

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 2016

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HOUSE BILL 2

Short Title: Public Facilities Privacy & Security Act. (Public)

Sponsors: Representatives Bishop, Stam, Howard, and Steinburg (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

March 23, 2016

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 Section 1 of Article VII 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 Section 24 of Article II 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 benefit 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 subdivision 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:

(1) Biological sex. – The physical condition of being male or female, which is stated on a person's birth certificate.



1 (2) Multiple occupancy bathroom or changing facility. – A facility designed or
 2 designated to be used by more than one person at a time where students may be
 3 in various states of undress in the presence of other persons. A multiple
 4 occupancy bathroom or changing facility may include, but is not limited to, a
 5 school restroom, locker room, changing room, or shower room.

6 (3) Single occupancy bathroom or changing facility. – A facility designed or
 7 designated to be used by only one person at a time where students may be in
 8 various states of undress. A single occupancy bathroom or changing facility
 9 may include, but is not limited to, a single stall restroom designated as unisex
 10 or for use based on biological sex.

11 (b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Local boards of
 12 education shall require every multiple occupancy bathroom or changing facility that is designated
 13 for student use to be designated for and used only by students based on their biological sex.

14 (c) Accommodations Permitted. – Nothing in this section shall prohibit local boards of
 15 education from providing accommodations such as single occupancy bathroom or changing
 16 facilities or controlled use of faculty facilities upon a request due to special circumstances, but in
 17 no event shall that accommodation result in the local boards of education allowing a student to use
 18 a multiple occupancy bathroom or changing facility designated under subsection (b) of this section
 19 for a sex other than the student's biological sex.

20 (d) Exceptions. – This section does not apply to persons entering a multiple occupancy
 21 bathroom or changing facility designated for use by the opposite sex:

22 (1) For custodial purposes.

23 (2) For maintenance or inspection purposes.

24 (3) To render medical assistance.

25 (4) To accompany a student needing assistance when the assisting individual is an
 26 employee or authorized volunteer of the local board of education or the
 27 student's parent or authorized caregiver.

28 (5) To receive assistance in using the facility.

29 (6) To accompany a person other than a student needing assistance.

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

31 **SECTION 1.3.** Chapter 143 of the General Statutes is amended by adding a new

32 Article to read:

33 "Article 81.

34 "Single-Sex Multiple Occupancy Bathroom and Changing Facilities.

35 **"§ 143-760. Single-sex multiple occupancy bathroom and changing facilities.**

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

37 (1) Biological sex. – The physical condition of being male or female, which is
 38 stated on a person's birth certificate.

39 (2) Executive branch agency. – Agencies, boards, offices, departments, and
 40 institutions of the executive branch, including The University of North Carolina
 41 and the North Carolina Community College System.

42 (3) Multiple occupancy bathroom or changing facility. – A facility designed or
 43 designated to be used by more than one person at a time where persons may be
 44 in various states of undress in the presence of other persons. A multiple
 45 occupancy bathroom or changing facility may include, but is not limited to, a
 46 restroom, locker room, changing room, or shower room.

47 (4) Public agency. – Includes any of the following:

48 a. Executive branch agencies.

49 b. All agencies, boards, offices, and departments under the direction and
 50 control of a member of the Council of State.

51 c. "Unit" as defined in G.S. 159-7(b)(15).

1 d. "Public authority" as defined in G.S. 159-7(b)(10).

2 e. A local board of education.

3 f. The judicial branch.

4 g. The legislative branch.

5 h. Any other political subdivision of the State.

6 (5) Single occupancy bathroom or changing facility. – A facility designed or
7 designated to be used by only one person at a time where persons may be in
8 various states of undress. A single occupancy bathroom or changing facility
9 may include, but is not limited to, a single stall restroom designated as unisex
10 or for use based on biological sex.

11 (b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Public agencies
12 shall require every multiple occupancy bathroom or changing facility to be designated for and only
13 used by persons based on their biological sex.

14 (c) Accommodations Permitted. – Nothing in this section shall prohibit public agencies
15 from providing accommodations such as single occupancy bathroom or changing facilities upon a
16 person's request due to special circumstances, but in no event shall that accommodation result in
17 the public agency allowing a person to use a multiple occupancy bathroom or changing facility
18 designated under subsection (b) of this section for a sex other than the person's biological sex.

19 (d) Exceptions. – This section does not apply to persons entering a multiple occupancy
20 bathroom or changing facility designated for use by the opposite sex:

21 (1) For custodial purposes.

22 (2) For maintenance or inspection purposes.

23 (3) To render medical assistance.

24 (4) To accompany a person needing assistance.

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

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27 **PART II. STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND**

28 **CONTRACTING**

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

30 "**§ 95-25.1. Short title and legislative ~~purpose~~purpose; local governments preempted.**

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

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

38 (c) The provisions of this Article supersede and preempt any ordinance, regulation,
39 resolution, or policy adopted or imposed by a unit of local government or other political
40 subdivision of the State that regulates or imposes any requirement upon an employer pertaining to
41 compensation of employees, such as the wage levels of employees, hours of labor, payment of
42 earned wages, benefits, leave, or well-being of minors in the workforce. This subsection shall not
43 apply to any of the following:

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

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

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

50 (4) A requirement of federal community development block grants.

51 (5) Programs established under G.S. 153A-376 or G.S. 160A-456."

"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.

(a) 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 biological sex, provided that designating multiple or single occupancy bathrooms or changing facilities according to biological sex, as defined in G.S. 143-760(a)(1), (3), and (5), shall not be deemed to constitute discrimination.

(b) 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 Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement pertaining to the regulation of discriminatory practices in places of public accommodation.

"§ 143-422.12. Places of public accommodation – defined.

For purposes of this Article, places 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 the public.

"§ 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 does not create, and shall not be construed to create or support, a statutory or common law private right of action, and no person may bring any civil action based upon the public policy expressed herein."

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, resolution, regulation, or policy 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, 3.2, and 3.3 of this act supersede and preempt any ordinance, resolution, regulation, or policy adopted prior to the effective date of this act that purports to regulate a subject matter preempted by this act or that violates or is not consistent with this act, and such ordinances, resolutions, regulations, or policies shall be null and void as of the effective date of this act.