### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2015

H

2 3 4

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

D

# (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 CHANGING FACILITIES IN SCHOOLS AND PUBLIC AGENCIES STATEWIDE CONSISTENCY IN REGULATION OF EMPLOYM ACCOMMODATIONS.	S AND TO CREATE
Whereas, the North Carolina Constitution directs the General As	ssembly to provide for
the organization and government of all cities and counties and to give cit powers and duties as the General Assembly deems advisable in Article VII, Carolina Constitution; and	ties and counties such
Whereas, the North Carolina Constitution reflects the importar	nce of Statewide laws
related to commerce by prohibiting the General Assembly from enacting	g 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 obligation for all businesses, organizations, and employers doing business in the State	s consistent Statewide will improve intrastate
commerce; and Whereas, the General Assembly finds that laws and obligation	s consistent Statewide
for all businesses, organizations, and employers doing business in the	he State benefits the
businesses, organizations, and employers to the State; now therefore,	****
	* *
The General Assembly of North Carolina enacts:	
PART I: SINGLE SEX MULTIPLE OCCUPANCY BATHROOM AN	ND CHANGING
FACILITIES	
SECTION 1.1 G.S. 115C-47 is amended by adding a new subs	section to read:
To Establish Single Sex Multiple Occupancy Bathroom and	Changing Facilities. –
ocal boards of education shall establish single sex multiple occupancy l	bathroom and changing
cilities as provided in G.S. 115C-521.2."	
SECTION 1.2. Article 37 of Chapter 115C of the General	Statutes is amended by
dding a new section to read:	facilities
§ 115C-521.2. Single sex multiple occupancy bathroom and changing	Tachitics.

1 2 3

4

5 6 7

12

18 19

17

20 21 22

23

24 25 26

27 28

29

35 36 37

38

39 40 41

42 43 44

45 46 47

48 49 50

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.

Single sex multiple occupancy bathroom and changing facilities. - Public agencies (b) shall require every multiple occupancy bathroom or changing facility to be designated for and only

used by persons based on their biological sex.

- 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.
- 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.

For maintenance or inspection purposes. (2)

(3) To render medical assistance.

(4) To accompany a person needing assistance.

That has been temporarily designated for use by that person's biological sex." (5)

#### PART II: STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND PUBLIC ACCOMMODATIONS

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

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

This Article shall be known and may be cited as the "Wage and Hour Act."

- The public policy of this State is declared as follows: The wage levels of employees. hours of labor, payment of earned wages, and the well-being of minors are subjects of concern requiring legislation to promote the general welfare of the people of the State without jeopardizing the competitive position of North Carolina business and industry. The General Assembly declares that the general welfare of the State requires the enactment of this law under the police power of the State.
- The provisions of this Article supersede and preempt any ordinance or resolution (c) adopted by a city or county that purports to regulate or impose any requirement upon an employer pertaining to compensation of employees, such as the wage levels of employees, hours of labor, payment of earned wages, benefits, leave, or well-being of minors in the workforce. This subsection shall not apply to any of the following:

A local government regulating, compensating, or controlling its own (1) employees.

Economic development incentives awarded under Part 2H of Article 10 of (2) Chapter 143B of the General Statutes.

Economic development incentives awarded under Article 1 of Chapter 158 of (3) the General Statutes.

A requirement of federal community development block grants. (4) Programs established under G.S. 153A-376 or G.S. 160A-456." (5)

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

7 8 9

10 11 12

13

14

15 16 17

18

19 20 21

22 23 24

25

36 37 38

39

40 41

42 43

44 45 46

47 48

49 50

Authority. - A county may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county is authorized by law to engage in. A county may not require a private contractor under this section to abide by regulations or controls on the contractor's employment practices or mandate or prohibit the provision of goods, services, or accommodations to any member of the public any restriction that the county could not impose on all employers in the county, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract or a qualification-based selection, except as otherwise required by State law."

SECTION 2.3. G.S. 160A-20.1(a) reads as rewritten:

Authority. - A city may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the city is authorized by law to engage in. A city may not require a private contractor under this section to abide by regulations or controls on the contractor's employment practices or mandate or prohibit the provision of goods, services, or accommodations to any member of the public any restriction that the city could not impose on all employers in the city, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract contract or a qualification-based selection, except as otherwise required by State law."

### PART III: PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC **ACCOMMODATIONS**

SECTION 3.1 G.S. 143-422.2 is amended by adding a new subsection to read: "§ 143-422.2. Legislative declaration.

It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, sex or handicap by employers which regularly employ 15 or more employees.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general

The General Assembly declares that the regulation of discriminatory practices in employment is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes preempt any ordinance or regulation adopted or imposed by a unit of local government or other political subdivision of the State, except those applicable to personnel employed by that body and not in conflict with State law."

SECTION 3.2. Chapter 143 of the General Statutes is amended by adding a new Article to read:

#### "Article 49B.

# "Equal Access to Public Accommodations.

"§ 143-422.10. Short title. This Article shall be known and may be cited as the Equal Access to Public Accommodations

Act. "§ 143-422.11. Legislative declaration.

It is the public policy of this State to protect and safeguard the right and opportunity of all individuals within the State to enjoy fully and equally the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodation free of discrimination because of race, religion, color, national origin, or sex, provided that designating multiple occupancy bathrooms or changing facilities according to biological sex, as defined in G.S. 143-760(a)(1) and (3), shall not be deemed to constitute discrimination.

2 3 4

5

6 7

8 9

10 11

12 13 14

15 16 17

18

23 24 25

26 27

28 29 30

31 32

The General Assembly declares that the regulation of discriminatory practices in places of public accommodation is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statues preempt any ordinance or regulation adopted or imposed by a unit of local government or other political subdivision of the State. "§ 143-422-12. Place of public accommodation - defined.

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

"§ 143-422.13. Investigations; conciliations.

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

## PART IV: SEVERABILITY

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

#### PART V: EFFECTIVE DATE

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