

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 312\*  
Agriculture/Environment/Natural Resources Committee Substitute Adopted  
4/17/01

Short Title: Amend Well Contractors Certification-AB.

(Public)

Sponsors:

Referred to:

March 5, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN LAWS RELATING TO THE CERTIFICATION OF  
WELL CONTRACTORS AND TO INCREASE THE MAXIMUM CIVIL  
PENALTY THAT MAY BE ASSESSED FOR VIOLATIONS OF THE WELL  
CONTRACTORS CERTIFICATION ACT OR THE WELL CONSTRUCTION  
ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 87-98.4(a) reads as rewritten:

"(a) Certification Required. – No well contractor shall perform or offer to perform any well contractor activity without being certified under this Article. The Commission may specify the types of general construction activities or geophysical activities that are not directly related to locating, testing, or withdrawing groundwater; evaluating, testing, developing, draining, or recharging any groundwater reservoir or aquifer; or controlling, diverting, or otherwise causing the movement of water from or into any aquifer and are therefore not well construction activities."

**SECTION 2.** G.S. 87-98.7 reads as rewritten:

"§ **87-98.7. Issuance and renewal of certificates; temporary ~~certification~~ certification; refusal to issue a certificate.**

(a) Issuance. – An applicant, upon satisfactorily meeting the appropriate requirements, shall be certified to perform in the capacity of a well contractor and shall be issued a suitable certificate by the Commission designating the level of the person's competency. A certificate shall be valid for one year or until any of the following occurs:

- (1) The certificate holder voluntarily surrenders the certificate to the Commission.
- (2) The certificate is revoked or suspended by the Commission for cause.

1 (b) Renewal. – A certificate shall be renewed annually by payment of the annual  
2 fee. A person who fails to renew a certificate within ~~three months~~30 days of the  
3 expiration of the certificate must reapply for certification under this Article.

4 (c) Temporary Certification. – A person may receive temporary certification to  
5 construct a well upon submission of an application to the Commission and subsequent  
6 approval in accordance with the criteria established by the Commission and upon  
7 payment of a temporary certification fee. A temporary certification shall be granted to  
8 the same person only once per calendar year and may not be valid for a period in excess  
9 of 45 consecutive days. To perform additional well contractor activity during that same  
10 calendar year, the person shall apply for certification under this Article.

11 (d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate  
12 under any of the following circumstances:

13 (1) The applicant has not paid civil penalties assessed against the applicant  
14 under G.S. 87-94 for a violation of this Article, Article 7 of this  
15 Chapter, or any rule adopted to implement either of those Articles.

16 (2) The applicant has not conducted all restoration activities ordered by  
17 the Department related to a violation by the applicant of Article 7 of  
18 this Chapter.

19 (3) As determined by the Commission, the applicant has a history of not  
20 complying with this Article, Article 7 of this Chapter, or any rule  
21 adopted to implement either of those Articles."

22 **SECTION 3.** G.S. 87-94(a) reads as rewritten:

23 "(a) Any person who violates any provision of this Article, Article 7A of this  
24 Chapter, any order issued pursuant thereto, or any rule adopted thereunder, shall be  
25 subject to a civil penalty of not more than ~~one hundred dollars (\$100.00)~~one thousand  
26 dollars (\$1,000) for each violation, as determined by the Secretary of Environment and  
27 Natural Resources. Each day of a continuing violation shall be considered a separate  
28 offense. No person shall be subject to a penalty who did not directly commit the  
29 violation or cause it to be committed."

30 **SECTION 4.** G.S. 143B-301.11(b) reads as rewritten:

31 "(b) Delegation. – The Commission ~~may, by rule,~~may delegate to the Secretary  
32 any of its powers, other than the power to adopt rules."

33 **SECTION 5.** The Well Contractors Certification Commission may adopt  
34 temporary and permanent rules to implement the provisions of this act and to alter the  
35 minimum requirements of education, experience, and knowledge for certification of  
36 well contractors adopted by the Commission pursuant to G.S. 87-98.6. This act  
37 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.  
38 Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Well  
39 Contractors Certification Commission may adopt temporary rules as provided in this  
40 section until 1 April 2002. Prior to the adoption of a temporary rule under this section,  
41 the Commission shall publish a notice of intent to adopt a temporary rule in the North  
42 Carolina Register. The notice shall set out the text of the proposed temporary rule and  
43 include the name and address of the person to whom questions and written comment on

1 the proposed temporary rule may be submitted. The Commission shall accept written  
2 comment on the proposed temporary rule for at least 30 days after the notice of intent to  
3 adopt a temporary rule is published in the North Carolina Register.

4 **SECTION 6.** This act is effective when it becomes law.