

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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BILL DRAFT 2015-RO-12A [v.11] (03/19)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Privacy in Private Fac./Clarify Local Auth.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR SINGLE SEX MULTIPLE OCCUPANCY BATHROOM AND
CHANGING FACILITIES IN SCHOOLS AND PUBLIC AGENCIES AND TO CREATE
STATEWIDE CONSISTENCY IN REGULATION OF EMPLOYMENT AND PUBLIC
ACCOMMODATIONS.

Whereas, the North Carolina Constitution directs the General Assembly to provide for the organization and government of all cities and counties and to give cities and counties such powers and duties as the General Assembly deems advisable in Article VII, Section 1 of the North Carolina Constitution; and

Whereas, the North Carolina Constitution reflects the importance of Statewide laws related to commerce by prohibiting the General Assembly from enacting local acts regulating labor, trade, mining, or manufacturing in Article II, Section 24 of the North Carolina Constitution; and

Whereas, the General Assembly finds that laws and obligations consistent Statewide for all businesses, organizations, and employers doing business in the State will improve intrastate commerce; and

Whereas, the General Assembly finds that laws and obligations consistent Statewide for all businesses, organizations, and employers doing business in the State benefits the businesses, organizations, and employers seeking to do business in the State and attracts new businesses, organizations, and employers to the State; now therefore,

The General Assembly of North Carolina enacts:

PART I: SINGLE SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING FACILITIES.

SECTION 1.1. G.S. 115C-47 is amended by adding a new subsection to read:

"(63) To Establish Single Sex Multiple Occupancy Bathroom and Changing Facilities. – Local boards of education shall establish single sex multiple occupancy bathroom and changing facilities as provided in G.S. 115C-521.2."

SECTION 1.2. Article 37 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-521.2. Single sex multiple occupancy bathroom and changing facilities.

(a) Definitions. – The following definitions apply in this section:



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- e. A local school administrative unit.
 - f. Any other political subdivision of the State.
- (5) Single occupancy bathroom or changing facility.— A facility designed or designated to be used by only one person at a time where persons may be in various states of undress. A single occupancy bathroom or changing facility may include, but is not limited to, a single stall restroom designated as unisex or for use based on biological sex.
- (b) Single sex multiple occupancy bathroom and changing facilities. – Public agencies shall require every multiple occupancy bathroom or changing facility to be designated for and only used by persons based on their biological sex.
- (c) Accommodations permitted. – Nothing in this section shall prohibit public agencies from providing accommodations such as single occupancy bathroom or changing facilities upon a person's request due to special circumstances, but in no event shall that accommodation result in the public agency allowing a person to use a multiple occupancy bathroom or changing facility designated under subsection (b) of this section for a sex other than the person's biological sex.
- (d) Exceptions. – This section does not apply to persons entering a multiple occupancy bathroom or changing facility designated for use by the opposite sex:
- (1) For custodial purposes.
 - (2) For maintenance or inspection purposes.
 - (3) To render medical assistance.
 - (4) To accompany a person needing assistance.
 - (5) That has been temporarily designated for use by that person's biological sex."

24 **PART II: STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND**
25 **PUBLIC ACCOMMODATIONS**

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27 **SECTION 2.1.** G.S. 95-25.1 reads as rewritten:

28 **"§ 95-25.1. Short title and legislative ~~purpose-purpose~~; local governments preempted.**

29 (a) This Article shall be known and may be cited as the "Wage and Hour Act."

30 (b) The public policy of this State is declared as follows: The wage levels of employees,
31 hours of labor, payment of earned wages, and the well-being of minors are subjects of concern
32 requiring legislation to promote the general welfare of the people of the State without jeopardizing
33 the competitive position of North Carolina business and industry. The General Assembly declares
34 that the general welfare of the State requires the enactment of this law under the police power of
35 the State.

36 (c) The provisions of this Article supersede and preempt any ordinance or resolution
37 adopted by a city or county that purports to regulate or impose any requirement upon an employer
38 pertaining to compensation of employees, such as the wage levels of employees, hours of labor,
39 payment of earned wages, benefits, leave, or well-being of minors in the workforce. This
40 subsection shall not apply to any of the following:

- 41 (1) A local government regulating, compensating, or controlling its own
42 employees.
- 43 (2) Economic development incentives awarded under Part 2H of Article 10 of
44 Chapter 143B of the General Statutes.
- 45 (3) Economic development incentives awarded under Article 1 of Chapter 158 of
46 the General Statutes.
- 47 (4) A requirement of federal community development block grants.
- 48 (5) Programs established under G.S. 153A-376 or G.S. 160A-456."

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50 **SECTION 2.2.** G.S. 153A-449(a) reads as rewritten:

1 (b) The General Assembly declares that the regulation of discriminatory practices in places
2 of public accommodation is properly an issue of general, statewide concern, such that this Article
3 and other applicable provisions of the General Statutes preempt any ordinance or regulation
4 adopted or imposed by a unit of local government or other political subdivision of the State.

5 **"§ 143-422-12. Place of public accommodation – defined.**

6 For purposes of this Article, place of public accommodation has the same meaning as defined
7 in G.S. 168A-3(8), but shall exclude any private club or other establishment not, in fact, open to
8 the public.

9 **"§ 143-422-13. Investigations; conciliations.**

10 The Human Relations Commission in the Department of Administration shall have the
11 authority to receive, investigate, and conciliate complaints of discrimination in public
12 accommodations. Throughout this process, the Human Relations Commission shall use its good
13 offices to effect an amicable resolution of the complaints of discrimination. This Article shall not
14 be construed to create or support a private right of action."

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16 **PART IV: SEVERABILITY**

17 **SECTION 4.** If any provision of this act or its application is held invalid, the
18 invalidity does not affect other provisions or applications of this act that can be given effect
19 without the invalid provisions or application, and to this end the provisions of this act are
20 severable. If any provision of this act is temporarily or permanently restrained or enjoined by
21 judicial order, this act shall be enforced as though such restrained or enjoined provisions had not
22 been adopted, provided that whenever such temporary or permanent restraining order or injunction
23 is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have full force and
24 effect.

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26 **PART V: EFFECTIVE DATE**

27 **SECTION 5.** This act is effective when it becomes law and applies to any action
28 taken on or after that date, to any ordinance or resolution adopted or amended on or after that date,
29 and to any contract entered into on or after that date. The provisions of Sections 2.1, 2.2, 2.3, 3.1,
30 and 3.2 of this act supersede and preempt any ordinance or resolution adopted prior to the
31 effective date of this act that violates or is not consistent with this act, and such ordinances or
32 resolutions shall be null and void as of the effective date of this act.