

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 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.