

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1204

Short Title: Sediment Control Penalty Increase.

(Public)

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Sponsors: Representatives Colton; Payne, N. Crawford, Greenwood, Nesbitt, Hackney, B. Ethridge, Holt, Diamont, Jones, and Buchanan.

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Referred to: Basic Resources.

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April 12, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE CIVIL PENALTY FOR A VIOLATION OF THE  
3 SEDIMENTATION POLLUTION CONTROL ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 113A-64(a) reads as rewritten:

6 "(a) Civil Penalties.

7 (1) Any person who violates any of the provisions of this Article or any  
8 ordinance, rule, or order adopted or issued pursuant to this Article by  
9 the Commission or by a local government, or who initiates or  
10 continues a land-disturbing activity for which an erosion control plan  
11 is required except in accordance with the terms, conditions, and  
12 provisions of an approved plan, shall be subject to a civil penalty of  
13 not more than ~~one hundred dollars (\$100.00)~~, five thousand dollars  
14 (\$5,000) for each day during which the violation continues; except that  
15 the penalty for failure to submit an erosion control plan shall be as  
16 provided in subdivision (3) of this subsection. In addition a civil  
17 penalty equal to the cost of rectifying the damage caused by the  
18 violation and the sum of money saved by the noncompliance may also  
19 be assessed. No penalty shall be assessed until the person alleged to  
20 be in violation has been notified of the violation. ~~Each day of a~~  
21 ~~continuing violation shall constitute a separate violation.~~

22 (2) The Secretary, for violations under the Commission's jurisdiction, or  
23 the governing body of any local government having jurisdiction, shall

1 determine the amount of the civil penalty to be assessed under G.S.  
2 113A-64(a) and shall make written demand for payment upon the  
3 person responsible for the violation, and shall set forth in detail the  
4 violation for which the penalty has been invoked. If payment is not  
5 received or equitable settlement reached within 30 days after demand  
6 for payment is made, the Secretary shall refer the matter to the  
7 Attorney General for the institution of a civil action in the name of the  
8 State in the superior court of the county in which the violation is  
9 alleged to have occurred to recover the amount of the penalty, and  
10 local governments shall refer such matters to their respective attorneys  
11 for the institution of a civil action in the name of the local government  
12 in the appropriate division of the General Court of Justice of the  
13 county in which the violation is alleged to have occurred for recovery  
14 of the penalty. Any sums recovered shall be used to carry out the  
15 purposes and requirements of this Article.

16 (3) In determining the amount of the penalty, the Secretary shall consider  
17 the degree and extent of harm caused by the violation, the cost of  
18 rectifying the damage, the amount of money the violator saved by his  
19 noncompliance, whether the violation was committed willfully, and  
20 the prior record of the violator in complying or failing to comply with  
21 this Article.

22 (4) Any person who fails to submit an erosion control plan for approval by  
23 the Commission pursuant to G.S. 113A-54(d)(4) or by a local  
24 government pursuant to G.S. 113A-61 shall be subject to a single,  
25 noncontinuing civil penalty of not more than one thousand dollars  
26 (\$1,000). Any penalty which is recovered pursuant to this subdivision  
27 shall be deposited in the General Fund. Any person who is subject to a  
28 civil penalty under this subdivision may be subject to additional civil  
29 penalties for violation of any other provision of this Article or any  
30 ordinance, rule, or order adopted or issued pursuant to this Article by  
31 the Commission or a local government."

32 Sec. 2. This act shall become effective October 1, 1989, and shall apply to  
33 offenses occurring on or after that date.