



North Carolina Department of Health and Human Services
Division of Public Health

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October 23, 2013

POSITION STATEMENT: Private Club Definition Changes

PURSUANT TO: Session Law 2013-413 (House Bill 74)

SOURCE: Larry Michael, Branch Head
Food Protection and Facilities Branch

QUESTION / ISSUE: Impact of Change to Definition of *Private Club*

DISCUSSION AND RATIONALE:

Session Law 2013-413 (formerly House Bill 74) amends the definition of *Private Club* in G.S. 130A-247 as follows:

(2) "Private club" means an organization that (i) maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in G.S. 105-130.2(1).G.S. 105-130.2(1) or (ii) meets the definition of a private club set forth in G.S. 18B-1000(5).

G.S. 18B-1000, Regulation of Alcoholic Beverages, defines *Private Club* as follows:

(5) Private clubóAn establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter.

According to the North Carolina Alcoholic Beverage Control (ABC) Commission, private clubs serving mixed drinks are issued a *Mixed Beverages Private Club* permit from the ABC Commission. Alcoholic Beverage Permits issued by the ABC for clubs serving only wine and malt beverages do not have a specific designation for private clubs.

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RESPONSE / INTERPRETATION:

Session Law 2013-413 expands the private club exemption under G.S. 130A-250(5) to include private clubs, as defined and permitted by the ABC Commission, that do not hold nonprofit or tax-exempt status. For an establishment serving *mixed beverages* to claim the private club exemption under the expanded definition, the owner or manager must have a current *Mixed Beverages Private Club* permit issued by the ABC Commission. The Commission requires this permit to be posted on the inside wall of the establishment. In addition, permits having this designation may be searched online at <http://abc.nc.gov/search/default.aspx>.

The ABC Commission does not have a private club permit for establishments serving only wine and malt beverages. For such establishments to be considered a private club, they must not be open to the public and should only allow entry to members and their bona fide guests. The ABC Commission has rules (04 NCAC 02S .0107) that govern the requirements that a private club must maintain; however, it is recommended that local health departments consult with their Environmental Health Regional Specialist if there is a question regarding the private club exemption for such establishments.

If a currently permitted establishment is deemed exempt under the amended definition of private club, then document this change by entering an *H* Status Code on the inspection report. This designates the permit invalid because of the statutory change and the identification number for the establishment cannot be used again.

This legislative amendment to G.S. 130A-247 only applies to the public health laws regulating food and lodging establishments and does not alter the definition of private club that applies to the laws regulating smoking in restaurants and bars.

REFERENCES:

G.S. 130A-247 through 250
Session Law 2013-413
G.S. 18B-1000(5)
04 NCAC 02S .0107

NOTE: Position statements are policy documents to clarify how to interpret or enforce a law or rule. They are not enforceable on their own, but are intended to promote uniform interpretation and enforcement of the underlying law or rule.