

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-315
HOUSE BILL 617

AN ACT TO CLARIFY THAT SCHOOL BUSES AND SCHOOL ACTIVITY BUSES
MAY NOT COMPETE WITH THE PRIVATE SECTOR.

Whereas, public school buses are purchased with tax revenue, are insured under the State's program of self-insurance, use motor fuel that is exempt from the per gallon motor fuel excise tax, are exempt from local property taxes, and are driven by individuals who are trained at State expense; and

Whereas, public school activity buses enjoy many of these same advantages; and

Whereas, private sector businesses that provide transportation services do not enjoy any of these tax, insurance, and driver training advantages; and

Whereas, because of these differences in private sector transportation businesses and public school transportation services, it would be unfair to allow school buses and school activity buses to compete against private sector businesses in providing transportation services; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58 reads as rewritten:

"§ 66-58. Sale of merchandise or services by governmental units.

(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of any such unit, department or agency, or any individual employee or employees of any such unit, department or agency in his, or her, or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to provide transportation services, or to contract with any person, firm or corporation for the operation or rendering of any such businesses or services on behalf of any such unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

- (b) The provisions of subsection (a) of this section shall not apply to:
- (1) Counties and municipalities.
 - (2) The Department of Human Resources, the Department of Environment, Health, and Natural Resources, or the Department of Agriculture for the sale of serums, vaccines, and other like products.
 - (3) The Department of Administration, except that said agency shall not exceed the authority granted in the act creating the agency.
 - (4) The State hospitals for the insane.
 - (5) The Department of Human Resources.
 - (6) The North Carolina School for the Blind at Raleigh.
 - (7) The North Carolina Schools for the Deaf.
 - (8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State College, and the other schools and colleges for higher education maintained or supported by the State, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.
 - (9) The Department of Environment, Health, and Natural Resources, except that said Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.
 - (10) Child-caring institutions or orphanages receiving State aid.
 - (11) Highlands School in Macon County.
 - (12) The North Carolina State Fair.
 - (13) Rural electric memberships corporations.
 - (13a) State Farm Operations Commission.
 - (13b) The Department of Agriculture with regard to its lessees at farmers' markets operated by the Department.
 - (13c) The Western North Carolina Agricultural Center.

- (14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided such leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.
- (15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for such tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase such supplies.

- (16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf.

Such services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by such institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by such institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

- (17) The North Carolina Global TransPark Authority or a lessee of the Authority.
- (18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70.

- (c) The provisions of subsection (a) shall not prohibit:

- (1) The sale of products of experiment stations or test farms.
- (2) The sale of learned journals, works of art, books or publications of the Department of Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.
- (3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of this section, the phrase 'operation of endowment funds' shall include the operation by public postsecondary educational institutions of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of such stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students of the campus at which a campus store is located and their immediate families, to duly enrolled students of other campuses of the University of North Carolina other than the campus at which the campus store is located, to other campus stores and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this subdivision that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing with stores operated in the communities surrounding the campuses of the University of North Carolina.
- (4) The operation of lunch counters by the Department of Human Resources as blind enterprises of the type operated on January 1, 1951, in State buildings in the City of Raleigh.
- (5) The operation of a snack bar and cafeteria in the State Legislative Building.
- (6) The maintenance by the prison system authorities of eating and sleeping facilities at units of the State prison system for prisoners and for members of the prison staff while on duty, or the maintenance by the highway system authorities of eating and sleeping facilities for working crews on highway construction or maintenance when actually engaged in such work on parts of the highway system.
- (7) The operation by penal, correctional or facilities operated by the Department of Human Resources or by the State Department of Agriculture, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting such inmates or clients, and other bona fide visitors.

- (8) The sale by the Department of Agriculture of livestock, poultry and publications in keeping with its present livestock and farm program.
- (9) The operation by the public schools of school cafeterias.
- (9a) The use of a public school bus or public school activity bus for a purpose allowed under G.S. 115C-242 or the use of a public school activity bus for a purpose authorized by G.S. 115C-247.
- (10) Sale by any State correctional or other institution of farm, dairy, livestock or poultry products raised or produced by it in its normal operations as authorized by the act creating it.
- (11) The sale of textbooks, library books, forms, bulletins, and instructional supplies by the State Board of Education, State Department of Public Instruction, and local school authorities.
- (12) The sale of North Carolina flags by or through the auspices of the Department of Administration, to the citizens of North Carolina.
- (13) The operation by the Department of Correction of forestry management programs on State-owned lands, including the sale on the open market of timber cut as a part of such management program.
- (14) The operation by the Department of Correction of facilities to manufacture and produce traffic and street name signs for use on the public streets and highways of the State.
- (15) The operation by the Department of Correction of facilities to manufacture and produce paint for use on the public streets and highways of the State.
- (16) The performance by the Department of Transportation of dredging services for a unit of local government.
- (17) The sale by the State Board of Elections to political committees and candidate committees of computer software designed by or for the State Board of Elections to provide a uniform system of electronic filing of the campaign finance reports required by Article 22A of Chapter 163 of the General Statutes and to facilitate the State Board's monitoring of compliance with that Article. This computer software for electronic filing of campaign finance reports shall not exceed a cost of one hundred dollars (\$100.00) to any political committee or candidate committee without the State Board of Elections first notifying in writing the Joint Legislative Commission on Governmental Operations.

(d) A department, agency or educational unit named in subsection (b) shall not perform any of the prohibited acts for or on behalf of any other department, agency or educational unit.

(e) Any person, whether employee of the State of North Carolina or not, who shall violate, or participate in the violation of this section, shall be guilty of a Class 1 misdemeanor.

(f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the Department of Correction of facilities for the manufacture of any product or the

providing of any service pursuant to G.S. 148-70 not regulated by the provisions of subsection (c) hereof, shall be subject to the prior approval of the Governor, with biennial review by the General Assembly, at the beginning of each fiscal year commencing after October 1, 1975. The Department of Correction shall file with the Director of the Budget quarterly reports detailing prison enterprise operations in such a format as shall be required by the Director of the Budget.

(g) The North Carolina School of Science and Mathematics may engage in any of the activities permitted by G.S. 66-58(b)(8) and (c)(3)."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 12:40 p.m. this 21st day of July, 1997