

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1601*
Committee Substitute Favorable 6/19/92

Short Title: Env. Tech. Corr. 1992.

(Public)

Sponsors:

Referred to:

June 5, 1992

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL
3 AMENDMENTS TO VARIOUS LAWS RELATING TO ENVIRONMENT,
4 HEALTH, AND NATURAL RESOURCES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 104G-6(b)(1b) reads as rewritten:

7 "(1b) Article 3D of Chapter 143 (Procurement of ~~Architectural and~~
8 ~~Engineering Architectural, Engineering, and Surveying Services~~);".

9 Sec. 2. G.S. 113-29(a) reads as rewritten:

10 "(a) In this Article, unless the context requires otherwise, ~~the expression~~
11 'Department' means the Department of Environment, Health, and Natural ~~Resources:~~
12 Resources; and 'Secretary' means the Secretary of Environment, Health, and Natural
13 Resources."

14 Sec. 3. The catch line to G.S. 113-60.22 reads as rewritten:

15 "**§ 113-60.22. Definition-Definitions.**"

16 Sec. 4. G.S. 113-61(a) reads as rewritten:

17 "(a) In this Article, unless the context requires otherwise, ~~the expression~~
18 'Department' means the Department of Environment, Health, and Natural ~~Resources:~~
19 Resources; and 'Secretary' means the Secretary of Environment, Health, and Natural
20 Resources."

21 Sec. 5. G.S. 113-138(b)(2) reads as rewritten:

22 "(2) The best ~~interest~~-interests of the conservation of marine and estuarine
23 and wildlife resources managed by the adopting Commission will

1 benefit by conferring law-enforcement authority on the employees of
2 the United States Fish and Wildlife Service or the National Marine
3 Fisheries Service."

4 Sec. 6. G.S. 113-151.1(b) reads as rewritten:

5 "(b) License agents shall be compensated by adding a surcharge of one dollar
6 (\$1.00) ~~to~~ to each license sold and retaining the one dollar (\$1.00) surcharge. If more
7 than one license is listed on a consolidated license form, the license agent shall be
8 compensated as if a single license were sold. It is unlawful for a license agent to add
9 more than the surcharge authorized by this section to the fee for each license sold."

10 Sec. 7. G.S. 113-228 reads as rewritten:

11 **"§ 113-228. Adoption of federal regulations.**

12 To the extent that the Department is granted authority in this Subchapter over
13 subject matter as to which there is concurrent federal jurisdiction, the Marine Fisheries
14 Commission in its discretion may by reference in its rules adopt relevant provisions of
15 federal laws and regulations as State rules. To prevent confusion or conflict of
16 jurisdiction in enforcement, the Marine Fisheries Commission is exempt from any
17 conflicting limitations in G.S. ~~150B-14~~ 150B-21.6 so that it may provide for automatic
18 incorporation by reference into its rules of future changes within any particular set of
19 federal laws or regulations relating to some subject clearly within the jurisdiction of the
20 Department."

21 Sec. 8. G.S. 113A-126(d)(3) reads as rewritten:

22 "(3) The Commission may assess the penalties provided for in this
23 subsection. The Commission shall notify a person who is assessed a
24 penalty by registered or certified mail. The notice shall state the
25 reasons for the penalty. A person may contest a penalty by filing a
26 petition for a contested case under G.S. 150B-23 within 20 days after
27 receiving the notice of assessment. If a person fails to pay a penalty,
28 the Commission shall refer the matter to the Attorney General for
29 collection. ~~Such civil actions~~ An action to collect a penalty must be
30 filed within three years of after the date the final agency decision was
31 served on the violator."

32 Sec. 9. G.S. 130A-12 reads as rewritten:

33 **"§ 130A-12. Confidentiality of records.**

34 All privileged patient medical records in the possession of the Department of ~~Human~~
35 ~~Resources~~ or local health departments shall be confidential and shall not be public
36 records pursuant to G.S. 132-1."

37 Sec. 10. G.S. 130A-294.1(f) reads as rewritten:

38 "(f) A person who generates 100 kilograms or more of hazardous waste in any
39 calendar month during the year beginning 1 July and ending 30 June but less than 1000
40 kilograms of hazardous waste in each calendar month during that year shall pay an
41 annual fee of twenty-five dollars (\$25.00)."

42 Sec. 11. G.S. 130A-310.23 reads as rewritten:

43 **"§ 130A-310.23. Filing notices of ~~Superfund~~ CERCLA/SARA (Superfund) liens.**

1 Notices of liens and certificates of notices affecting liens for obligations payable to
2 the United States under ~~Superfund~~-CERCLA/SARA (Superfund) (42 U.S.C. §
3 9607(l)) shall be filed in accordance with Article 11A of Chapter 44 of the General
4 Statutes."

5 Sec. 12. G.S. 130B-8(a)(3) reads as rewritten:

6 "(3) Article 3D of Chapter 143 (Procurement of ~~Architectural and~~
7 ~~Engineering Architectural, Engineering, and Surveying Services~~);".

8 Sec. 13. G.S. 139-47(d) reads as rewritten:

9 "(d) Every preliminary project investigation or recommended report concerning a
10 watershed improvement project or drainage project that involves channelization shall be
11 submitted to the Soil and Water Conservation Commission for review and for approval
12 or disapproval. Such review shall be prior to, and in addition to, the review of watershed
13 work plans provided for by G.S. 139-35. The Soil and Water Conservation Commission
14 shall approve such investigation or report, following the public hearing held pursuant to
15 subsection (c) of this section, if, in its judgment, the investigation or report shows that
16 any channelization features of the proposed project are necessary to the project and that
17 no other feasible alternatives are available. No work of improvement may be
18 constructed or established without the approval of the preliminary project investigation
19 or recommended report by the Soil and Water Conservation Commission pursuant to
20 this section. The construction or establishment of any such work of improvement
21 without such approval, or without conforming to a preliminary project investigation or
22 recommended report approved by the Soil and Water Conservation Commission, may
23 be enjoined. Provided, however, the provisions of this section shall not apply to the
24 activities and functions of the North Carolina Department of ~~Human-Environment,~~
25 ~~Health, and Natural Resources~~ and local health departments that are engaged in
26 mosquito control for the protection of the health and welfare of the people of the coastal
27 area of North Carolina as provided under G.S. ~~130-206-130A-346~~ through ~~130-209-G.S.~~
28 ~~130A-349~~. The Soil and Water Conservation Commission may institute an action for
29 injunctive relief in the superior court of any county wherein such construction or
30 establishment takes place, and the procedure in such action shall be as provided in
31 Article 37, Chapter 1 of the General Statutes."

32 Sec. 14. G.S. 143-214.5(e) reads as rewritten:

33 "(e) Assumption of Local Programs. – The Commission shall assume
34 responsibility for water supply watershed protection, within all or the affected portion of
35 a water supply watershed, if a local government fails to adopt a program that meets the
36 requirements of this section or whenever a local government fails to adequately
37 administer and enforce the provisions of its program. The Commission shall not assume
38 responsibility for an approved local a-water supply watershed protection program until it
39 or its designee notifies the local government in writing by certified mail, return receipt
40 requested, of local program deficiencies, recommendations for changes and
41 improvements in the local program, and the deadline for compliance. The Commission
42 shall allow a local government a minimum of 120 days to bring its program into
43 compliance. The Commission shall order assumption of an approved local program if it
44 finds that the local government has made no substantial progress toward compliance.

1 The Commission may make such finding at any time between 120 days and 365 days
2 after receipt of notice under this subsection by the local government, with no further
3 notice. Proceedings to review such orders by the Commission shall be conducted by the
4 superior court pursuant to Article 4 of Chapter 150B of the General Statutes based on
5 the agency record submitted to the Commission by the Secretary."

6 Sec. 15. G.S. 143-215(e) reads as rewritten:

7 "(e) Except as required by federal law or regulations, the Commission may not
8 adopt effluent standards or limitations applicable to animal and poultry feeding
9 operations. Notwithstanding the foregoing, where manmade pipes, ditches, or other
10 conveyances have been constructed for the purpose of willfully discharging pollutants
11 to the waters of the State, the ~~Commission~~ Secretary shall have the authority to assess
12 fines and penalties not to exceed five thousand dollars (\$5,000) for the first offense.
13 The definitions and provisions of 40 Code of Federal Regulations § 122.23 (July 1,
14 1990 Edition) shall apply to this subsection."

15 Sec. 16. G.S. 143-215.3(a)(8) reads as rewritten:

16 "(8) After issuance of an appropriate order, to withhold the granting of any
17 permit or permits pursuant to G.S. 143-215.1 or G.S. 143-215.108 for
18 the construction or operation of any new or additional disposal system
19 or systems or air-cleaning device or devices in any area of the State.
20 Such order may be issued only upon determination by the
21 Commission, after public hearing, that the permitting of any new or
22 additional source or sources of water or air pollution will result in a
23 generalized condition of water or air pollution within the area contrary
24 to the public interest, detrimental to the public health, safety, and
25 welfare, and contrary to the policy and intent declared in this Article or
26 Article 21B of this Chapter. The Commission may make reasonable
27 distinctions among the various sources of water and air pollution and
28 may direct that its order shall apply only to those sources which it
29 determines will result in a generalized condition of water or air
30 pollution.

31 The determination of the Commission shall be supported by
32 detailed findings of fact and conclusions set forth in the order and
33 based upon competent evidence of record. The order shall describe the
34 geographical area of the State affected thereby with particularity and
35 shall prohibit the issuance of permits pending a determination by the
36 Commission that the generalized condition of water or air pollution
37 has ceased.

38 Notice of hearing shall be given in accordance with the provisions
39 of G.S. ~~150B-12.~~ 150B-21.2.

40 A person aggrieved by an order of the Commission under this
41 subdivision may seek judicial review of the order under Article 4 of
42 Chapter 150B of the General Statutes without first commencing a
43 contested case. An order may not be stayed while it is being
44 reviewed."

1 Sec. 17. The catch line to G.S. 143-215.94D reads as rewritten:

2 "**§ 143-215.94D. (Expires December 31, 1998) Noncommercial leaking petroleum**
3 **underground storage tank cleanup fund. Leaking Petroleum Underground**
4 **Storage Tank Cleanup Fund.**"

5 Sec. 18. G.S. 143-215.114A(g) reads as rewritten:

6 "(g) The Secretary may delegate his powers and duties under this section to the
7 Director of the Division of Environmental Management ~~of the Department or other~~
8 appropriate division director."

9 Sec. 19. G.S. 143-358 reads as rewritten:

10 "**§ 143-358. Cooperation of State officials and agencies.**

11 All State agencies and officials shall cooperate with and assist the ~~State~~ Commission
12 in enforcing and carrying out the provisions of this Article and ~~the rules, regulations and~~
13 ~~policies adopted by the Commission pursuant thereto.~~ rules adopted by the Commission
14 under this Article."

15 Sec. 20. Part 1 of Article 3 of Chapter 143B of the General Statutes is
16 amended by adding a new section to read:

17 "**§ 143B-139.6. Confidentiality of records.**

18 All privileged patient medical records in the possession of the Department of Human
19 Resources shall be confidential and shall not be public records pursuant to G.S. 132-1."

20 Sec. 21. G.S. 143B-301.1 reads as rewritten:

21 "**§ 143B-301.1. Definitions.**

22 The definitions set out in G.S. 90A-46 shall apply ~~through~~ throughout this Part."

23 Sec. 22. This act is effective upon ratification.