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HOUSE BILL 1508  
Committee Substitute Favorable 6/12/02  
Committee Substitute #2 Favorable 7/23/02

Short Title: Public Health Bioterrorism Preparedness.

(Public)

Sponsors:

Referred to:

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  
AND TO AMEND THE NORTH CAROLINA MEDICAL CARE  
COMMISSION'S RULE-MAKING AUTHORITY REGARDING STANDARDS  
AND CRITERIA FOR THE EDUCATION AND CREDENTIALING OF  
PERSONS TO ADMINISTER TREATMENT FOR ANAPHYLAXIS.

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 is authorized to issue an order to:

- (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.
- (3) Evacuate or close 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

1           Director may institute an action in superior court to order the property  
2           to remain closed until the investigation is completed.

3           (4)   Limit the freedom of movement or action of a person or animal that is  
4           contaminated with, or reasonably suspected of being contaminated  
5           with, a chemical or nuclear agent that may be conveyed to other  
6           persons or animals.

7           (5)   Limit access by any person or animal to an area or facility that is  
8           housing persons or animals whose movement or action has been  
9           limited under subdivision (4) of this subsection or to an area or facility  
10          that is contaminated with, or reasonably suspected of being  
11          contaminated with, a chemical or nuclear agent that may be conveyed  
12          to other persons or animals.

13          (6)   Exercise quarantine authority and isolation authority under G.S.  
14          130A-145.

15          (b)   The authority under subsection (a) of this section shall be exercised only  
16          when and so long as a public health threat may exist, all other reasonable means for  
17          correcting the problem have been exhausted, and no less restrictive alternative exists.  
18          Before applying the authority under subdivision (4) or (5) of subsection (a) of this  
19          section to livestock or poultry for the purpose of preventing the direct or indirect  
20          conveyance of a chemical or nuclear agent to persons, the State Health Director shall  
21          consult with the State Veterinarian in the Department of Agriculture and Consumer  
22          Services.

23          The period of limited freedom of movement or access under subdivisions (4) and (5)  
24          of subsection (a) of this section shall not exceed 10 calendar days. Any person  
25          substantially affected by that limitation may institute in superior court in Wake County  
26          or in the county in which the limitation is imposed an action to review the limitation. If  
27          a person or a person's representative requests a hearing, the hearing shall be held within  
28          72 hours of the filing of the request, excluding Saturdays and Sundays. The court shall  
29          reduce the limitation if it determines, by the preponderance of the evidence, that the  
30          limitation is not reasonably necessary to prevent or limit the conveyance of chemical or  
31          nuclear agents to others.

32          If the State Health Director determines that a 10-calendar-day limitation on freedom  
33          of movement or access is not adequate to protect the public health, the State Health  
34          Director may institute in superior court in Wake County or in the county in which the  
35          limitation is imposed an action to obtain an order extending the period limiting the  
36          freedom of movement or access. The court shall continue the limitation for a period not  
37          to exceed 30 days if it determines, by the preponderance of the evidence, that the  
38          limitation is reasonably necessary to prevent or limit the conveyance of chemical or  
39          nuclear agents to others. Before the expiration of an order issued under this section, the  
40          State Health Director may move to continue the order for additional periods not to  
41          exceed 30 days each.

42          (c)   If the State Health Director reasonably suspects that there exists a public  
43          health threat that may have been caused by an act of terrorism using nuclear, biological,  
44          or chemical agents, the State Health Director shall notify the Secretary of Crime Control

1 and Public Safety. If the Secretary of Crime Control and Public Safety reasonably  
2 suspects that a public health threat may exist and that the threat may have been caused  
3 by an act of terrorism using nuclear, biological, or chemical agents, the Secretary shall  
4 notify the State Health Director.

5 (d) For the purpose of this Article, the term "public health threat" means a  
6 situation that is likely to cause an immediate risk to human life, an immediate risk of  
7 serious physical injury or illness, or an immediate risk of serious adverse health effects.

8 (e) Nothing in this section shall limit any authority otherwise granted to local or  
9 State public health officials under this Chapter.

10 **"§ 130A-476. Access to health information.**

11 (a) Notwithstanding any other provision of law, a health care provider, a person  
12 in charge of a health care facility, or a unit of State or local government may report to  
13 the State Health Director or a local health director any events that may indicate the  
14 existence of a case or outbreak of an illness, condition, or health hazard that may have  
15 been caused by an act of terrorism using nuclear, biological, or chemical agents. Events  
16 that may be reported include unusual types or numbers of symptoms or illnesses  
17 presented to the provider, unusual trends in health care visits, or unusual trends in  
18 prescriptions or purchases of over-the-counter pharmaceuticals. To the extent  
19 practicable, a person who makes a report under this subsection shall not disclose  
20 personally identifiable information. A person disclosing or not disclosing information  
21 pursuant to this subsection is immune from any civil or criminal liability that might  
22 otherwise be incurred or imposed based on the disclosure or lack of disclosure provided  
23 that the health care provider was acting in good faith and without malice. In any  
24 proceeding involving liability, good faith, and lack of malice are presumed.  
25 Notwithstanding the foregoing, if a health care provider or unit of State or local  
26 government willfully does not disclose information pursuant to this subsection, the  
27 immunity from civil or criminal liability provided under this subsection shall not be  
28 available if the person had actual knowledge that a condition or illness was caused by  
29 use of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S.  
30 14-288.21(c).

31 (b) The State Health Director may issue a temporary order requiring health care  
32 providers to report symptoms, diseases, conditions, trends in use of health care services,  
33 or other health-related information when necessary to conduct a public health  
34 investigation or surveillance of an illness, condition, or health hazard that may have  
35 been caused by an act of terrorism using nuclear, biological, or chemical agents. The  
36 order shall specify which health care providers must report, what information is to be  
37 reported, and the period of time for which reporting is required. The period of time for  
38 which reporting is required pursuant to a temporary order shall not exceed 90 days. The  
39 Commission may adopt rules to continue the reporting requirement when necessary to  
40 protect the public health.

41 (c) The State Health Director and a local health director may examine, review,  
42 and obtain a copy of records containing confidential or protected health information, or  
43 a summary of pertinent portions of those records, that pertain to a report authorized by  
44 subsection (a) or required by subsection (b) of this section.

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

5       (e) Confidential or protected health information received by the State Health  
6 Director or a local health director pursuant to this section shall be confidential and shall  
7 not be released, except when the release is:

8           (1) Made pursuant to any other provision of law;

9           (2) To another federal, state, or local public health agency for the purpose  
10 of preventing or controlling a public health threat; or

11           (3) To a court or law enforcement official for the purpose of enforcing the  
12 provisions of this Chapter or for the purpose of investigating an act of  
13 terrorism using nuclear, biological, or chemical agents. A law  
14 enforcement official who receives the information shall not disclose it  
15 further, except (i) when necessary to conduct an investigation of an  
16 attack using nuclear, biological, or chemical agents, or (ii) when the  
17 State Health Director or a local health director seeks the assistance of  
18 the law enforcement official in preventing or controlling the public  
19 health threat and expressly authorizes the disclosure as necessary for  
20 that purpose.

21       (f) In this section the following terms shall include:

22           (1) "Health care provider" includes a physician licensed to practice  
23 medicine in North Carolina or a person who is licensed, certified, or  
24 credentialed to practice or provide health care services, including, but  
25 not limited to, pharmacists, dentists, physician assistants, registered  
26 nurses, licensed practical nurses, chiropractors, respiratory care  
27 therapists, and emergency medical technicians; and

28           (2) "Health care facility" includes hospitals, skilled nursing facilities,  
29 intermediate care facilities, psychiatric facilities, rehabilitation  
30 facilities, home health agencies, ambulatory surgical facilities, or any  
31 other health care related facility, whether publicly or privately owned."

32       **SECTION 2.(a)** G.S. 130A-149, "Biological agents registry; rules;  
33 penalties", is recodified as G.S. 130A-477.

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

35       "(10) Pertaining to the biological agents registry in accordance with  
36       ~~G.S. 130A-149~~ G.S. 130A-477."

37       **SECTION 3.** G.S. 130A-133 is repealed.

38       **SECTION 4.** G.S. 130A-2 reads as rewritten:

39       "**§ 130A-2. Definitions.**

40       The following definitions shall apply throughout this Chapter unless otherwise  
41 specified:

42           (1) "Commission" means the Commission for Health Services.

43           (1a) "Communicable condition" means the state of being infected with a  
44 communicable agent but without symptoms.

- 1           (1b) "Communicable disease" means an illness due to an infectious agent or  
2           its toxic products which is transmitted directly or indirectly to a person  
3           from an infected person or animal through the agency of an  
4           intermediate animal, host or vector, or through the inanimate  
5           environment.
- 6           (2) "Department" means the Department of Health and Human Services.
- 7           (3) "Imminent hazard" means a situation ~~which~~ that is likely to cause an  
8           immediate threat to human life, an immediate threat of serious physical  
9           injury, an immediate threat of serious adverse health effects, or a  
10          serious risk of irreparable damage to the environment if no immediate  
11          action is taken.
- 12          (3a) "Isolation authority" means the authority to issue an order to limit the  
13          freedom of movement or action of a person or animal with a  
14          communicable disease or communicable condition for the period of  
15          communicability to prevent the direct or indirect conveyance of the  
16          infectious agent from the person or animal to other persons or animals  
17          who are susceptible or who may spread the agent to others.
- 18          (4) "Local board of health" means a district board of health or a public  
19          health authority board or a county board of health.
- 20          (5) "Local health department" means a district health department or a  
21          public health authority or a county health department.
- 22          (6) "Local health director" means the administrative head of a local health  
23          department appointed pursuant to this Chapter.
- 24          (6a) "Outbreak" means an occurrence of a case or cases of a disease in a  
25          locale in excess of the usual number of cases of the disease.
- 26          (7) "Person" means an individual, corporation, company, association,  
27          partnership, unit of local government or other legal entity.
- 28          (7a) "Quarantine authority" means the authority to issue an order to limit  
29          the freedom of movement or action of persons or animals which have  
30          been exposed to or are reasonably suspected of having been exposed to  
31          a communicable disease or communicable condition for a period of  
32          time as may be necessary to prevent the spread of that disease.  
33          Quarantine authority also means the authority to limit access by any  
34          person or animal to an area or facility that may be contaminated with  
35          an infectious agent. The term also means the authority to limit the  
36          freedom of movement or action of persons who have not received  
37          immunizations against a communicable disease when the State Health  
38          Director or a local health director determines that the immunizations  
39          are required to control an outbreak of that disease.
- 40          (8) "Secretary" means the Secretary of Health and Human Services.
- 41          (9) "Unit of local government" means a county, city, consolidated  
42          city-county, sanitary district or other local political subdivision,  
43          authority or agency of local government.

1 (10) "Vital records" means birth, death, fetal death, marriage, annulment  
2 and divorce records registered under the provisions of Article 4 of this  
3 Chapter."

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

5 "**§ 130A-145. ~~Local health director has quarantine~~ Quarantine and isolation**  
6 **authority.**

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

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

17 (c) Before applying quarantine or isolation authority to livestock or poultry for  
18 the purpose of preventing the direct or indirect conveyance of an infectious agent to  
19 persons, the State Health Director or a local health director shall consult with the State  
20 Veterinarian in the Department of Agriculture and Consumer Services.

21 (d) When quarantine or isolation limits the freedom of movement of a person or  
22 animal or of access to a person or animal whose freedom of movement is limited, the  
23 period of limited freedom of movement or access shall not exceed 10 calendar days.  
24 Any person substantially affected by that limitation may institute in superior court in  
25 Wake County or in the county in which the limitation is imposed an action to review  
26 that limitation. If a person or a person's representative requests a hearing, the hearing  
27 shall be held within 72 hours of the filing of that request, excluding Saturdays and  
28 Sundays. The court shall reduce the limitation if it determines, by the preponderance of  
29 the evidence, that the limitation is not reasonably necessary to prevent or limit the  
30 conveyance of a communicable disease or condition to others.

31 If the State Health Director or the local health director determines that a  
32 10-calendar-day limitation on freedom of movement or access is not adequate to protect  
33 the public health, the State Health Director or local health director may institute in  
34 superior court in Wake County or in the county in which the limitation is imposed an  
35 action to obtain an order extending the period of limitation of freedom of movement or  
36 access. The court shall continue the limitation for a period not to exceed 30 days if it  
37 determines, by the preponderance of the evidence, that the limitation is reasonably  
38 necessary to prevent or limit the conveyance of a communicable disease or condition to  
39 others. Before the expiration of an order issued under this section, the State Health  
40 Director or local health director may move to continue the order for additional periods  
41 not to exceed 30 days each."

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

43 "**§ 130A-20. Abatement of an imminent hazard.**

1 (a) If the Secretary or a local health director determines that an imminent hazard  
2 exists, the Secretary or a local health director may order the owner, lessee, operator, or  
3 other person in control of the property to abate the imminent hazard or may, after notice  
4 to or reasonable attempt to notify the owner, lessee, operator, or other person in control  
5 of the property enter upon any property and take any action necessary to abate the  
6 imminent hazard. If the Secretary or a local health director abates the imminent hazard,  
7 the ~~The~~ Department or the local health department shall have a lien on the property for  
8 the cost of the abatement of the imminent hazard in the nature of a mechanic's and  
9 materialmen's lien as provided in ~~Chapter 44A~~ Chapter 44A of the General Statutes, and  
10 the lien may be enforced as provided therein in that Chapter. The lien may be defeated  
11 by a showing that an imminent hazard did not exist at the time the Secretary or the local  
12 health director took the action.

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

16 **SECTION 7.** G.S. 130A-143 reads as rewritten:

17 **"§ 130A-143. Confidentiality of records.**

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

- 23 (1) Release is made of specific medical or epidemiological information for  
24 statistical purposes in a way that no person can be identified;
- 25 (2) Release is made of all or part of the medical record with the written  
26 consent of the person or persons identified or their guardian;
- 27 (3) Release is made to health care personnel providing medical care to the  
28 patient;
- 29 (4) Release is necessary to protect the public health and is made as  
30 provided by the Commission in its rules regarding control measures  
31 for communicable diseases and conditions;
- 32 (5) Release is made pursuant to other provisions of this Article;
- 33 (6) Release is made pursuant to subpoena or court order. Upon request of  
34 the person identified in the record, the record shall be reviewed in  
35 camera. In the trial, the trial judge may, during the taking of testimony  
36 concerning such information, exclude from the courtroom all persons  
37 except the officers of the court, the parties and those engaged in the  
38 trial of the ~~ease~~ case;
- 39 (7) Release is made by the Department or a local health department to a  
40 court or a law enforcement ~~officer~~ official for the purpose of enforcing  
41 ~~the provisions of this Article pursuant to Article 1, Part 2 of this~~  
42 ~~Chapter.~~ this Article or Article 22 of this Chapter, or investigating an  
43 act of terrorism using nuclear, biological, or chemical agents. A law  
44 enforcement official who receives the information shall not disclose it

1 further, except (i) when necessary to enforce this Article or Article 22  
2 of this Chapter, or when necessary to conduct an investigation of an  
3 act of terrorism using nuclear, biological, or chemical agents, or (ii)  
4 when the Department or a local health department seeks the assistance  
5 of the law enforcement official in preventing or controlling the spread  
6 of the disease or condition and expressly authorizes the disclosure as  
7 necessary for that purpose;

- 8 (8) Release is made by the Department or a local health department to  
9 another federal, state or local public health agency for the purpose of  
10 preventing or controlling the spread of a communicable disease or  
11 communicable condition;
- 12 (9) Release is made by the Department for bona fide research purposes.  
13 The Commission shall adopt rules providing for the use of the  
14 information for research purposes;
- 15 (10) Release is made pursuant to G.S. 130A-144(b); or
- 16 (11) Release is made pursuant to any other provisions of law that  
17 specifically authorize or require the release of information or records  
18 related to AIDS."

19 **SECTION 8.** G.S. 106-24.1 reads as rewritten:

20 **"§ 106-24.1. Confidentiality of information collected and published.**

21 All information published by the Department of Agriculture and Consumer Services  
22 pursuant to this Part shall be classified so as to prevent the identification of information  
23 received from individual farm operators. All information received pursuant to this Part  
24 from individual farm operators shall be held confidential by the Department and its  
25 employees. Information collected by the Department from individual farm operators for  
26 the purposes of its animal health programs may be disclosed by the State Veterinarian  
27 when, in his judgment, the disclosure will assist in the implementation of these  
28 programs. Animal disease diagnostic tests that identify the owner of the animal shall not  
29 be disclosed without the permission of the owner unless the State Veterinarian  
30 determines that disclosure is necessary to prevent the spread of an animal disease or to  
31 protect the public health."

32 **SECTION 9.** G.S. 106-307.2 reads as rewritten:

33 **"§ 106-307.2. Reports of infectious disease in livestock and poultry to State**  
34 **Veterinarian.**

35 (a) All persons practicing veterinary medicine in North Carolina shall report  
36 promptly to the State Veterinarian the existence of any reportable contagious or  
37 infectious disease in livestock and poultry. The Board of Agriculture shall establish by  
38 rule a list of animal diseases and conditions to be reported and the time and manner of  
39 reporting.

40 (b) The State Veterinarian shall notify the State Health Director and the Director  
41 of the Division of Environmental Health in the Department of Environment and Natural  
42 Resources when the State Veterinarian receives a report indicating an occurrence or  
43 potential outbreak of anthrax, arboviral infections, brucellosis, epidemic typhus,  
44 hantavirus infections, murine typhus, plague, psittacosis, Q fever, hemorrhagic fever



1 virus infections, and any other disease or condition transmissible to humans that the  
2 State Veterinarian determines may have been caused by a terrorist act."

3 **SECTION 10.** G.S. 130A-152(b) is repealed.

4 **SECTION 11.** G.S. 143-518 reads as rewritten:

5 **"§ 143-518. Confidentiality of patient information.**

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

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

- 15 (1) Release is made of specific medical or epidemiological information for  
16 statistical purposes in a way that no person can be identified.
- 17 (2) Release is made of all or part of the medical record with the written  
18 consent of the person or persons identified or their guardians.
- 19 (3) Release is made to health care personnel providing medical care to the  
20 patient.
- 21 (4) Release is made pursuant to a court order. Upon request of the person  
22 identified in the record, the record shall be reviewed in camera. In the  
23 trial, the trial judge may, during the taking of testimony concerning  
24 such information, exclude from the courtroom all persons except the  
25 officers of the court, the parties, and those engaged in the trial of the  
26 case.
- 27 (5) Release is made to a Medical Review Committee as defined in  
28 G.S. 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee  
29 as defined in G.S. 131E-108, 122C-30, or 131D-21.1.
- 30 (6) Release is made for use in a health research project under rules  
31 adopted by the North Carolina Medical Care Commission. The  
32 Commission shall adopt rules that allow release of information when  
33 an institutional review board, as defined by the Commission, has  
34 determined that the health research project:
  - 35 a. Is of sufficient scientific importance to outweigh the intrusion  
36 into the privacy of the patient that would result from the  
37 disclosure;
  - 38 b. Is impracticable without the use or disclosure of identifying  
39 health information;
  - 40 c. Contains safeguards to protect the information from  
41 redisclosure;
  - 42 d. Contains safeguards against identifying, directly or indirectly,  
43 any patient in any report of the research project; and

1 e. Contains procedures to remove or destroy at the earliest  
2 opportunity, consistent with the purposes of the project,  
3 information that would enable the patient to be identified,  
4 unless an institutional review board authorizes retention of  
5 identifying information for purposes of another research  
6 project.

7 (7) Release is made to a statewide data processor, as defined in Article  
8 11A of Chapter 131E of the General Statutes, in which case the data is  
9 deemed to have been submitted as if it were required to have been  
10 submitted under that Article.

11 (8) Release is made pursuant to any other law.

12 (b) Charges, accounts, credit histories, and other personal financial records  
13 compiled and maintained by the Department or EMS providers in connection with the  
14 admission, treatment, and discharge of individual patients are strictly confidential and  
15 shall not be released."

16 **SECTION 12.** G.S. 166A-5(3) is amended by adding a new sub-subdivision  
17 to read:

18 "b1. Coordination with the State Health Director to amend or revise  
19 the North Carolina Emergency Operations Plan regarding  
20 public health matters. At a minimum, the revisions to the Plan  
21 shall provide for the following:

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

35 **SECTION 13.** G.S. 143-508(d)(11) reads as rewritten:

36 "(11) Establish standards and criteria for the education and credentialing of  
37 persons trained to administer lifesaving treatment to a person who  
38 suffers a severe adverse reaction to ~~insect stings~~agents that might  
39 cause anaphylaxis."

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