

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-490
SENATE BILL 884**

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

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



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

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

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

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

In the General Assembly read three times and ratified this the 11th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 2:00 p.m. this 26th day of August, 2009