



NC Department of Health and Human Services

Navigating the Statute Changes Associated with Session Law 2023-129

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Topics of Discussion

- **History of ABC Changes affecting public health**
 - **Associated Statutes for Regulation and Exemptions**
 - **Defining Temperature Control for Safety (TSC) Foods**
 - **Overview of Plan Review and Permitting Requirements**
 - **Resources for Establishments**
 - **Questions**
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Recent History of ABC Changes that affected Bars

- **2013: Regulatory Reform Bill: Expanded Private Club Definition**
- **2019: SL 2019-49 Established the Private Bar definition to NC GS 18B-1000; also changed Private Club Definition**
- **2022: SL 2022-44 removed Private Bar definition and added the definition of bar to GS 130A-247**
- **2023: SL 2023-129 edited Bar definition to allow regulation for preparing and serving TCS Foods**

ABC Law Changes

S.L. 2023-129

- **Section 16**
- **Amends the definition of a bar in the sanitation statutes**
- **Technical correction to last year's Short Session that removed the private bar exemption**
- **Restores inspection of bars that serve food per NCGS 130A-248(a)**
- **Deadline for compliance extended to March 27, 2024**
- **FAQ sheet sent in weekly update (November 27-30) to LHD/ Bar owner FAQ shared**

Governing Statutes and Exemptions

- **NC GS 130A-248: Authority to regulate food for pay**
 - Establishes permit requirements/transfer of ownership
 - Establishes fees for permits and plan review
- **NC GS 130A-250: Establishes Exemptions from Regulation**
 - Includes Bars, Private Clubs, Breweries, Distilleries, etc.
 - Definitions for exemption are under NC GS 130A-247

This Change Does Not Affect Every Bar

Session Law 2023-129 continues to exempt some bars from obtaining a food establishment permit and from food safety inspections, including:

- (1) Bars that only use food as a garnish for beverages;**
- (2) Bars that do not prepare or serve food for pay;**
- (3) Bars that serve food for pay, but only serve food that does not require time and temperature control for safety as defined by the FDA Food Code;**
- (4) Bars that are designated as private clubs by the ABC Commission as defined in G.S. 18B-1000(5); and**
- (5) Bars that meet the definition of a private club that hold a tax-exempt status as defined in G.S. 130A-247(11).**

Private Clubs

- ***To meet the definition of a “private club” in NC G.S. 130A-250:***
 - **Private Club G.S. 18B-1000 (5)**
 - 501(c) of the IRS Code
 - Be in operation for a minimum of 12 months

Private Clubs

- ***To meet the definition of a “private club” in NC G.S. 130A-250:***
 - **Qualified facility G.S. 18B-1000 (5a)**
 - On-premises malt beverage
 - On-premises unfortified wine
 - On-premises fortified wine
 - Mixed beverage
 - **Residential private club G.S. 18B-1000 (5b)**

What Foods are Regulated and Which Are Not

- Time control for safety foods are foods that require time and temperature control to limit the growth of pathogens
- Sample guide can be found here: [download \(fda.gov\)](#)
- Packaged products that patrons purchase then open, heat or serve themselves are exempt from regulation
- Non-TCS foods such as peanuts and pretzels are exempt from regulation
- Garnishes used only for beverages are exempt from regulation

Resources are in place to help you through the process

- **Please contact the local health department's environmental health section immediately and they will assist you with the application and permitting process. The local health department will conduct a plan review and issue the permit once requirements are met.**
- **Establishments have until March 27, 2024, to obtain a food establishment permit for serving food. If you do not obtain a permit by March 27th, the bar may continue to operate; however, food subject to this law cannot be served.**
- **Again, please contact your local health department if you are unsure if your establishment qualifies or for assistance and additional information regarding this process**

Steps for Permitting: Plan Review

- **First Step will be reaching out to your Local Health Department for a plan review application**
 - **[EH County Directory \(ncdhhs.gov\)](http://ncdhhs.gov)**
 - **Application requirements: intended menu, volume of food to be store(#meals/day), proposed layout of food service, mechanical schematics, proposed food service equipment types and locations, any SOPs or special processes**
 - **Menu drives the plan review**
- **Sample application: [NC\(ncdhhs.gov\)](http://ncdhhs.gov)**
 - **Local Health Department Staff can assist with questions**

Steps for Permitting: Food Service Requirements

- **Basic requirements include, but are not limited to:**
 - Handwashing sink, dishwashing facilities
 - Food and supply storage areas
 - Approved waste removal processes
- **Requirements for any additional equipment varies**
 - Needed equipment will be determined upon review of the menu with the establishment by the LHD
 - For example, a menu with limited food preparation requirements (e.g., hot dogs, deli sandwiches) will have different (and fewer) equipment requirements than an establishment that has a full-service buffet.

Timeline for Plan Review & Permitting

- **Local Health Department will schedule site visits to confirm compliance prior to permitting**
- **Once all requirements are met, the permit is issued**
- **Establishments will be subject to inspection at a frequency determined by the risk of processes used and foods served. The local health department will advise you of the inspection frequency.**

Inspection Information

- **Inspections are unannounced and are risk based**
 - Inspectors will be looking for food from unsafe sources, proper food cook temperatures, improper holding temperatures, cross-contamination, and poor personal hygiene
- **Other factors considered in an inspection include:**
 - General cleanliness, employee health policy, having a Certified Food Protection Manager (CFPM) available, and other sanitation practices

Importance of Inspections

- **Limits the impacts of Foodborne Illness in NC**
 - **Reported Foodborne Illnesses Since 2021 in NC:**
 - 2,000+ cases of salmonella
 - 1,800+ campylobacter
 - 300+ cases of shiga-toxin e.coli
 - 200+ cases of Norovirus
- **Nationally over 48 million reported cases/yr**
 - 128,000 hospitalized
 - 3,000 deaths
- **Establishes food safety culture in businesses**
 - Consumer confidence
 - Protocol for response

NC DHHS is Here to Help

- Your local health department is standing by to assist with the plan review process and help answer any questions that you may have.
- If you have any additional questions or concerns after contacting your local health department, **please reach out to NCDHHS Food Protection Staff, who are also available to help with this transition process at NCBarQuestion@dhhs.nc.gov.**
- NCDHHS is committed to helping establishments navigate this process with as little disruption as possible while ensuring the health and safety of North Carolinians.

Summary of Resources

- Plan Review Resources: EHS: Plan Review Unit (ncdhhs.gov)
- Rules Governing the Food Protection and Sanitation of Food Establishments (ncdhhs.gov) (15A NCAC 18A .2600 Rules)
- Contact DHHS & Regional Staff: NCBarQuestion@dhhs.nc.gov.