

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1508
Committee Substitute Favorable 6/12/02

Short Title: Public Health Bioterrorism Preparedness.

(Public)

Sponsors:

Referred to:

June 4, 2002

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE READINESS FOR AND TO IMPROVE MANAGEMENT
3 OF A PUBLIC HEALTH THREAT THAT MAY RESULT FROM AN ACT OF
4 TERRORISM USING NUCLEAR, BIOLOGICAL, OR CHEMICAL AGENTS AS
5 RECOMMENDED BY THE NORTH CAROLINA PUBLIC HEALTH STUDY
6 COMMISSION.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 130A of the General Statutes is amended by adding
9 the following new Article to read:

10 "Article 22.

11 "Bioterrorism.

12 "**§ 130A-475. Suspected terrorist attack.**

13 (a) If the State Health Director reasonably suspects that a public health threat
14 may exist and that the threat may have been caused by an act of terrorism using nuclear,
15 biological, or chemical agents, the State Health Director shall conduct an investigation.
16 The State Health Director is authorized to:

- 17 (1) Require any person or animal to submit to examinations and tests to
18 determine possible exposure to the nuclear, biological, or chemical
19 agents;
20 (2) Test any real or personal property necessary to determine the presence
21 of nuclear, biological, or chemical agents;
22 (3) Order the evacuation or closure of any real property, including any
23 building, structure, or land when necessary to investigate suspected
24 contamination of the property. The period of closure during an
25 investigation shall not exceed 10 calendar days. If the State Health
26 Director determines that a longer period of closure is necessary to
27 complete the investigation, the Director may institute an action in
28 superior court to order the property to remain closed until the
29 investigation is completed;

1 (4) Limit the freedom of movement or action of a person or animal that is
2 contaminated with, or reasonably suspected of being contaminated
3 with, a chemical or nuclear agent that may be conveyed to other
4 persons or animals, until the risk of conveyance is eliminated; and

5 (5) Limit access by any person or animal to an area or facility that is
6 contaminated with, or reasonably suspected of being contaminated
7 with, a chemical or nuclear agent that may be conveyed to other
8 persons or animals.

9 (b) If the State Health Director determines that there exists a public health threat
10 that may have been caused by an act of terrorism using nuclear, biological, or chemical
11 agents, the State Health Director shall notify the Secretary of Crime Control and Public
12 Safety.

13 (c) Nothing in this section shall limit any authority otherwise granted to local or
14 State public health officials under this Chapter."

15 **SECTION 2.(a)** G.S. 130A-149, "Biological Agents Registry; Rules;
16 Penalties," is recodified as G.S. 130A-476.

17 **SECTION 2.(b)** G.S. 130A-29(c)(10) reads as rewritten:

18 "(10) Pertaining to the biological agents registry in accordance with
19 ~~G.S. 130A-149~~ G.S. 130A-476."

20 **SECTION 3.** G.S. 166A-5(2) is amended by adding a new sub-subdivision
21 to read:

22 "c1. To coordinate with the State Health Director to amend or revise
23 the State Emergency Operations Plan regarding public health
24 matters. At a minimum, the revisions to the Plan shall provide
25 for the following:

- 26 1. The epidemiologic investigation of a known or suspected
27 threat caused by nuclear, biological, or chemical agents;
- 28 2. The examination and testing of persons and animals that
29 may have been exposed to a nuclear, biological, or
30 chemical agent;
- 31 3. The procurement and allocation of immunizing agents
32 and prophylactic antibiotics;
- 33 4. The allocation of the National Pharmaceutical Stockpile;
- 34 5. The appropriate conditions for quarantine and isolation
35 in order to prevent further transmission of disease;
- 36 6. Immunization procedures; and
- 37 7. The issuance of guidelines for prophylaxis and treatment
38 of exposed and affected persons."

39 **SECTION 4.** G.S. 130A-133(4) reads as rewritten:

40 "(4) "Quarantine authority" means the authority to limit the freedom of
41 movement or action of persons or animals which have been exposed to
42 or are reasonably suspected of having been exposed to a
43 communicable disease or communicable condition for a period of time
44 as may be necessary to prevent the spread of that disease. Quarantine

1 authority also means the authority to limit access by any person or
2 animal to an area or facility that may be contaminated with an
3 infectious agent. The term also means the authority to limit the
4 freedom of movement or action of persons who have not received
5 immunizations against a communicable disease ~~listed in G.S. 130A-~~
6 ~~152-~~when the State Health Director or local health director determines
7 that such immunizations are required to control an outbreak of that
8 disease."

9 **SECTION 5.** G.S. 130A-145 reads as rewritten:

10 "**§ 130A-145. ~~Local health director has quarantine~~ Quarantine and isolation**
11 **authority.**

12 (a) The State Health Director and a local health director and the State Health
13 Director are empowered to exercise quarantine and isolation authority. Quarantine and
14 isolation authority shall be exercised only when and so long as the public health is
15 endangered, all other reasonable means for correcting the problem have been exhausted,
16 and no less restrictive alternative exists.

17 (b) No person other than a person authorized by the State Health Director or local
18 health director shall enter quarantine or isolation premises. Nothing in this subsection
19 shall be construed to restrict the access of authorized health care, law enforcement or
20 emergency medical services personnel to quarantine or isolation premises as necessary
21 in conducting their duties."

22 **SECTION 6.** G.S. 130A-20 reads as rewritten:

23 "**§ 130A-20. Abatement of an imminent hazard.**

24 (a) If the Secretary or a local health director determines that an imminent hazard
25 exists, the Secretary or a local health director may order the owner, lessee, operator or
26 other person in control of the property to abate the imminent hazard or may, after notice
27 to or reasonable attempt to notify the owner, lessee, operator, or other person in control
28 of the property enter upon any property and take any action necessary to abate the
29 imminent hazard. If the Secretary or a local health director abates the imminent hazard,
30 the ~~The~~ Department or the local health department shall have a lien on the property for
31 the cost of the abatement of the imminent hazard in the nature of a mechanic's and
32 materialmen's lien as provided in ~~Chapter 44A~~ Chapter 44A of the General Statutes, and
33 the lien may be enforced as provided ~~therein~~ in that Chapter. The lien may be defeated
34 by a showing that an imminent hazard did not exist at the time the Secretary or the local
35 health director took the action.

36 (b) The Secretary of Environment and Natural Resources and a local health
37 director shall have the same rights enumerated in subsection (a) of this section to
38 enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

39 **SECTION 7.** Article 1 of Chapter 130A of the General Statutes is amended
40 by adding a new section to read:

41 "**§ 130A-12.1. Access to health information.**

42 (a) Notwithstanding any other provision of law, a health care provider or a unit
43 of State or local government may report to the State Health Director or a local health
44 director any events that may indicate the existence of a communicable disease or

1 condition, or a case or outbreak of an illness or condition that may have been caused by
2 use of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S.
3 14-288.21(c). Events that may be reported include unusual types or numbers of
4 symptoms or illnesses presented to the provider, unusual trends in health care visits, or
5 unusual trends in prescriptions or purchases of over-the-counter pharmaceuticals. A
6 person disclosing or not disclosing information pursuant to this subsection is immune
7 from any civil or criminal liability that might otherwise be incurred or imposed based on
8 the disclosure or lack of disclosure provided that the health care provider was acting in
9 good faith and without malice. In any proceeding involving liability, good faith and lack
10 of malice are presumed.

11 (b) The State Health Director may issue a temporary order requiring health care
12 providers to report symptoms, diseases, conditions, trends in use of health care services,
13 or other health-related information when necessary to conduct public health
14 investigations or surveillance of diseases or health hazards that may have been caused
15 by use of a nuclear, biological, or chemical weapon of mass destruction as defined in
16 G.S. 14-288.21(c) or that may indicate the existence of a communicable disease or
17 condition. The order shall specify which health care providers must report, what
18 information is to be reported, and the period of time for which reporting is required. The
19 period of time for which reporting is required pursuant to a temporary order shall not
20 exceed 90 days. The rule-making provisions of Chapter 150B of the General Statutes
21 shall not apply to the State Health Director's temporary order. The Commission may
22 adopt temporary or permanent rules to continue the reporting requirement when
23 necessary to protect the public health.

24 (c) The State Health Director and a local health director may examine, review,
25 and obtain a copy of records containing confidential or protected health information, or
26 a summary of pertinent portions of those records, that:

- 27 (1) Pertain to a report authorized by subsection (a) or required by
28 subsection (b) of this section;
29 (2) Pertain to the diagnosis, treatment, or prevention of a communicable
30 disease or communicable condition, as defined in Article 6 of this
31 Chapter, for a person infected, exposed, or reasonably suspected of
32 being infected or exposed to such a disease or condition; or
33 (3) The State Health Director determines is necessary for investigating a
34 disease or health hazard that presents a clear danger to the public
35 health.

36 (d) A person who makes a report pursuant to subsection (a) or (b) of this section
37 or permits examination, review or copying of medical records pursuant to subsection (c)
38 is immune from any civil or criminal liability that otherwise might be incurred or
39 imposed as a result of complying with those subsections.

40 (e) For purposes of this section, the term "health care provider" means a
41 physician licensed to practice medicine in North Carolina or a person who is licensed,
42 certified, or credentialed to practice or provide health care services, including, but not
43 limited to, pharmacists, dentists, physician assistants, registered nurses, licensed
44 practical nurses, chiropractors, and emergency medical technicians."

1 **SECTION 8.** G.S. 130A-5 reads as rewritten:2 "**§ 130A-5. Duties of the Secretary.**

3 The Secretary shall have the authority:

- 4 (1) To enforce the State health laws and the rules of the Commission;
- 5 (2) To investigate the causes of epidemics and of infectious,
6 communicable and other diseases affecting the public health in order
7 to control and prevent these diseases; to provide, under the rules of the
8 Commission, for the prevention, detection, reporting and control of
9 communicable, infectious or any other diseases or health hazards
10 considered harmful to the public health; ~~to obtain, notwithstanding the~~
11 ~~provisions of G.S. 8-53, a copy or a summary of pertinent portions of~~
12 ~~privileged patient medical records deemed necessary for investigating~~
13 ~~a disease or health hazard that may present a clear danger to the public~~
14 ~~health. Records shall be identified as necessary by joint agreement of a~~
15 ~~Department physician and the patient's attending physician. However,~~
16 ~~if the Department is unable to contact the attending physician after~~
17 ~~reasonable attempts to do so, or if the Department determines that~~
18 ~~contacting all attending physicians of patients involved in an~~
19 ~~investigation would be impractical or would unreasonably delay the~~
20 ~~inquiry and thereby endanger the public health, the records shall be~~
21 ~~identified as necessary by joint agreement of a Department physician~~
22 ~~and the health care facility's chief of staff. For a facility with no chief~~
23 ~~of staff, the facility's chief administrator may consent to the~~
24 ~~Department's review of the records. Any person, authorized to have or~~
25 ~~handle such records, providing copies or summaries of privileged~~
26 ~~patient medical records pursuant to this subdivision shall be immune~~
27 ~~from civil or criminal liability that might otherwise be incurred or~~
28 ~~imposed based upon invasion of privacy or breach of physician patient~~
29 ~~confidentiality arising out of the furnishing of or agreement to furnish~~
30 ~~such records;~~
31 (3) To develop and carry out reasonable health programs that may be
32 necessary for the protection and promotion of the public health and the
33 control of diseases. The Commission is authorized to adopt rules to
34 carry out these programs;
- 35 (4) To make sanitary and health investigations and inspections;
- 36 (5) To investigate occupational health hazards and occupational diseases
37 and to make recommendations for the elimination of the hazards and
38 diseases. The Secretary shall work with the Industrial Commission and
39 shall file sufficient reports with the Industrial Commission to enable it
40 to carry out all of the provisions of the Workers' Compensation Act
41 with respect to occupational ~~disease.~~disease;
- 42 (6) To receive donations of money, securities, equipment, supplies, realty
43 or any other property of any kind or description which shall be used by

- 1 the Department for the purpose of carrying out its public health
2 programs;
- 3 (7) To acquire by purchase, devise or otherwise in the name of the
4 Department equipment, supplies and other property, real or personal,
5 necessary to carry out the public health programs;
- 6 (8) To use the official seal of the Department. Copies of documents in the
7 possession of the Department may be authenticated with the seal of the
8 Department, attested by the signature or a facsimile of the signature of
9 the Secretary, and when authenticated shall have the same evidentiary
10 value as the originals;
- 11 (9) To disseminate information to the general public on all matters
12 pertaining to public health; to purchase, print, publish, and distribute
13 free, or at cost, documents, reports, bulletins and health informational
14 materials. Money collected from the distribution of these materials
15 shall remain in the Department to be used to replace the materials;
- 16 (10) To be the health advisor of the State and to advise State officials in
17 regard to the location, sanitary construction and health management of
18 all State institutions; to direct the attention of the State to health
19 matters which affect the industries, property, health and lives of the
20 people of the State; to inspect at least annually State institutions and
21 facilities; to make a report as to the health conditions of these
22 institutions or facilities with suggestions and recommendations to the
23 appropriate State agencies. It shall be the duty of the persons in
24 immediate charge of these institutions or facilities to furnish all
25 assistance necessary for a thorough inspection;
- 26 (11) To establish a schedule of fees based on income to be paid by a
27 recipient for services provided by Migrant Health Clinics and
28 Development Evaluation Centers;
- 29 (12) To establish fees for the sale of specimen containers, vaccines and
30 other biologicals. The fees shall not exceed the actual cost of such
31 items, plus transportation costs;
- 32 (13) To establish a fee to cover costs of responding to requests by
33 employers for industrial hygiene consultation services and
34 occupational consultation services. The fee shall not exceed two
35 hundred dollars (\$200.00) per on site inspection; and
- 36 (14) To establish a fee for companion animal certificate of examination
37 forms to be distributed, upon request, by the Department to licensed
38 veterinarians. The fee shall not exceed the cost of the form and
39 shipping costs."

40 **SECTION 9.** G.S. 130A-143 reads as rewritten:

41 **"§ 130A-143. Confidentiality of records.**

42 All information and records, whether publicly or privately maintained, that identify a
43 person who has AIDS virus infection or who has or may have a disease or condition
44 required to be reported pursuant to the provisions of this Article shall be strictly

1 confidential. This information shall not be released or made public except under the
2 following circumstances:

- 3 (1) Release is made of specific medical or epidemiological information for
4 statistical purposes in a way that no person can be identified;
- 5 (2) Release is made of all or part of the medical record with the written
6 consent of the person or persons identified or their guardian;
- 7 (3) Release is made to health care personnel providing medical care to the
8 patient;
- 9 (4) Release is necessary to protect the public health and is made as
10 provided by the Commission in its rules regarding control measures
11 for communicable diseases and conditions;
- 12 (5) Release is made pursuant to other provisions of this Article;
- 13 (6) Release is made pursuant to subpoena or court order. Upon request of
14 the person identified in the record, the record shall be reviewed in
15 camera. In the trial, the trial judge may, during the taking of testimony
16 concerning such information, exclude from the courtroom all persons
17 except the officers of the court, the parties and those engaged in the
18 trial of the ~~ease~~-case;
- 19 (7) Release is made by the Department or a local health department to a
20 court or a law enforcement ~~officer~~-official for the purpose of enforcing
21 the provisions of this ~~Article pursuant to Article 1, Part 2 of this~~
22 Chapter, Article, Article 22 of this Chapter, or G.S. 14-288.22. A law
23 enforcement official who receives the information shall not disclose it
24 further, except (i) when necessary to enforce the provisions of this
25 Article, Article 22 of this Chapter, or G.S. 14-288.22, or (ii) when the
26 Department or a local health department seeks the assistance of the law
27 enforcement official in preventing or controlling the spread of the
28 disease or condition and expressly authorizes the disclosure as
29 necessary for that purpose;
- 30 (8) Release is made by the Department or a local health department to
31 another federal, state or local public health agency for the purpose of
32 preventing or controlling the spread of a communicable disease or
33 communicable condition;
- 34 (9) Release is made by the Department for bona fide research purposes.
35 The Commission shall adopt rules providing for the use of the
36 information for research purposes;
- 37 (10) Release is made pursuant to G.S. 130A-144(b); or
- 38 (11) Release is made pursuant to any other provisions of law that
39 specifically authorize or require the release of information or records
40 related to AIDS."

41 **SECTION 10.** G.S. 106-24.1 reads as rewritten:

42 **"§ 106-24.1. Confidentiality of information collected and published.**

43 All information published by the Department of Agriculture and Consumer Services
44 pursuant to this Part shall be classified so as to prevent the identification of information

1 received from individual farm operators. All information received pursuant to this Part
2 from individual farm operators shall be held confidential by the Department and its
3 employees. Information collected by the Department from individual farm operators for
4 the purposes of its animal health programs may be disclosed by the State Veterinarian
5 when, in his judgment, the disclosure will assist in the implementation of these
6 programs. Animal disease diagnostic tests that identify the owner of the animal shall not
7 be disclosed without the permission of the owner unless the State Veterinarian
8 determines that disclosure is necessary to prevent the spread of an animal disease or to
9 protect the public health."

10 **SECTION 11.** G.S. 106-307.2 reads as rewritten:

11 "**§ 106-307.2. Reports of infectious disease in livestock and poultry to State**
12 **Veterinarian.**

13 (a) All persons practicing veterinary medicine in North Carolina shall report
14 promptly to the State Veterinarian the existence of any contagious or infectious disease
15 in livestock and poultry.

16 (b) The State Veterinarian shall notify the State Health Director and the Director
17 of the Division of Environmental Health in The Department of Environment and
18 Natural Resources when the State Veterinarian receives a report indicating a potential
19 outbreak of a disease or condition that can be transmitted to humans including
20 communicable diseases or conditions required to be reported by G.S. 130A-134."

21 **SECTION 12.** G.S. 130A-152(b) is repealed.

22 **SECTION 13.** G.S. 143-518 reads as rewritten:

23 "**§ 143-518. Confidentiality of patient information.**

24 (a) Medical records compiled and maintained by the Department or EMS
25 providers in connection with dispatch, response, treatment, or transport of individual
26 patients or in connection with the statewide trauma system pursuant to Article 7 of
27 Chapter 131E of the General Statutes may contain patient identifiable data which will
28 allow linkage to other health care-based data systems for the purposes of quality
29 management, peer review, and public health initiatives.

30 These medical records and data shall be strictly confidential and shall not be
31 considered public records within the meaning of G.S. 132-1 and shall not be released or
32 made public except under any of the following conditions:

- 33 (1) Release is made of specific medical or epidemiological information for
34 statistical purposes in a way that no person can be identified.
- 35 (2) Release is made of all or part of the medical record with the written
36 consent of the person or persons identified or their guardians.
- 37 (3) Release is made to health care personnel providing medical care to the
38 patient.
- 39 (4) Release is made pursuant to a court order. Upon request of the person
40 identified in the record, the record shall be reviewed in camera. In the
41 trial, the trial judge may, during the taking of testimony concerning
42 such information, exclude from the courtroom all persons except the
43 officers of the court, the parties, and those engaged in the trial of the
44 case.

- 1 (5) Release is made to a Medical Review Committee as defined in
2 G.S. 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee
3 as defined in G.S. 131E-108, 122C-30, or 131D-21.1.
- 4 (6) Release is made for use in a health research project under rules
5 adopted by the North Carolina Medical Care Commission. The
6 Commission shall adopt rules that allow release of information when
7 an institutional review board, as defined by the Commission, has
8 determined that the health research project:
- 9 a. Is of sufficient scientific importance to outweigh the intrusion
10 into the privacy of the patient that would result from the
11 disclosure;
- 12 b. Is impracticable without the use or disclosure of identifying
13 health information;
- 14 c. Contains safeguards to protect the information from
15 redisclosure;
- 16 d. Contains safeguards against identifying, directly or indirectly,
17 any patient in any report of the research project; and
- 18 e. Contains procedures to remove or destroy at the earliest
19 opportunity, consistent with the purposes of the project,
20 information that would enable the patient to be identified,
21 unless an institutional review board authorizes retention of
22 identifying information for purposes of another research
23 project.
- 24 (7) Release is made to a statewide data processor, as defined in Article
25 11A of Chapter 131E of the General Statutes, in which case the data is
26 deemed to have been submitted as if it were required to have been
27 submitted under that Article.
- 28 (8) Release is made to the State Health Director for the purpose of
29 protecting the public health.
- 30 (b) Charges, accounts, credit histories, and other personal financial records
31 compiled and maintained by the Department or EMS providers in connection with the
32 admission, treatment, and discharge of individual patients are strictly confidential and
33 shall not be released."

34 **SECTION 14.** This act becomes effective October 1, 2002.