

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1166

Short Title: Public Health Bioterrorism Preparedness. (Public)

Sponsors: Senators Lucas; Dannelly, Gulley, Martin of Guilford, Miller, Purcell, and Shaw of Cumberland.

Referred to: Children & Human Resources.

June 4, 2002

A BILL TO BE ENTITLED

AN ACT TO PROMOTE READINESS FOR AND TO IMPROVE MANAGEMENT OF A PUBLIC HEALTH THREAT THAT MAY RESULT FROM AN ACT OF TERRORISM USING NUCLEAR, BIOLOGICAL, OR CHEMICAL AGENTS AS RECOMMENDED BY THE NORTH CAROLINA PUBLIC HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

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

"Article 22.

"Bioterrorism.

"§ 130A-475. Suspected terrorist attack.

(a) If the State Health Director reasonably suspects that a public health threat may exist and that the threat may have been caused by an act of terrorism using nuclear, biological, or chemical agents, the State Health Director shall conduct an epidemiologic investigation. As a part of the investigation, the State Health Director may:

(1) Require any person or animal to submit to examinations and tests to determine possible exposure to the nuclear, biological, or chemical agents;

(2) Test any real or personal property necessary to determine the presence of nuclear, biological, or chemical agents; and

(3) Order the evacuation or closure of any real property, including any building, structure, or land when necessary to investigate suspected contamination of the property. The period of closure during an investigation shall not exceed 10 calendar days. If the State Health Director determines that a longer period of closure is necessary to complete the investigation, the Director may institute an action in

1 superior court to order the property to remain closed until the
2 investigation is completed.

3 (b) If the State Health Director determines that there exists a public health threat
4 that may have been caused by an act of terrorism using nuclear, biological, or chemical
5 agents, the State Health Director shall notify the Secretary of Crime Control and Public
6 Safety. The State Health Director may exercise any authority granted to the State Health
7 Director in this Chapter necessary to protect the public health."

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

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

11 "(10) Pertaining to the biological agents registry in accordance with ~~G.S.~~
12 ~~130A-149~~ G.S. 130A-476."

13 **SECTION 3.** G.S. 166A-5 is amended by adding a new subsection to read:

14 "(2a) State Health Director. – The State Health Director shall develop the
15 public health portion of the State emergency management plan and
16 shall be responsible for managing the public health aspects of the State
17 emergency management plan. The plan shall, at a minimum, provide
18 for the following:

- 19 a. The epidemiologic investigation of a known or suspected threat
20 caused by nuclear, biological, or chemical agents;
- 21 b. The examination and testing of persons and animals that may
22 have been exposed to a nuclear, biological, or chemical agent;
- 23 c. The procurement and allocation of immunizing agents and
24 prophylactic antibiotics;
- 25 d. The allocation of the national pharmaceutical stockpile;
- 26 e. The appropriate conditions for quarantine and isolation in order
27 to prevent further transmission of disease;
- 28 f. Immunization procedures; and
- 29 g. The issuance of guidelines for prophylaxis and treatment of
30 exposed persons."

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

32 "(4) "Quarantine authority" means the authority to limit the freedom of
33 movement or action of persons or animals which have been exposed to
34 or are reasonably suspected of having been exposed to communicable
35 disease or communicable condition for a period of time as may be
36 necessary to prevent the spread of that disease. Quarantine authority
37 also means the authority to limit access by any person or animal to an
38 area or facility that may be contaminated with an infectious agent. The
39 term also means the authority to limit the freedom of movement or
40 action of persons who have not received immunizations against a
41 communicable disease ~~listed in G.S. 130A-152~~ when the State Health
42 Director or local health director determines that such immunizations
43 are required to control an outbreak of that disease."

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

1 ~~"§ 130A-145. Local health director has quarantine~~ Quarantine and isolation
2 authority.

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

8 (b) No person other than a person authorized by the State Health Director or local
9 health director shall enter quarantine or isolation premises."

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

11 **"§ 130A-20. Abatement of an imminent hazard.**

12 (a) If the Secretary or a local health director determines that an imminent hazard
13 exists, the Secretary or a local health director may order the owner, lessee, operator or
14 other person in control of the property to abate the imminent hazard or may, after notice
15 to or reasonable attempt to notify the owner, lessee, operator, or other person in control
16 of the property enter upon any property and take any action necessary to abate the
17 imminent hazard. If the Secretary or a local health director abates the imminent hazard,
18 the ~~The~~ Department or the local health department shall have a lien on the property for
19 the cost of the abatement of the imminent hazard in the nature of a mechanic's and
20 materialmen's lien as provided in ~~Chapter 44A~~ Chapter 44A of the General Statutes, and
21 the lien may be enforced as provided ~~therein~~ in that Chapter. The lien may be defeated
22 by a showing that an imminent hazard did not exist at the time the Secretary or the local
23 health director took the action.

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

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

29 **"§ 130A-12.1. State Health Director access to health information.**

30 (a) Notwithstanding any other provision of law, a health care provider may report
31 to the State Health Director or a local health department any events that may indicate an
32 outbreak of a communicable disease or condition, a case or outbreak of an illness or
33 condition that may have been caused by use of a nuclear, biological, or chemical
34 weapon of mass destruction as defined in G.S. 14-288.21(c), or another condition for
35 which public health investigation, surveillance, or intervention may be necessary.
36 Events that may be reported include unusual types or numbers of symptoms or illnesses
37 presented to the provider, unusual trends in health care visits, or unusual trends in
38 prescriptions or purchases of over-the-counter pharmaceuticals. A health care provider
39 disclosing or not disclosing information pursuant to this subsection is immune from any
40 civil or criminal liability that might otherwise be incurred or imposed based on the
41 disclosure or lack of disclosure provided that the health care provider was acting in
42 good faith and without malice. In any proceeding involving liability, good faith and lack
43 of malice are presumed.

1 **(b)** The State Health Director may issue a temporary order requiring health care
2 providers to report symptoms, diseases, conditions, trends in use of health care services,
3 or other health-related information when necessary to conduct public health
4 investigations or surveillance of diseases or health hazards that may have resulted from
5 an act of terrorism or that may indicate the existence of a communicable disease or
6 condition. The order shall specify which health care providers must report, what
7 information is to be reported, and the period of time for which reporting is required. The
8 period of time for which reporting is required pursuant to a temporary order shall not
9 exceed 90 days. The rule-making provisions of Chapter 150B of the General Statutes
10 shall not apply to the State Health Director's temporary order. The Commission may
11 adopt a temporary or permanent rule to continue the reporting requirement when
12 necessary to protect the public health.

13 **(c)** The State Health Director may examine, review, and obtain a copy of records
14 containing confidential or protected health information, or a summary of pertinent
15 portions of those records, that:

16 **(1)** Pertain to a report authorized by subsection (a) or required by
17 subsection (b) of this section;

18 **(2)** Pertain to the diagnosis, treatment, or prevention of a communicable
19 disease or communicable condition, as defined in Article 6 of this
20 Chapter, for a person infected, exposed, or reasonably suspected of
21 being infected or exposed to such a disease or condition; or

22 **(3)** The State Health Director determines is necessary for investigating a
23 disease or health hazard that presents a clear danger to the public
24 health.

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

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

34 **SECTION 8.** G.S. 130A-5 reads as rewritten:

35 **"§ 130A-5. Duties of the Secretary.**

36 The Secretary shall have the authority:

37 **(1)** To enforce the State health laws and the rules of the Commission;

38 **(2)** To investigate the causes of epidemics and of infectious,
39 communicable and other diseases affecting the public health in order
40 to control and prevent these diseases; to provide, under the rules of the
41 Commission, for the prevention, detection, reporting and control of
42 communicable, infectious or any other diseases or health hazards
43 considered harmful to the public health; ~~to obtain, notwithstanding the~~
44 ~~provisions of G.S. 8-53, a copy or a summary of pertinent portions of~~

1 ~~privileged patient medical records deemed necessary for investigating~~
2 ~~a disease or health hazard that may present a clear danger to the public~~
3 ~~health. Records shall be identified as necessary by joint agreement of a~~
4 ~~Department physician and the patient's attending physician. However,~~
5 ~~if the Department is unable to contact the attending physician after~~
6 ~~reasonable attempts to do so, or if the Department determines that~~
7 ~~contacting all attending physicians of patients involved in an~~
8 ~~investigation would be impractical or would unreasonably delay the~~
9 ~~inquiry and thereby endanger the public health, the records shall be~~
10 ~~identified as necessary by joint agreement of a Department physician~~
11 ~~and the health care facility's chief of staff. For a facility with no chief~~
12 ~~of staff, the facility's chief administrator may consent to the~~
13 ~~Department's review of the records. Any person, authorized to have or~~
14 ~~handle such records, providing copies or summaries of privileged~~
15 ~~patient medical records pursuant to this subdivision shall be immune~~
16 ~~from civil or criminal liability that might otherwise be incurred or~~
17 ~~imposed based upon invasion of privacy or breach of physician-patient~~
18 ~~confidentiality arising out of the furnishing of or agreement to furnish~~
19 ~~such records;~~

- 20 (3) To develop and carry out reasonable health programs that may be
21 necessary for the protection and promotion of the public health and the
22 control of diseases. The Commission is authorized to adopt rules to
23 carry out these programs;
- 24 (4) To make sanitary and health investigations and inspections;
- 25 (5) To investigate occupational health hazards and occupational diseases
26 and to make recommendations for the elimination of the hazards and
27 diseases. The Secretary shall work with the Industrial Commission and
28 shall file sufficient reports with the Industrial Commission to enable it
29 to carry out all of the provisions of the Workers' Compensation Act
30 with respect to occupational ~~disease.~~disease;
- 31 (6) To receive donations of money, securities, equipment, supplies, realty
32 or any other property of any kind or description which shall be used by
33 the Department for the purpose of carrying out its public health
34 programs;
- 35 (7) To acquire by purchase, devise or otherwise in the name of the
36 Department equipment, supplies and other property, real or personal,
37 necessary to carry out the public health programs;
- 38 (8) To use the official seal of the Department. Copies of documents in the
39 possession of the Department may be authenticated with the seal of the
40 Department, attested by the signature or a facsimile of the signature of
41 the Secretary, and when authenticated shall have the same evidentiary
42 value as the originals;
- 43 (9) To disseminate information to the general public on all matters
44 pertaining to public health; to purchase, print, publish, and distribute

1 free, or at cost, documents, reports, bulletins and health informational
2 materials. Money collected from the distribution of these materials
3 shall remain in the Department to be used to replace the materials;

4 (10) To be the health advisor of the State and to advise State officials in
5 regard to the location, sanitary construction and health management of
6 all State institutions; to direct the attention of the State to health
7 matters which affect the industries, property, health and lives of the
8 people of the State; to inspect at least annually State institutions and
9 facilities; to make a report as to the health conditions of these
10 institutions or facilities with suggestions and recommendations to the
11 appropriate State agencies. It shall be the duty of the persons in
12 immediate charge of these institutions or facilities to furnish all
13 assistance necessary for a thorough inspection;

14 (11) To establish a schedule of fees based on income to be paid by a
15 recipient for services provided by Migrant Health Clinics and
16 Development Evaluation Centers;

17 (12) To establish fees for the sale of specimen containers, vaccines and
18 other biologicals. The fees shall not exceed the actual cost of such
19 items, plus transportation costs;

20 (13) To establish a fee to cover costs of responding to requests by
21 employers for industrial hygiene consultation services and
22 occupational consultation services. The fee shall not exceed two
23 hundred dollars (\$200.00) per on site inspection; and

24 (14) To establish a fee for companion animal certificate of examination
25 forms to be distributed, upon request, by the Department to licensed
26 veterinarians. The fee shall not exceed the cost of the form and
27 shipping costs."

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

29 **"§ 130A-143. Confidentiality of records.**

30 All information and records, whether publicly or privately maintained, that identify a
31 person who has AIDS virus infection or who has or may have a disease or condition
32 required to be reported pursuant to the provisions of this Article shall be strictly
33 confidential. This information shall not be released or made public except under the
34 following circumstances:

35 (1) Release is made of specific medical or epidemiological information for
36 statistical purposes in a way that no person can be identified;

37 (2) Release is made of all or part of the medical record with the written
38 consent of the person or persons identified or their guardian;

39 (3) Release is made to health care personnel providing medical care to the
40 patient;

41 (4) Release is necessary to protect the public health and is made as
42 provided by the Commission in its rules regarding control measures
43 for communicable diseases and conditions;

44 (5) Release is made pursuant to other provisions of this Article;

- 1 (6) Release is made pursuant to subpoena or court order. Upon request of
 2 the person identified in the record, the record shall be reviewed in
 3 camera. In the trial, the trial judge may, during the taking of testimony
 4 concerning such information, exclude from the courtroom all persons
 5 except the officers of the court, the parties and those engaged in the
 6 trial of the ~~ease~~-case;
- 7 (7) Release is made by the Department or a local health department to a
 8 court or a law enforcement ~~officer~~-official for the purpose of enforcing
 9 the provisions of this ~~Article pursuant to Article 1, Part 2 of this~~
 10 ~~Chapter, Article, Article 22 of this Chapter, or G.S. 14-288.22.~~ A law
 11 enforcement official who receives the information shall not disclose it
 12 further, except (i) when necessary to enforce the provisions of this
 13 Article, Article 22 of this Chapter, or G.S. 14-288.22, or (ii) when the
 14 Department or a local health department seeks the assistance of the law
 15 enforcement official in preventing or controlling the spread of the
 16 disease or condition and expressly authorizes the disclosure as
 17 necessary for that purpose;
- 18 (8) Release is made by the Department or a local health department to
 19 another federal, state or local public health agency for the purpose of
 20 preventing or controlling the spread of a communicable disease or
 21 communicable condition;
- 22 (9) Release is made by the Department for bona fide research purposes.
 23 The Commission shall adopt rules providing for the use of the
 24 information for research purposes;
- 25 (10) Release is made pursuant to G.S. 130A-144(b); or
- 26 (11) Release is made pursuant to any other provisions of law that
 27 specifically authorize or require the release of information or records
 28 related to AIDS."

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

30 **§ 106-24.1. Confidentiality of information collected and published.**

31 All information published by the Department of Agriculture and Consumer Services
 32 pursuant to this Part shall be classified so as to prevent the identification of information
 33 received from individual farm operators. All information received pursuant to this Part
 34 from individual farm operators shall be held confidential by the Department and its
 35 employees. Information collected by the Department from individual farm operators for
 36 the purposes of its animal health programs may be disclosed by the State Veterinarian
 37 when, in his judgment, the disclosure will assist in the implementation of these
 38 programs. Animal disease diagnostic tests that identify the owner of the animal shall not
 39 be disclosed without the permission of the owner unless the State Veterinarian
 40 determines that disclosure is necessary to prevent the spread of an animal disease or to
 41 protect the public health."

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

43 **"§ 106-307.2. Reports of infectious disease in livestock and poultry to State**
 44 **Veterinarian.**

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

4 (b) The State Veterinarian shall notify the State Health Director when the State
5 Veterinarian receives a report indicating a potential outbreak of a disease or condition
6 that can be transmitted to humans and that is a communicable disease or condition
7 required to be reported by G.S. 130A-134."

8 **SECTION 12.** This act becomes effective October 1, 2002.