

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

4

SENATE BILL 884*
Judiciary II Committee Substitute Adopted 5/11/09
House Committee Substitute Favorable 7/23/09
House Committee Substitute #2 Favorable 8/6/09

Short Title: Cig Saf Amend/DHHS Elec. Supervision.

(Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE FIRE-SAFETY STANDARD AND
FIREFIGHTER PROTECTION ACT AND TO DIRECT THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES, DIVISION OF HEALTH SERVICE
REGULATION, TO ESTABLISH A PILOT PROGRAM TO STUDY ALTERNATIVE
STAFFING REQUIREMENTS FOR FACILITIES THAT USE ELECTRONIC
SUPERVISION DEVICES AND TO DIRECT THE COMMISSION FOR MENTAL
HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE
SERVICES TO ADOPT RULES ESTABLISHING ACCEPTABLE ELECTRONIC
SUPERVISION STANDARDS AND RELATED PERSONNEL REQUIREMENTS AT
FACILITIES FOR CHILDREN AND ADOLESCENTS WHO HAVE A PRIMARY
DIAGNOSIS OF MENTAL ILLNESS AND/OR EMOTIONAL DISTURBANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-92-15(p) reads as rewritten:

"(p) The Commissioner shall implement this Article in accordance with the
implementation and substance of the New York Fire Safety Standards for ~~Cigarettes~~-Cigarettes,
as it read on August 24, 2007."

SECTION 2. G.S. 58-92-30(g) reads as rewritten:

"(g) Whenever any law enforcement personnel or duly authorized representative of the
Commissioner shall discover any cigarettes that have not been marked in the manner required
by ~~G.S. 58-92-25~~, this Article, such personnel is hereby authorized and empowered to seize and
take possession of such cigarettes. Such cigarettes shall be turned over to the Department of
Revenue and shall be forfeited to the State. Cigarettes seized pursuant to this section shall be
destroyed; provided, however, that prior to the destruction of any cigarette seized pursuant to
these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted
to inspect the cigarette."

SECTION 3. Before January 1, 2010, the Commissioner of Insurance may adopt
rules, pursuant to Chapter 150B of the General Statutes, necessary to effectuate the purposes of
Article 92 of Chapter 58 of the General Statutes. Those rules shall not become effective earlier
than January 1, 2010.

SECTION 4. The Department of Health and Human Services, Division of Health
Service Regulation shall establish a pilot program to study the use of electronic supervision
devices as an alternative means of supervision during sleep hours at facilities for children and
adolescents who have a primary diagnosis of mental illness and/or emotional disturbance. The
pilot program shall be implemented at a facility currently authorized to waive the requirement



1 set forth in 10A NCAC 27G .1704(c) or any related or subsequent rule or regulation by the
2 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services
3 setting minimum overnight staffing requirements. The waiver shall remain in effect until
4 December 31, 2012; however, the Division reserves the right to rescind the waiver if, at the
5 time of the facility's license renewal, there are outstanding deficiencies that have remained
6 uncorrected upon follow-up survey, that are related to electronic supervision.

7 **SECTION 5.** The Department of Health and Human Services shall report on the
8 implementation of the pilot program described in Section 4 of this act, including any findings
9 and recommendations to the Joint Legislative Oversight Committee on Mental Health,
10 Developmental Disabilities, and Substance Abuse Services, the House of Representatives
11 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
12 Committee on Health and Human Services, and the Fiscal Research Division not later than
13 April 10, 2010.

14 **SECTION 6.** G.S. 143B-147(a)(2) reads as rewritten:

15 "(a) There is hereby created the Commission for Mental Health, Developmental
16 Disabilities, and Substance Abuse Services of the Department of Health and Human Services
17 with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State
18 and local mental health, developmental disabilities, substance abuse programs including
19 education, prevention, intervention, screening, assessment, referral, detoxification, treatment,
20 rehabilitation, continuing care, emergency services, case management, and other related
21 services. Such rules shall be designed to promote the amelioration or elimination of the mental
22 illness, developmental disabilities, or substance abuse problems of the citizens of this State.
23 Rules establishing standards for certification of child care centers providing Developmental
24 Day programs are excluded from this section and shall be adopted by the Child Care
25 Commission under G.S. 110-88. The Commission for Mental Health, Developmental
26 Disabilities, and Substance Abuse Services shall have the authority:

27 ...

- 28 (2) To adopt rules for the licensing of facilities for the mentally ill,
29 developmentally disabled, and substance abusers, under Article 2 of Chapter
30 122C of the General Statutes. These rules shall include all of the following:
31 a. Standards for the use of electronic supervision devices during client
32 sleep hours for facilities licensed under 10A NCAC 27G. 1700 or
33 any related or subsequent regulations setting licensing standards for
34 such facilities.
35 b. Personnel requirements for facilities licensed under 10A NCAC 27G.
36 1700, or any related or subsequent regulations setting licensing
37 standards for such facilities, when continuous electronic supervision
38 that meets the standards established under sub-subdivision a. of this
39 of this subdivision is present."

40 **SECTION 7.** Sections 1 and 2 of this act become effective January 1, 2010. The
41 remainder of this act is effective when it becomes law.