

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

3

HOUSE BILL 1112
Senate Agricultural/Environment/Natural Resources Committee Substitute
Adopted 6/18/03
Third Edition Engrossed 6/19/03

Short Title: Amend Environmental Laws-2.

(Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN LAWS RELATED TO THE ENVIRONMENT AND ENVIRONMENTAL HEALTH TO (1) REMOVE OUTDATED LANGUAGE RELATED TO SANITATION OF FOOD AND LODGING FACILITIES, (2) TO CLARIFY WHAT CONSTITUTES A BASE OF OPERATIONS FOR MOBILE FOOD UNITS AND PUSHCARTS, AND (3) TO CLARIFY THE FREEBOARD REQUIREMENTS APPLICABLE TO LAGOONS THAT ARE COMPONENTS OF ANIMAL WASTE MANAGEMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-248(a4) reads as rewritten:

"(a4) For the protection of the public health, the Commission shall adopt rules governing the sanitation of limited food service establishments. In adopting the rules, the Commission shall not limit the number of days that limited food service establishments may operate. Limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, ~~or for establishments operated by other charitable organizations. On and after January 1, 1996, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that have applied for exemption or are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code. On and after January 1, 1997, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.~~"

1 **SECTION 2.** G.S. 130A-248(c1) reads as rewritten:

2 "(c1) The Commission shall adopt rules governing the sanitation of pushcarts and
3 mobile food units. A permitted restaurant or commissary shall serve as a base of
4 operations for a pushcart or mobile food unit shall be operated in conjunction with a
5 permitted restaurant unit."

6 **SECTION 3.** G.S. 143-215.10C(b) reads as rewritten:

7 "(b) An animal waste management system shall be designed, constructed, and
8 operated so that the animal operation served by the animal waste management system
9 does not cause pollution in the waters of the State except as may result because of
10 rainfall from a storm event more severe than the 25-year, 24-hour storm. In order to
11 protect the structural integrity of a lagoon that is a component of an animal waste
12 management system, the owner or operator of a lagoon shall maintain a minimum of 12
13 inches of freeboard. The owner or operator of a lagoon shall maintain sufficient
14 additional freeboard to contain the runoff and direct precipitation that results from the
15 25-year, 24-hour storm, or from chronic rainfall. The Commission shall specify in the
16 permit the minimum additional freeboard that the owner or operator is required to
17 maintain. An owner or operator shall not be deemed to have violated the permit
18 requirement to maintain additional freeboard if all of the following apply: (i) the owner
19 or operator reports any failure to maintain the required minimum additional freeboard to
20 the Division in a timely manner, (ii) the failure to maintain the required additional
21 freeboard is solely the result of chronic rainfall and is not a result of the failure of the
22 owner or operator to properly manage the animal waste management system, (iii) the
23 owner or operator promptly takes appropriate action to reduce the level of the lagoon so
24 as to restore the required additional freeboard, (iv) the owner or operator at all times
25 maintains a minimum of 12 inches of structural freeboard, and (v) the failure to
26 maintain the required additional freeboard does not cause pollution in the waters of the
27 State. An owner or operator shall be deemed to have violated the permit if any of the
28 following apply: (i) the owner or operator fails to report any failure to maintain the
29 required structural freeboard or the required minimum additional freeboard to the
30 Division in a timely manner, (ii) the failure to maintain the required additional freeboard
31 is the result of the failure of the owner or operator to properly manage the animal waste
32 management system, (iii) the owner or operator fails to promptly take appropriate action
33 to reduce the level of the lagoon so as to restore the required structural or minimum
34 additional freeboard, (iv) the owner or operator at any time fails to maintain a minimum
35 of 12 inches of structural freeboard, or (v) if any failure to maintain the required
36 structural or minimum additional freeboard causes pollution in the waters of the State.
37 As used in this subsection:

38 (1) '25-year, 24-hour storm' means a precipitation event that has a
39 probable recurrence interval of once in 25 years as determined by the
40 National Weather Service of the National Oceanic and Atmospheric
41 Administration of the United States Department of Commerce.

42 (2) 'Chronic rainfall' means a series of wet weather conditions that
43 preclude dewatering of a lagoon that is a component of a properly
44 managed animal waste management system.

1 (3) 'Freeboard' means the distance between the surface of water contained
2 in a lagoon and the top of the lagoon.

3 (4) 'Lagoon' has the same meaning as in G.S. 106-802."

4 **SECTION 4.** Sections 1, 2, and 4 of this act are effective when this act
5 becomes law. Section 3 of this act is effective retroactively to 1 January 2003.