

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1101

Short Title: Increase Water Quality Civil Penalties.

(Public)

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Sponsors: Senator Odom.

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Referred to: Finance.

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April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM AMOUNT OF THE CIVIL PENALTIES  
THAT MAY BE ASSESSED FOR VIOLATIONS OF LAWS THAT PROTECT  
WATER QUALITY TO CONFORM TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.6A(a) reads as rewritten:

"(a) A civil penalty of not more than ~~ten thousand dollars (\$10,000)~~ twenty-seven thousand five hundred dollars (\$27,500) may be assessed by the Secretary against any person who:

(1) Violates any classification, standard, limitation, or management practice established pursuant to G.S. 143-214.1, 143-214.2, or 143-215.

(2) Is required but fails to apply for or to secure a permit required by G.S. 143-215.1, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit or any other permit or certification issued pursuant to authority conferred by this Part, including pretreatment permits issued by local governments and laboratory certifications.

(3) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.2.

- 1 (4) Fails to file, submit, or make available, as the case may be, any  
2 documents, data, or reports required by this Article or G.S. 143-355(k)  
3 relating to water use information.
- 4 (5) Refuses access to the Commission or its duly designated representative  
5 to any premises for the purpose of conducting a lawful inspection  
6 provided for in this Article.
- 7 (6) Violates a rule of the Commission implementing this Part, Part 2A of  
8 this Article, or G.S. 143-355(k).
- 9 (7) Violates or fails to act in accordance with the statewide minimum water  
10 supply watershed management requirements adopted pursuant to G.S.  
11 143-214.5, whether enforced by the Commission or a local government.
- 12 (8) Violates the offenses set out in G.S. 143-215.6B.
- 13 (9) Is required, but fails, to apply for or to secure a certificate required by  
14 G.S. 143-215.22I, or who violates or fails to act in accordance with the  
15 terms, conditions, or requirements of the certificate.
- 16 (10) Violates subsections (c1) through (c5) of G.S. 143-215.1 or a rule  
17 adopted pursuant to subsections (c1) through (c5) of G.S. 143-215.1."

18 Section 2. G.S. 143-215.6A(b) reads as rewritten:

19 "(b) If any action or failure to act for which a penalty may be assessed under this  
20 section is continuous, the Secretary may assess a penalty not to exceed ~~ten thousand dollars~~  
21 ~~(\$10,000)~~ twenty-seven thousand five hundred dollars (\$27,500) per day for so long as the  
22 violation continues, unless otherwise stipulated."

23 Section 3. G.S. 143-215.88A(a) reads as rewritten:

24 "(a) Any person who intentionally or negligently discharges oil or other hazardous  
25 substances, or knowingly causes or permits the discharge of oil in violation of this Part or  
26 fails to report a discharge as required by G.S. 143-215.85 or who fails to comply with the  
27 requirements of G.S. 143-215.84(a) or orders issued by the Commission as a result of  
28 violations thereof, shall incur, in addition to any other penalty provided by law, a penalty  
29 in an amount not to exceed ~~five thousand dollars (\$5,000)~~ twenty-seven thousand five  
30 hundred dollars (\$27,500) for every such violation, the amount to be determined by the  
31 Secretary after taking into consideration the factors set out in G.S. 143B-282.1(b), the  
32 amount expended by the violator in complying with the provisions of G.S. 143-215.84,  
33 and the estimated damages attributed to the violator under G.S. 143-215.90. Every act or  
34 omission which causes, aids or abets a violation of this subsection shall be considered a  
35 violation under the provisions of this subsection and subject to the penalty herein  
36 provided. The procedures set out in G.S. 143-215.6 and G.S. 143B-282.1 shall apply to  
37 civil penalties assessed under this section. The penalty herein provided for shall become  
38 due and payable when the person incurring the penalty receives a notice in writing from  
39 the Commission describing the violation with reasonable particularity and advising such  
40 person that the penalty is due. A person may contest a penalty by filing a petition for a  
41 contested case under G.S. 150B-23 within 30 days after receiving notice of the penalty.  
42 If any civil penalty has not been paid within 30 days after notice of assessment has been  
43 served on the violator, the Secretary shall request the Attorney General to institute a civil

1 action in the Superior Court of any county in which the violator resides or has his or its  
2 principal place of business to recover the amount of the assessment, unless the violator  
3 contests the assessment as provided in this subsection, or requests remission of the  
4 assessment in whole or in part. If any civil penalty has not been paid within 30 days after  
5 the final agency decision or court order has been served on the violator, the Secretary  
6 shall request the Attorney General to institute a civil action in the Superior Court of any  
7 county in which the violator resides or has his or its principal place of business to recover  
8 the amount of the assessment. Notification received pursuant to this subsection or  
9 information obtained by the exploitation of such notification shall not be used against any  
10 person in any criminal case, except as prosecution for perjury or for giving a false  
11 statement."

12           Section 4. This act is effective when it becomes law and applies to violations  
13 that occur on or after the date this act becomes law.