

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1998

Short Title: Regulation of Lodging Establishments. (Public)

Sponsors: Senator Clodfelter.

Referred to: Commerce, Small Business and Entrepreneurship.

May 28, 2008

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 law enforcement oath administered under the authority of the State as prescribed by G.S. 11-11, and who is certified as a law

1 enforcement officer under the provisions of Chapter 17C of the
2 General Statutes or certified as a deputy sheriff under the
3 provisions of Chapter 17E of the General Statutes. The term
4 also means the sheriff of the county.

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

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

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

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

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

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

22 **"§ 130A-247. Definitions.**

23 The following definitions shall apply throughout this Part:

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

30 (1a) ~~"Permanent house guest" means a person who receives room or board~~
31 ~~for periods of a week or longer. The term includes visitors of the~~
32 ~~permanent house guest.~~

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

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

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

- 1 (4) Establishment that prepares or serves food. – A business or other
 2 entity that cooks, puts together, portions, sets out, or hands out food
 3 for human consumption.
- 4 (5) Limited food services establishment. – An establishment as described
 5 in G.S. 130A-248(a4), with food handling operations that are restricted
 6 by rules adopted by the Commission pursuant to G.S. 130A-248(a4)
 7 and that prepares or serves food only in conjunction with amateur
 8 athletic events.
- 9 (6) Lodging establishment. – A hotel, motel, bed and breakfast inn, or
 10 other facility or business that provides overnight lodging and is
 11 required to obtain a permit under rules established by the Commission.
- 12 (7) Private club. – An organization that maintains selective members, is
 13 operated by the membership, does not provide food or lodging for pay
 14 to anyone who is not a member or a member's guest, and is either
 15 incorporated as a nonprofit corporation in accordance with Chapter
 16 55A of the General Statutes or is exempt from federal income tax
 17 under the Internal Revenue Code as defined in G.S. 105-130.2(1).
- 18 (8) Regular boarder. – A person who receives food for periods of a week
 19 or longer.
- 20 (9) Single-room occupancy (SRO) facility. – A building or buildings that
 21 exclusively offers transient residential accommodations or residence
 22 for periods of one week or longer and is not required to obtain a permit
 23 under rules established by the Commission."

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

25 **"§ 130A-248. Regulation of food and lodging establishments.**

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

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

37 ~~(a2) For the protection of the public health, the Commission shall adopt rules~~
 38 ~~governing the sanitation of private homes offering bed and breakfast accommodations~~
 39 ~~to eight or fewer persons per night, and rules governing the sanitation of bed and~~
 40 ~~breakfast inns as defined in G.S. 130A-247. In carrying out this function, the~~
 41 ~~Commission shall adopt requirements that are the least restrictive so as to protect the~~
 42 ~~public health and not unreasonably interfere with the operation of bed and breakfast~~
 43 ~~inns.~~

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

- 4 (1) Sanitation requirements for cleanliness of floors, walls, ceilings,
5 storage spaces, utensils, ventilation equipment, and other areas and
6 ~~items;~~items.
- 7 (2) Requirements for:
8 a. Lighting and water supply;
9 b. Wastewater collection, treatment, and disposal facilities; and
10 c. Lavatory and toilet facilities, food protection, and waste
11 ~~disposal;~~disposal.
- 12 (3) The cleaning and bactericidal treatment of eating and drinking utensils
13 and other food-contact surfaces. A requirement ~~imposed~~ under this
14 subdivision to sanitize multiuse eating and drinking utensils and other
15 food-contact surfaces does not apply to utensils and surfaces provided
16 in ~~the any~~ guest room of the lodging unit establishment for guests to
17 prepare food while staying in the guest room.
- 18 (3a) The appropriate and reasonable use of gloves or utensils by employees
19 who handle ~~food;~~food.
- 20 (4) The methods of food preparation, transportation, catering, storage, and
21 ~~serving;~~serving.
- 22 (5) The health of ~~employees;~~employees.
- 23 (6) Animal and vermin ~~control;~~ and control.
- 24 (7) The prohibition against the offering of unwrapped food samples to the
25 general public unless the offering and acceptance of the samples are
26 continuously supervised by an agent of the entity preparing or offering
27 the samples or by an agent of the entity on whose premises the samples
28 are made available. As used in this subdivision, "food samples" means
29 unwrapped food prepared and made available for sampling by and
30 without charge to the general public for the purpose of promoting the
31 food made available for sampling. This subdivision does not apply to
32 unwrapped food prepared and offered in buffet, cafeteria, or other style
33 in exchange for payment by the general public or by the person or
34 entity arranging for the preparation and offering of such unwrapped
35 food. This subdivision shall not apply to open air produce markets nor
36 to farmer market facilities operated on land owned or leased by the
37 State of North Carolina or any local government.

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

41 (a4) For the protection of the public health, the Commission shall adopt rules
42 governing the sanitation of limited food service establishments. In adopting the rules,
43 the Commission shall not limit the number of days that limited food service
44 establishments may operate. Limited food service establishment permits shall be issued

1 only to political subdivisions of the State, establishments operated by volunteers that
2 prepare or serve food in conjunction with amateur athletic events, or for establishments
3 operated by organizations that are exempt from federal income tax under section
4 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.

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

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

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

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

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

41 (d1) The Department shall charge a twenty-five dollar (\$25.00) late payment fee to
42 any establishment subject to this section, except nutrition programs for the elderly
43 administered by the Division of Aging of the Department of Health and Human
44 Services, establishments that prepare and sell meat food products or poultry products,

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

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

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

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

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

23 "**§ 130A-248.1. Regulation of lodging establishments.**

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

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

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

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

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

40 (2) Requirements for:

41 a. Lighting and water supply;

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

43 c. Lavatory and toilet facilities, food protection, and waste
44 disposal.

- 1 (3) The cleaning and bactericidal treatment of eating and drinking utensils
2 and other food-contact surfaces. The requirement to sanitize multiuse
3 eating and drinking utensils and other food-contact surfaces does not
4 apply to utensils and surfaces provided in the guest room of the
5 lodging unit for guests to prepare food while staying in the guest room.
6 (4) The appropriate and reasonable use of gloves or utensils by employees
7 who handle unwrapped food.
8 (5) The methods of any food preparation, transportation, catering, storage,
9 and serving.
10 (6) The health of employees.
11 (7) Animal and vermin control.

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

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

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

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

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

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

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

42 (k) The Department shall charge each lodging establishment an annual fee of one
43 hundred fifty dollars (\$150.00). The Commission shall adopt rules to implement this
44 subsection. Fees collected under this subsection shall be used for State and local food,

1 lodging, and institution sanitation programs and activities. No more than thirty-three
2 and one-third percent (33 1/3%) of the fees collected under this subsection may be used
3 to support State health programs and activities.

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

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

15 "**§ 130A-249. Inspections; report and grade card.**

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

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

31 (c) The Secretary shall leave a copy of the inspection form and a card or cards
32 showing the grade of the establishment with the responsible person. The Secretary shall
33 post the grade card in a conspicuous place as determined by the Secretary where it may
34 be readily observed by the public upon entering the ~~establishment or upon~~ establishment.
35 For food establishments that provide for picking up food prepared inside but received
36 and paid for outside the establishment through delivery windows or other delivery
37 devices. If a single establishment has one or more outside delivery service stations and
38 an internal delivery system, that establishment shall have a grade card posted where it
39 may be readily visible upon entering the establishment and one posted where it may be
40 readily visible in each delivery window or delivery device upon picking up the food
41 outside the establishment. The grade card or cards shall not be removed by anyone,
42 except by or upon the instruction of the Secretary."

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

44 "**§ 130A-250. Exemptions.**

1 The following shall be exempt from this Part:

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

1 Carolina Department of Agriculture and Consumer Services or the
2 United States Department of Agriculture.

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

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

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

15 (13) Single-room occupancy facilities."

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

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

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

31 **"§ 130A-138. Operators of restaurants and other food or drink establishments to**
32 **report.**

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

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

42 **"§ 153A-134.1. Regulation, licensing, and inspection of single-room occupancy**
43 **facilities.**

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

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

5 "(19a) Lodging. – To undertake the regulation, licensing, and inspection of
6 single-room occupancy facilities as defined by G.S.130A-247(9)."

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

9 "**§ 160A-194.1. Regulation, licensing, and inspection of single-room occupancy**
10 **facilities.**

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

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

15 "(20a) Lodging. – To undertake the regulation, licensing, and inspection of
16 single-room occupancy facilities as defined by G.S. 130A-247(9)."

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

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

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