



HOUSE BILL 258: Open Amusement Parks/Arcades/Venues.

2019-2020 General Assembly

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| Committee: | | Date: | October 12, 2020 |
| Introduced by: | Reps. Boles, McNeill | Prepared by: | Amy Darden |
| Analysis of: | Ratified | | Staff Attorney |

OVERVIEW: *House Bill 258 would have done the following:*

- *Authorize amusement parks, any fair or carnival, which is a member of the North Carolina Association of Agricultural Fairs, and gaming and business establishments with video games and arcade games to open and resume operations, provided specific conditions are met.*
- *Authorize existing venues for receptions or parties to resume operations, provided specific conditions are met.*
- *Authorize outdoor stadiums having a spectator capacity of 12,000 or less that are operating restaurants on the stadium premises to open and operate food and drink service for on-premises consumption, provided specific conditions are met.*
- *Allow the Governor, with a concurrence of the majority of the Council of State, to exercise emergency powers to exercise emergency powers with regard to amusement parks, gaming and business establishments with video games and arcade games, any fair or carnival which is a member of the North Carolina Association of Agricultural Fairs, venues for receptions or parties, and outdoor stadiums that operate restaurants, provided the concurrence is documented and released.*
- *Require the Secretary of Health and Human Services or the Secretary of Environmental Quality to notify the Governor and obtain the concurrence of a majority of the Council of State before issuing an order of abatement related to COVID-19 that requires closure of amusement parks, gaming and business establishments with video games and arcade games, any fair or carnival which is a member of the North Carolina Association of Agricultural Fairs, venues for receptions or parties, and outdoor stadiums that operate restaurants, and to document and release the majority concurrence of the Council of State.*

House Bill 258 was ratified by the General Assembly on June 24, 2020, and vetoed by the Governor on July 2, 2020.

CURRENT LAW and BACKGROUND:

- On March 10, 2020, by Executive Order No. 116, Governor Cooper declared a State of Emergency to address COVID-19.
- On March 23, 2020, under Executive Order No. 120, Governor Cooper ordered entertainment facilities without a retail or dining component to close at 5:00 p.m. on March 25, 2020. Gaming and business establishments with video games and arcade games and other entertainment facilities were among the businesses ordered to close. The Order was to remain in effect for 30 days.

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- On April 23, 2020, Governor Cooper extended the restrictions in Executive Order No. 120 to remain in effect until 5:00 p.m. on May 8, 2020.
- On May 5, 2020, by Executive Order No. 138 (Phase One), Governor Cooper extended the closure of gaming and business establishments with video games and arcade games and other entertainment facilities until 5:00 p.m. on May 22, 2020.
- On May 20, 2020, through Executive Order No. 141 (Phase Two), Governor Cooper ordered amusement parks, gaming and business establishments with video games and arcade games, and venues for receptions or parties to remain closed until June 26th at 5:00 p.m.

BILL ANALYSIS:

Amusement Parks, Fairs, and Businesses – Section 1 of the bill would have allowed amusement parks, gaming and business establishments with video games and arcade games, and any fair or carnival which is a member of the North Carolina Association of Agricultural Fairs, to open and resume operations if all the following conditions were met:

- In existence on March 10, 2020, or had valid certificate of occupancy and business licensed issued by that date.
- Total capacity, excluding employees, limited to 50% of the fire capacity.
- Employees must answer a health questionnaire, have their temperature taken, and wear a face mask.
- Contactless check-in is available, with proper social distancing in the check-in area.
- Sanitation spray bottles, disinfectant wipes, and hand sanitizer comprised of at least 60% alcohol are available.
- Employees conduct frequent cleanings of high-touch areas and a deep cleaning of the entire establishment once per day.
- Social distancing of at least 6 feet for equipment and signage directing foot traffic.
- Signage throughout about social distancing and sanitation requirements.

Section 2 would have provided that the Governor may, with a concurrence of the majority of the Council of State, exercise powers granted under the Emergency Management Act in G.S. 166A-19.30(b) or (c) related to amusement parks, gaming and business establishments with video games and arcade games, any fair or carnival that is a member of the North Carolina Association of Agricultural Fairs, and venues for receptions or parties. Prior to exercising that authority, the Governor must contact the members of the Council of State to seek their concurrence or nonconcurrence to the potential exercise of this power. Once the Governor has obtained and released the concurrence, he may exercise the powers granted under G.S. 166A-19.30(b) or (c).

Section 3 would have required that the Secretary of Health and Human Services or the Secretary of Environmental Quality seek a concurrence of the majority of the Council of State when exercising the power to declare properties in this State an imminent hazard, potentially closing a class of properties if the imminent hazard is related to COVID-19 with respect amusement parks, gaming and business establishments with video games and arcade games, any fair or carnival that is a member of the North Carolina Association of Agricultural Fairs, and venues for receptions or parties. Each response must be documented and released, specifying concurrence, nonconcurrence, or no response provided by each

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Council of State member. Once the concurrence has been obtained and released, the Secretary may exercise the powers granted under G.S. 103A-20.

Venues – Section 4 of the bill would have allowed venues for receptions or parties to open and resume operations if all the following conditions were met:

- In existence on March 10, 2020 and is properly licensed and permitted.
- Total capacity is limited to 50% of the fire capacity, 12 people per 1,000 square feet, or 300 people, whichever is less.
- Employees must have their temperature taken, any showing symptoms or with a fever of 100.4 degrees Fahrenheit or higher won't be allowed to enter the establishment.
- All employees must wear face masks and gloves; guests are strongly encouraged to do so;
- Food and beverage service cannot include self-service or buffet.
- Hand sanitizer stations are throughout the venue, with all sanitizer being at least 60% alcohol.
- The venue maintains social distancing requirements required by the CDC and NC DHHS.
- The venue will comply with all rules and regulations for restaurants promulgated by the Division of Public Health and NC DHHS.
- Employees conduct frequent cleanings of high-touch areas and a deep cleaning of the entire establishment once per day.
- Signage throughout about social distancing and sanitation requirements.
- The venue will collect and retain guest contact information for 15 days past the date of the event, which will be made available for contact tracing if so requested.

Outdoor Stadium – Section 4.5 of the bill would have allowed any outdoor stadium, with a spectator capacity of 12,000 or less, that operates a restaurant on premises to offer food and drink service for on-premises consumption providing all the following conditions are met:

- In existence on March 10, 2020 and is properly licensed and permitted.
- The food and drink service operation for on-premises consumption is limited to any authorized indoor seating specifically designated for the restaurant operation and to the outdoor seating location.
- The outdoor food and drink service seating capacity is limited to ten percent (10%) of the spectator capacity of the stadium.
- The outdoor seating location must be part of the stadium and must contain or have access to lavatory and toilet facilities for employees and customers as required for on-site preparation and consumption of food and beverage under rules established by the NC DHHS.
- If the establishment holds ABC permits and serves alcohol pursuant to those permits, the outdoor seating location must have delineated vertical boundaries that physically separate areas where consumption of alcohol is allowed.
- The establishment maintains and enforces the social distancing requirements recommended by the federal CDC and NC DHHS.
- The establishment complies with all rules and regulations for restaurants promulgated by the Division of Public Health and NC DHHS.

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Section 4.6 would have provided that the Governor can, with a concurrence of the majority of the Council of State, exercise powers granted under the Emergency Management Act in G.S. 166A-19.30(b) or (c) related to outdoor stadiums that operate restaurants. Prior to exercising that authority, the Governor must contact the members of the Council of State to seek their concurrence or nonconcurrence to the potential exercise of this power. Once the Governor has obtained and released the concurrence, he can exercise the powers granted under G.S. 166A-19.30(b) or (c).

Section 4.7 would have required that the Secretary of Health and Human Services or the Secretary of Environmental Quality seek a concurrence of the majority of the Council of State when exercising their power to declare properties in this State an imminent hazard, potentially closing a class of properties if the imminent hazard is related to COVID-19 with respect to outdoor stadiums that operate restaurants. Each response must be documented and released, specifying concurrence, nonconcurrence, or no response provided by each Council of State member. Once the concurrence has been obtained and released, the Secretary can exercise the powers granted under G.S. 103A-20.

EFFECTIVE DATE: House Bill 258 was ratified by the General Assembly on June 24, 2020, and vetoed by the Governor on July 2, 2020.