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SENATE BILL 282*

Human Resources Committee Substitute Adopted 5/3/89

Judiciary III Committee Substitute #2 Adopted 5/5/89

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Short Title: Communicable Disease Law Change.

(Public)

Sponsors:

Referred to:

February 27, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE COMMUNICABLE DISEASE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-148 reads as rewritten:

"§ 130A-148. Laboratory tests for AIDS virus infection.

(a) For the protection of the public health, the Commission shall adopt rules establishing standards for the certification of laboratories to perform tests for Acquired Immune Deficiency Syndrome (AIDS) virus infection. The rules shall address, but not be limited to, proficiency testing, record maintenance, adequate staffing and confirmatory testing. Tests for AIDS virus infection shall be performed only by laboratories certified pursuant to this subsection and only on specimens submitted by a physician licensed to practice medicine. This subsection shall not apply to testing performed solely for research purposes under the approval of an institutional review board.

(b) Prior to obtaining consent for donation of blood, semen, tissue or organs, a facility or institution seeking to obtain blood, tissue, semen or organs for transfusion, implantation, transplantation or administration shall provide the potential donor with information about AIDS virus transmission, and information about who should not donate.

1 (c) No blood or semen may be transfused or administered when blood from the
2 donor has not been tested or has tested positive for AIDS virus infection by a standard
3 laboratory test.

4 (d) No tissue or organs may be transplanted or implanted when blood from the
5 donor has not been tested or has tested positive for AIDS virus infection by a standard
6 laboratory test unless consent is obtained from the recipient, or from the recipient's
7 guardian or a responsible adult relative of the recipient if the recipient is not competent
8 to give such consent.

9 (e) Any facility or institution that obtains or transfuses, implants, transplants, or
10 administers blood, tissue, semen, or organs shall be immune from civil or criminal
11 liability that otherwise might be incurred or imposed for transmission of AIDS virus
12 infection if the provisions specified in subsections (b), (c), and (d) of this section have
13 been complied with.

14 (f) Specimens may be tested for AIDS virus infection for research or
15 epidemiologic purposes without consent of the person from whom the specimen is
16 obtained if all personal identifying information is removed from the specimen prior to
17 testing.

18 (g) Persons tested for AIDS virus infection shall be notified of test results and
19 counseled appropriately. This subsection shall not apply to tests performed by or for
20 entities governed by Article 34 of G.S. Chapter 58, the Insurance Information and
21 Privacy Protection Act, provided that said entities comply with the notice requirements
22 thereof.

23 (h) The Commission may authorize or require laboratory tests for AIDS virus
24 infection when necessary to protect the public health.

25 (i) Except as provided in subsection (h) of this section, no test for AIDS virus
26 infection shall be required, performed or used to determine suitability for continuous
27 employment, housing or public services, or for the use of places of public
28 accommodation as defined in G.S. 168A-3(a), or public transportation.

29 Further, it shall be unlawful to discriminate, on account of their AIDS virus
30 infection, against persons having AIDS virus infection to determine their suitability for
31 continuous employment, housing, or public services, or for the use of places of public
32 accommodation, as defined in G.S. 168A-3(8), or public transportation; provided,
33 however, that where public services or places of public accommodation may apply to
34 the provision of health care it shall not be discrimination for a State licensed health care
35 professional or facility to treat a person infected with the AIDS virus infection
36 differently as necessary to appropriately protect the provider while assuring that
37 appropriate care will be provided to the person infected with the AIDS virus infection,
38 or to refer a patient infected with the AIDS virus when the health care provider or
39 facility feels incapable of providing appropriate care in that setting. Any person so
40 aggrieved shall be entitled to institute a civil action pursuant to G.S. 168A-11 of the
41 Handicapped Persons Protection Act, or G.S. 41A-7 of the State Fair Housing Act.

42 Nothing in this act shall be construed so as to prohibit an employer from requiring a
43 test for AIDS virus infection for job applicants in preemployment medical examinations
44 required by the employer; or to prohibit an employer from denying employment to a job

1 applicant based solely on a confirmed positive test for AIDS virus infection; or to
2 prohibit an employer from taking the appropriate employment action, including
3 reassignment or termination of employment, if an employee who is infected with the
4 AIDS virus develops manifestations or complications of that infection that would
5 reasonably pose a risk to the health of the employee, coworkers, or the public, or that
6 would render the employee unqualified to perform the normally assigned duties of the
7 job."

8 Sec. 2. Restaurants issued a permit pursuant to G.S. 130A-248 shall be
9 exempted from G.S. 130A-148(i), as it applies to suitability for continued employment,
10 until July 1, 1991.

11 Sec. 3. G.S. 130A-135 is amended to read:

12 "A physician licensed to practice medicine who has reason to suspect that a person
13 about whom the physician has been consulted professionally has a communicable
14 disease or communicable condition declared by the Commission to be reported, shall
15 report information required by the Commission to the local health director of the county
16 or district in which the physician is consulted. The Commission shall declare confirmed
17 HIV infection to be a reportable communicable condition."

18 Sec. 4. A new section is added to Chapter 130A of the General Statutes to
19 read:

20 **"§ 130A-395. Handling and transportation of bodies.**

21 (a) It shall be the duty of the physician licensed to practice medicine under
22 Chapter 90 attending any person who dies and is known to have smallpox, plague, HIV
23 infection, hepatitis B infection, rabies, or Jakob-Creutzfeldt to provide written
24 notification to all individuals handling the body of the proper precautions to prevent
25 infection. This written notification shall be provided to funeral service personnel at the
26 time the body is removed from any hospital, nursing home, or other health care facility.
27 When the patient dies in a location other than a health care facility, the attending
28 physician shall notify the funeral service personnel verbally of the precautions required
29 in subsection (b) and (c) as soon as the physician becomes aware of the death.

30 (b) The body of a person who died from smallpox or plague shall not be
31 embalmed. The body shall be enclosed in a strong, tightly sealed outer case which will
32 prevent leakage or escape of odors as soon as possible after death and before the body is
33 removed from the hospital room, home, building, or other premises where the death
34 occurred. This case shall not be reopened except with the consent of the local health
35 director.

36 (c) Persons handling bodies of persons who died and were known to have HIV
37 infection, hepatitis B infection, Jakob-Cruetzfeldt, or rabies shall be provided written
38 notification to observe blood and body fluid precautions."

39 Sec. 3. Restaurants issued a permit pursuant to G.S. 130A-248 shall be
40 exempted from G.S. 130A-148(i), as it applies to suitability for continued employment,
41 until July 1, 1991.

42 Sec. 4. This act is effective upon ratification provided that G.S. 130A-148(i)
43 shall terminate July 1, 1991.