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## **Coates' Canons Blog: What Happens if the Bed Bugs Bite? Public Health's Legal Remedies for Bedbug Infestations**

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It is the Sunday after the big football game. People came to town from all across the state to see the local team play. Unfortunately, it turns out that several of the area hotels have been overrun with bed bugs and the alums are none too happy. Members of the media, elected officials, local government officials and the public start calling on the local health department to take action. What can the local health department do in this situation? Are there any state laws that apply? Before diving into the legal remedies available to public health officials, we should review the science behind bedbugs a little bit (no pun intended).

### **What is a bedbug?**

They are small, flat bugs that can grow to be about the size of an apple seed. They like to hide in tight places and feed at night. They can travel easily from place to place in a suitcase or on clothing. They are often found in and around sleeping quarters, such as hotels, shelters, nursing homes, hospitals, dorms and private homes. More info here.

### **Why are bed bugs an issue now?**

According to a joint statement issued by the Centers for Disease Control and the Environmental Protection Agency, there is an "alarming resurgence" in the bed bug population in the United States. The federal agencies identified several possible causes for this resurgence, including:

- Increased resistance of the bugs to available pesticides
- Greater international and domestic travel
- Lack of knowledge about bed bugs and
- Decline in support for State and local public health vector control programs.

While North Carolina is not leading the way in this resurgence, the state is definitely seeing a marked increase in activity.

### **Do bed bugs present a public health risk?**

Unlike ticks and mosquitoes, bed bugs do not appear to transmit disease when they bite. They are more like head lice in that they feed on human and animal blood and can cause significant itching. Some people may suffer mild to severe allergic reactions to the bites and others may develop secondary skin infections from the scratching. The CDC/EPA statement also notes that bed bug infestations can have a negative impact on an individual's mental health and trigger significant economic losses in a community.

### **What legal tools are available to public health officials in North Carolina?**

There are a few targeted legal remedies available to state and local public health officials.

- Permitted lodging establishments: Staff members from local health departments regularly conduct sanitation inspections of most lodging establishments in the state, including hotels, motels and many B&Bs. The establishments are required to have an operation permit from the local health department before opening their doors to the public. State sanitation regulations provide that guestrooms in lodging establishments must be free of pests (see 15A NCAC 18A .1812) and state statutes allow an establishment's permit to be suspended for failing to comply with such regulations. In most cases, a permit action will be an option; the health department will not be

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required to suspend the permit but it could if the proprietor failed to address the situation appropriately.

- Other sanitation inspections: Staff members from local health departments also conduct sanitation inspections in other places with sleeping quarters, such as nursing homes. They do not, however, issue permits governing the sleeping areas so the health department will not be empowered to take an action on the permit if a bed bug infestation is discovered. In such cases, the staff member may reduce the sanitation grade and/or contact the licensing or permitting authority, who may then choose to take action on a license or permit (e.g., for nursing homes, the Division of Health Service Regulation is the appropriate authority).
- Bedding law: State law regulates the sale of secondhand or renovated bedding (see G.S. 130A, Article 8, Part 8). The term “bedding” is defined broadly to include any item designed or commonly used for reclining or sleeping, including mattresses, comforters, and sleeper sofas. Secondhand bedding must be sanitized using methods provided for in regulation. Also, tagging requirements apply to all bedding sales. For example, secondhand or renovated bedding must have a yellow tag while bedding manufactured from new material must have a white tag. Remedies available to enforce this law include a Class 1 misdemeanor and an injunction.
- Public health nuisance: The public health statutes authorize the state or local health director to order the abatement of a public health nuisance and enforce that order in superior court. The law does not define the term “public health nuisance” so it is conceivable that a local health director could conclude that a particular situation warranted action using this remedy. Health officials tend to rely on this authority when a health situation affects members of the public rather than private property or individuals so it seems unlikely that they would use it to address situations in a private home or other similar environment. Note that the health director is not the only person at the local level who has this authority – counties and municipalities have their own public health nuisance laws.
- Local laws: Recognizing that the authority in state law to address the issue of bed bugs is far from exhaustive, a local government could adopt a local law – either an ordinance or a board of health rule – that authorizes public health officials to take other steps to respond to a bed bug infestation in the community. Keep in mind, however, that there are limitations on the types of rules a board of health may adopt, particularly with respect to lodging establishment. See this old bulletin for more details.

As you can see, the legal remedies available to public health officials in this field are relatively limited. In many situations – such as landlord/tenant disputes and private home infestations – the local health department and state public health officials will most likely be playing an educational or advisory role rather than an enforcement role.

## Links

- [www.deh.enr.state.nc.us/phpm/Bedbugs.htm](http://www.deh.enr.state.nc.us/phpm/Bedbugs.htm)
- [www.cdc.gov/nceh/ehs/publications/bed\\_bugs\\_cdc-epa\\_statement.htm](http://www.cdc.gov/nceh/ehs/publications/bed_bugs_cdc-epa_statement.htm)
- [www.ces.ncsu.edu/depts/ent/notes/Urban/bedbugs.htm](http://www.ces.ncsu.edu/depts/ent/notes/Urban/bedbugs.htm)
- [www.deh.enr.state.nc.us/ehs/images/rules/t15a-18a.18.pdf](http://www.deh.enr.state.nc.us/ehs/images/rules/t15a-18a.18.pdf)
- [www.ncdhhs.gov/dhsr/](http://www.ncdhhs.gov/dhsr/)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_130A/Article\\_8.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_130A/Article_8.html)
- [www.deh.enr.state.nc.us/phpm/images/bedding/NCAC\\_Title\\_15A\\_Subchapter\\_18B.pdf](http://www.deh.enr.state.nc.us/phpm/images/bedding/NCAC_Title_15A_Subchapter_18B.pdf)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_130A/GS\\_130A-25.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-25.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_130A/GS\\_130A-18.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-18.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_130A/GS\\_130A-19.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-19.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_153A/GS\\_153A-140.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-140.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-193.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-193.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_130A/GS\\_130A-39.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-39.html)
- [www.sog.unc.edu/pubs/electronicversions/pdfs/hlb81.pdf](http://www.sog.unc.edu/pubs/electronicversions/pdfs/hlb81.pdf)