

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**SENATE BILL 490  
House Committee Substitute Favorable 7/24/07**

Short Title: Industrial Machinery - Building Code.

(Public)

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Sponsors:

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Referred to:

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March 6, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT INDUSTRIAL MACHINERY IS NOT SUBJECT TO  
REGULATION UNDER THE BUILDING CODE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing

1 laboratory approval, and shall be installed in accordance with either the standard of the  
2 National Fire Protection Association or the minimum protection designated in the  
3 manufacturer's instructions, which the property owner shall retain or provide as proof of  
4 compliance.

5 The Code may contain provisions regulating every type of building or structure,  
6 wherever it might be situated in the State.

7 Provided further, that nothing in this Article shall be construed to make any building  
8 rules applicable to farm buildings located outside the building-rules jurisdiction of any  
9 municipality.

10 Provided further, that no building permit shall be required under the Code or any  
11 local variance thereof approved under subsection (e) for any construction, installation,  
12 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any  
13 single family residence or farm building unless the work involves: the addition, repair,  
14 or replacement of load bearing structures; the addition (excluding replacement of same  
15 size and capacity) or change in the design of plumbing; the addition, replacement or  
16 change in the design of heating, air conditioning, or electrical wiring, devices,  
17 appliances, or equipment, the use of materials not permitted by the North Carolina  
18 Uniform Residential Building Code; or the addition (excluding replacement of like  
19 grade of fire resistance) of roofing.

20 Provided further, that no building permit shall be required under such Code from any  
21 State agency for the construction of any building or structure, the total cost of which is  
22 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

23 For the information of users thereof, the Code shall include as appendices

- 24 (1) Any rules governing boilers adopted by the Board of Boiler and  
25 Pressure Vessels Rules,
- 26 (2) Any rules relating to the safe operation of elevators adopted by the  
27 Commissioner of Labor, and
- 28 (3) Any rules relating to sanitation adopted by the Commission for Health  
29 Services which the Building Code Council believes pertinent.

30 In addition, the Code may include references to such other rules of special types,  
31 such as those of the Medical Care Commission and the Department of Public Instruction  
32 as may be useful to persons using the Code. No rule issued by any agency other than the  
33 Building Code Council shall be construed as a part of the Code, nor supersede that  
34 Code, it being intended that they be presented with the Code for information only.

35 Nothing in this Article shall extend to or be construed as being applicable to the  
36 regulation of the design, construction, location, installation, or operation of (1)  
37 equipment for storing, handling, transporting, and utilizing liquefied petroleum gases  
38 for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied  
39 petroleum gas from the outlet of the first stage pressure regulator to and including each  
40 liquefied petroleum gas utilization device within a building or structure covered by the  
41 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined  
42 in G.S. 62-3, or an electric or telephone membership corporation, including without  
43 limitation poles, towers, and other structures supporting electric or communication  
44 lines.

1        Nothing in this Article shall extend to or be construed as being applicable to the  
2 regulation of the design, construction, location, installation, or operation of industrial  
3 machinery. However, if during the building code inspection process, an electrical  
4 inspector has any concerns about the electrical safety of a piece of industrial machinery,  
5 the electrical inspector may refer that concern to the Occupational Safety and Health  
6 Division in the North Carolina Department of Labor but shall not withhold the  
7 certificate of occupancy nor mandate third-party testing of the industrial machinery  
8 based solely on this concern. For the purposes of this paragraph, 'industrial machinery'  
9 means equipment and machinery used in a system of operations for the explicit purpose  
10 of producing a product. The term does not include equipment that is permanently  
11 attached to or a component part of a building and related to general building services  
12 such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and  
13 general electrical transmission.

14        In addition, the Code may contain rules concerning minimum efficiency  
15 requirements for replacement water heaters, which shall consider reasonable availability  
16 from manufacturers to meet installation space requirements.

17        No State, county, or local building code or regulation shall prohibit the use of special  
18 locking mechanisms for seclusion rooms in the public schools approved under  
19 G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be  
20 constructed so that it will engage only when a key, knob, handle, button, or other similar  
21 device is being held in position by a person, and provided further that, if the mechanism  
22 is electrically or electronically controlled, it automatically disengages when the  
23 building's fire alarm is activated. Upon release of the locking mechanism by a  
24 supervising adult, the door must be able to be opened readily."

25                **SECTION 2.** This act is effective when it becomes law.