



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

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Division of Public Health

MEMORANDUM

TO: Registered Environmental Health Specialists, Program Supervisors, and Managers

FROM: Shane Smith, REHS, Branch Head
Food Protection and Facilities Branch, Environmental Health Section

SUBJECT: S.L. 2023-129, Sec. 16 (HB 125)

SUMMARY

On October 2, 2023, S.L. 2023-129, Sec. 16 (HB 125) became law, amending G.S. 130A-247(1) and G.S. 130A-250(4a) to more specifically define when a “bar” is exempt from regulation and permitting as a food establishment:

“Bar” means an establishment with a permit to sell alcoholic beverages pursuant to subdivision (1), (3), (5), or (10) of G.S. 18B-1001 and that does not prepare or serve food as defined in this Part other than beverage garnishes, ice, or food that does not require time or temperature control for safety as set out in G.S. 130A-248(a) and rules adopted to implement that section and that is in an unopened original commercial package, except for food used as a beverage garnish.

IMPLEMENTATION

Previously, “private bars” were exempt from regulation under G.S. 130A-250 as food establishments. When S.L. 2022-44, Sec. 6. (HB 768) was enacted, the term “private bar” was replaced with the term “bar,” which had the effect of significantly expanding the number of establishments that met the exemption previously reserved for private bars. With the passage of S.L. 2023-129, Sec. 16, the broad exemption has now been narrowed. Under the new definition of “bar,” an establishment with an on-premises malt beverage, wine, or mixed beverages permit that does not prepare or serve food other than beverage garnishes and packaged food that does not require time/temperature control for safety as set out in the NC Food Code is exempt. An establishment that was previously exempt from regulation under the prior definition of “bar” that does not meet the new, more narrow exemption, must apply for a permit, submit a plan for review, and pay associated plan review fees to the Local Health Department (“LHD”).

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

All establishments that were previously exempted under the S.L. 2022-44 definition of “bar” that are now required to have a permit under S.L. 2023-129 (“impacted establishments”) should take prompt action to submit an application to their LHD. The first quarter of implementation shall be considered an educational period with no enforcement action taken on impacted establishments. Enforcement of unregulated activities in impacted establishments will begin January 1, 2024. Since facilities have been operating under a previous exemption, site specific plan review and permitting questions should be expected, and operators and LHDs can reach out to State Plan Review and Environmental Health Regional Specialists for assistance. This Bill does not change the provisions previously exempted in G.S. 130A-250(20) made by S.L. 2022-51(Senate Bill 470).

REFERENCES

S.L. 2022-44
S.L. 2022-51
S.L. 2023-129
N.C. G.S. 130-247
N.C. G.S. 130-250