



# SENATE BILL 7: Food Stand Seating and Outdoor Food Service

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-104

**Date:**

**Prepared by:** Jennifer Mundt

Legislative Analyst

**SUMMARY:** *S.L. 2015-104 allows (i) effective October 1, 2015, a food stand to provide tables and seats for eight or fewer customers to use while eating or drinking on the premises and (ii) pushcarts or mobile food units to prepare and serve food on the premises provided they are based from a permitted commissary or restaurant that is located on the premises of a facility containing at least 3,000 permanent seats.*

*Except as otherwise provided, this act became effective June 24, 2015.*

## ANALYSIS:

**Section 1** of the act amends the statute governing the regulation of food and lodging establishments (G.S. 130A-248) by adding a new provision that pertains specifically to food stands. Notwithstanding the laws for the regulation of food and lodging facilities in Chapter 130A and the statutes for wastewater collection, treatment, and disposal (G.S. 130A-335(e)), this section allows a food stand, without obtaining a restaurant permit, to provide tables and not more than eight seats for customers to use while eating or drinking on the premises. The addition of seats does not require further evaluation of the adequacy of the approved sanitary sewage system.

**Section 2** of the act allows pushcarts or mobile food units to prepare and serve food on the premises provided they are based from a permitted commissary or restaurant that is located on the premises of a facility containing at least 3,000 permanent seats. Additionally, the following are required:

- Raw meat, poultry, and fish must be prepared in a permitted commissary or restaurant in pre-portioned or ready-to-cook form. Pushcarts or mobile food units that handle raw ingredients must be equipped with a handwashing sink.
- Open food and utensils must be provided with overhead protection or otherwise equipped with individual covers such as domes, chafing lids, or cookers with hinged lids.
- Food equipment and supplies must be located in enclosed areas and protected from environmental contamination when not in operation.

**EFFECTIVE DATE:** Section 1 of the act became effective October 1, 2015, and the remainder of the act became effective June 24, 2015.

## PRIOR LAW:

**G.S. 130A-248** pertains to the regulation of food and lodging establishments. G.S. 130A-248(a) requires the Commission for Public Health (Commission) to adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay.

**G.S. 130A-335(e)** requires the rules of the Commission and the rules of the local board of health to address various characteristics related to wastewater collection, treatment, and disposal systems. The

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rules pertaining to design capacity and required design volume for wastewater systems must provide that exceptions may be granted upon a showing that a system is adequate to meet actual daily water consumption. The design of a sewage treatment and disposal system is based on the type and use of the establishment. Flow rates for various establishments, including restaurants and food stands, are specified in [15A NCAC 18A .1949](#).

[15A NCAC 18A .2651](#) includes the following definitions:

- Food establishment – an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location and where consumption is on or off the premises. It does not include various entities exempted in G.S. 130A-250 or those that only serve such items as dip ice cream, popcorn, candied apples, or cotton candy.
- Food stand – a food establishment that prepares or serves food and that does not provide seating facilities for customers to use while eating or drinking.
- Mobile food unit – a food establishment or pushcart designed to be readily moved to vend food.
- Pushcart – a mobile piece of equipment or vehicle used to vend food.
- Commissary – a food establishment that services a mobile food unit or a pushcart.
- Restaurant – a food establishment that prepares or serves food and provides seating.

[15A NCAC 18A .2659](#) provides that a food establishment must obtain a permit and no permit can be issued until an evaluation by the regulatory authority shows that the establishment is in compliance. The regulatory authority is required to impose conditions, if necessary, to ensure the food establishment remains in compliance.

[15A NCAC 18A .2670](#) provides general requirements for pushcarts and mobile food units.

[15A NCAC 18A .2671](#) provides specific requirements for pushcarts.

[15A NCAC 18A .2672](#) provides specific requirements for mobile food units.

*Theresa Matula, staff to the House Committee on Health, substantially contributed to this summary.*