishment or upon~~ establishment.  
38 For food establishments that provide for picking up food prepared inside but received  
39 and paid for outside the establishment through delivery windows or other delivery  
40 devices. If a single establishment has one or more outside delivery service stations and  
41 an internal delivery system, that establishment shall have a grade card posted where it  
42 may be readily visible upon entering the establishment and one posted where it may be  
43 readily visible in each delivery window or delivery device upon picking up the food

1 outside the establishment. The grade card or cards shall not be removed by anyone,  
2 except by or upon the instruction of the Secretary."

3 **SECTION 6.** G.S. 130A-250 reads as rewritten:

4 **"§ 130A-250. Exemptions.**

5 The following shall be exempt from this Part:

- 6 (1) ~~Establishments that provide lodging described in G.S. 130A-248(a1) A~~  
7 business or private home that provides overnight lodging with four or  
8 fewer lodging units.
- 9 (2) Condominiums.
- 10 (3) Establishments that prepare or serve food ~~or provide lodging~~ to regular  
11 boarders ~~or permanent houseguests~~ only. However, the rules governing  
12 food sanitation adopted under G.S. 130A-248 apply to establishments  
13 that are not regulated under G.S. 130A-235 and that prepare or serve  
14 food for pay to 13 or more regular boarders or permanent houseguests  
15 who are disabled or who are 55 years of age or older. Establishments  
16 to which the rules governing food sanitation are made applicable by  
17 this subdivision that are in operation as of 1 July 2000 may continue to  
18 use equipment and construction in use on that date if no imminent  
19 hazard exists. Replacement equipment for these establishments shall  
20 comply with the rules governing food sanitation adopted under  
21 G.S. 130A-248.
- 22 (4) Private homes that occasionally offer lodging accommodations, which  
23 may include the providing of food, for two weeks or less to persons  
24 attending special events, provided these homes are not bed and  
25 breakfast homes or bed and breakfast inns.
- 26 (5) Private clubs.
- 27 (6) Curb markets operated by the State Agricultural Extension Service.
- 28 (7) Establishments (i) that are incorporated as nonprofit corporations in  
29 accordance with Chapter 55A of the General Statutes or (ii) that are  
30 exempt from federal income tax under the Internal Revenue Code, as  
31 defined in G.S. 105-228.90, or (iii) that are political committees as  
32 defined in G.S. 163-278.6(14) and that prepare or serve food or drink  
33 for pay no more frequently than once a month for a period not to  
34 exceed two consecutive days, including establishments permitted  
35 pursuant to this Part when preparing or serving food or drink at a  
36 location other than the permitted locations. A nutrition program for the  
37 elderly that is administered by the Division of Aging of the  
38 Department of Health and Human Services and that prepares and  
39 serves food or drink on the premises where the program is located in  
40 connection with a fundraising event is exempt from this Part if food  
41 and drink are prepared and served no more frequently than one day  
42 each month.
- 43 (8) Establishments that put together, portion, set out, or hand out only  
44 beverages that do not include those made from raw apples or

1 potentially hazardous beverages made from raw fruits or vegetables,  
2 using single service containers that are not reused on the premises.

3 (9) Establishments where meat food products or poultry products are  
4 prepared and sold and which are under inspection by the North  
5 Carolina Department of Agriculture and Consumer Services or the  
6 United States Department of Agriculture.

7 (10) Markets that sell uncooked cured country ham or uncooked cured  
8 salted pork and that engage in minimal preparation such as slicing,  
9 weighing, or wrapping the ham or pork, when this minimal preparation  
10 is the only activity that would otherwise subject these markets to  
11 regulation under this Part.

12 (11) Establishments that only set out or hand out beverages that are  
13 regulated by the North Carolina Department of Agriculture and  
14 Consumer Services in accordance with Article 12 of Chapter 106 of  
15 the General Statutes.

16 (12) Establishments that only set out or hand out food that is regulated by  
17 the North Carolina Department of Agriculture and Consumer Services  
18 in accordance with Article 12 of Chapter 106 of the General Statutes.

19 (13) Single-room occupancy facilities."

20 **SECTION 7.(a)** G.S. 130A-39(b) reads as rewritten:

21 "(b) A local board of health may adopt a more stringent rule in an area regulated  
22 by the Commission for Public Health or the Environmental Management Commission  
23 where, in the opinion of the local board of health, a more stringent rule is required to  
24 protect the public health; otherwise, the rules of the Commission for Public Health or  
25 the rules of the Environmental Management Commission shall prevail over local board  
26 of health rules. However, a local board of health may not adopt a rule concerning the  
27 grading, operating, and permitting of food and lodging facilities as listed in Part 6 of  
28 Article 8 of this Chapter and as defined in ~~G.S. 130A-247(1), and a G.S. 130A-247(2).~~  
29 A local board of health may regulate a single-room occupancy facility under an  
30 ordinance adopted pursuant to G.S. 153A-134.1 or G.S. 160A-194.1. A local board of  
31 health may adopt rules concerning wastewater collection, treatment and disposal  
32 systems which are not designed to discharge effluent to the land surface or surface  
33 waters only in accordance with G.S. 130A-335(c)."

34 **SECTION 7.(b)** G.S. 130A-138 reads as rerwritten:

35 **"§ 130A-138. Operators of restaurants and other food or drink establishments to**  
36 **report.**

37 An operator of a restaurant or other establishment where food or drink is prepared or  
38 served for pay, as defined in ~~G.S. 130A-247(4) and (5),~~ G.S. 130A-247(3) and (4), shall  
39 report information required by the Commission to the local health director of the county  
40 or district in which the restaurant or food establishment is located when the operator has  
41 reason to suspect an outbreak of food-borne illness in its customers or employees or  
42 when it has reason to suspect that a food handler at the establishment has a food-borne  
43 disease or food-borne condition required by the Commission to be reported."

1           **SECTION 8.(a)** Article 6 of Chapter 153A of the General Statutes is  
2 amended by adding a new section to read:

3       **"§ 153A-134.1. Regulation, licensing, and inspection of single-room occupancy**  
4           **facilities.**

5           A county may by ordinance, subject to the general law of the State, regulate, license,  
6 and inspect facilities offering single-room occupancy as defined by G.S. 130-247(9)."

7           **SECTION 8.(b)** G.S. 153A-149(c) is amended by adding a new subdivision  
8 to read:

9           "(19a) Lodging. – To undertake the regulation, licensing, and inspection of  
10 single-room occupancy facilities as defined by G.S.130A-247(9)."

11           **SECTION 9.(a)** Article of Chapter 160A of the General Statutes is amended  
12 by adding a new section to read:

13       **"§ 160A-194.1. Regulation, licensing, and inspection of single-room occupancy**  
14           **facilities.**

15           A city may by ordinance, subject to the general law of the State, regulate, license,  
16 and inspect single-room occupancy facilities as defined by G.S. 130-247(9)."

17           **SECTION 9.(b)** G.S. 160A-209(c) is amended by adding a new subdivision  
18 to read:

19           "(20a) Lodging. – To undertake the regulation, licensing, and inspection of  
20 single-room occupancy facilities as defined by G.S. 130A-247(9)."

21           **SECTION 10.** Nothing in this act shall be construed to preempt or otherwise  
22 impair a municipality's existing authority to apply nonresidential building standards to  
23 lodging establishments.

24           **SECTION 11.** There is appropriated from the General Fund to the  
25 Department of Environmental and Natural Resources, Division of Environmental Health  
26 Services, the sum of five hundred thousand dollars (\$500,000) for the 2008-2009 fiscal  
27 year for the regulation of lodging establishments as enacted by this act.

28           **SECTION 12.** This act becomes effective July 1, 2008.