

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

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**SENATE BILL 412**

Short Title:   Modify Food Establishment Rules. (Public)

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Sponsors:    Senators Burgin, Lazzara, and Krawiec (Primary Sponsors).

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Referred to:  Rules and Operations of the Senate

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March 30, 2023

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE RULES RELATED TO THE INSPECTION OF  
ESTABLISHMENTS THAT PREPARE OR SERVE FOOD.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Definitions. – "Reinspections Rule" means subsection (h) of 15A NCAC 18A .2661 (Inspections and Reinspections) for purposes of this section and its implementation.

**SECTION 1.(b)** Reinspection Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Reinspection Rule as provided in subsection (c) of this section.

**SECTION 1.(c)** Implementation. – Upon request of the permit holder, or his or her representative, a reinspection shall be made. In the case of a food establishment that requests an inspection for the purpose of raising the alphabetical grade and that holds an unrevoked permit, the regulatory authority shall make an unannounced inspection within five calendar days from the date of the request. If no violations related to priority items or priority foundation items were documented during the most recent inspection of the food establishment, the regulatory authority shall not further lower an alphabetical grade during the pendency of a reinspection for the purpose of raising an alphabetical grade.

**SECTION 1.(d)** Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Reinspections Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

**SECTION 1.(e)** Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

**SECTION 2.(a)** Definitions. – "Frequency of Inspections for Risk Category IV Food Service Establishments Rule" means the item addressing Risk Category IV Establishments in subdivision (a)(1) of 10A NCAC 46 .0213 (Food, Lodging/Inst. Sanitation/Public Swimming Pools/Spas) for purposes of this section and its implementation.

**SECTION 2.(b)** Frequency of Inspections for Risk Category IV Food Service Establishments Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission



1 shall implement the Frequency of Inspections for Risk Category IV Establishments Rule as  
2 provided in subsection (c) of this section.

3 **SECTION 2.(c)** Implementation. – A local health department shall provide food,  
4 lodging, and institutional sanitation and public swimming pools and spas services within the  
5 jurisdiction of the local health department. A local health department shall establish, implement,  
6 and maintain written policies which shall include the frequency of inspections of food, lodging,  
7 and institutional facilities and public swimming pools and spas. At minimum, a Risk Category  
8 IV Food Service Establishment shall be inspected once every four months per fiscal year. In  
9 addition, a Risk Category IV Food Service Establishment shall undergo an educational visit once  
10 per fiscal year. The educational visit shall not result in the issuance of a new grade or grade card.  
11 During an educational visit, the local health department shall review all of the following with the  
12 permit holder for the establishment:

- 13 (1) Any priority violations that occurred during the three previous inspections of  
14 the establishment.
- 15 (2) The public health risk factors identified on the inspection form furnished by  
16 the local health department.
- 17 (3) If applicable, any required Hazard Analysis Critical Control Plan.

18 **SECTION 2.(d)** Additional Rulemaking Authority. – The Commission shall adopt  
19 a rule to amend the Frequency of Inspections for Risk Category IV Food Service Establishments  
20 Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule  
21 adopted by the Commission pursuant to this section shall be substantively identical to the  
22 provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject  
23 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this  
24 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written  
25 objections had been received as provided in G.S. 150B-21.3(b2).

26 **SECTION 2.(e)** Sunset. – This section expires when permanent rules adopted as  
27 required by subsection (d) of this section become effective.

28 **SECTION 3.(a)** Definitions. – "Calculation of Rate of Compliance Rule" means  
29 subdivision (a)(5) of 15A NCAC 18A .2901 (Restaurant and Lodging Fee Collection and  
30 Inventory Program) for purposes of this section and its implementation.

31 **SECTION 3.(b)** Calculation of Rate of Compliance Rule. – Until the effective date  
32 of the revised permanent rule that the Commission for Public Health is required to adopt pursuant  
33 to subsection (d) of this section, the Commission shall implement the Calculation of Rate of  
34 Compliance Rule as provided in subsection (c) of this section.

35 **SECTION 3.(c)** Implementation. – "Rate of compliance" means the number of  
36 inspections and educational visits for food and lodging establishments conducted by the local  
37 health department during the previous State fiscal year divided by the number of inspections and  
38 educational visits mandated to be conducted by the local health department per State fiscal year  
39 pursuant to G.S. 130A-249 and 10A NCAC 46 .0213, not to exceed a value of 1.

40 **SECTION 3.(d)** Additional Rulemaking Authority. – The Commission shall adopt  
41 a rule to amend the Calculation of Rate of Compliance Rule consistent with subsection (c) of this  
42 section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this  
43 section shall be substantively identical to the provisions of subsection (c) of this section. Rules  
44 adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the  
45 General Statutes. Rules adopted pursuant to this section shall become effective as provided in  
46 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided in  
47 G.S. 150B-21.3(b2).

48 **SECTION 3.(e)** Sunset. – This section expires when permanent rules adopted as  
49 required by subsection (d) of this section become effective.

50 **SECTION 4.** This act is effective when it becomes law.