

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

CHAPTER 890  
SENATE BILL 1206

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL  
AMENDMENTS TO VARIOUS LAWS RELATING TO ENVIRONMENT,  
HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

"(2) The best ~~interest~~ interests of the conservation of marine and estuarine and wildlife resources managed by the adopting Commission will benefit by conferring law-enforcement authority on the employees of the United States Fish and Wildlife Service or the National Marine Fisheries Service."

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

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

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

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

To the extent that the Department is granted authority in this Subchapter over subject matter as to which there is concurrent federal jurisdiction, the Marine Fisheries

Commission in its discretion may by reference in its rules adopt relevant provisions of federal laws and regulations as State rules. To prevent confusion or conflict of jurisdiction in enforcement, the Marine Fisheries Commission is exempt from any conflicting limitations in G.S. ~~150B-14~~150B-21.6 so that it may provide for automatic incorporation by reference into its rules of future changes within any particular set of federal laws or regulations relating to some subject clearly within the jurisdiction of the Department."

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

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

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

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

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

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

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

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

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

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

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

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

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

"(d) Every preliminary project investigation or recommended report concerning a watershed improvement project or drainage project that involves channelization shall be submitted to the Soil and Water Conservation Commission for review and for approval or disapproval. Such review shall be prior to, and in addition to, the review of watershed work plans provided for by G.S. 139-35. The Soil and Water Conservation Commission shall approve such investigation or report, following the public hearing held pursuant to

subsection (c) of this section, if, in its judgment, the investigation or report shows that any channelization features of the proposed project are necessary to the project and that no other feasible alternatives are available. No work of improvement may be constructed or established without the approval of the preliminary project investigation or recommended report by the Soil and Water Conservation Commission pursuant to this section. The construction or establishment of any such work of improvement without such approval, or without conforming to a preliminary project investigation or recommended report approved by the Soil and Water Conservation Commission, may be enjoined. Provided, however, the provisions of this section shall not apply to the activities and functions of the North Carolina Department of ~~Human-Environment, Health, and Natural Resources~~ and local health departments that are engaged in mosquito control for the protection of the health and welfare of the people of the coastal area of North Carolina as provided under G.S. ~~130-206-130A-346~~ through ~~130-209-G.S. 130A-349~~. The Soil and Water Conservation Commission may institute an action for injunctive relief in the superior court of any county wherein such construction or establishment takes place, and the procedure in such action shall be as provided in Article 37, Chapter 1 of the General Statutes."

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

"(e) Assumption of Local Programs. – The Commission shall assume responsibility for water supply watershed protection, within all or the affected portion of a water supply watershed, if a local government fails to adopt a program that meets the requirements of this section or whenever a local government fails to adequately administer and enforce the provisions of its program. The Commission shall not assume responsibility for an approved local a-water supply watershed protection program until it or its designee notifies the local government in writing by certified mail, return receipt requested, of local program deficiencies, recommendations for changes and improvements in the local program, and the deadline for compliance. The Commission shall allow a local government a minimum of 120 days to bring its program into compliance. The Commission shall order assumption of an approved local program if it finds that the local government has made no substantial progress toward compliance. The Commission may make such finding at any time between 120 days and 365 days after receipt of notice under this subsection by the local government, with no further notice. Proceedings to review such orders by the Commission shall be conducted by the superior court pursuant to Article 4 of Chapter 150B of the General Statutes based on the agency record submitted to the Commission by the Secretary."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"§ 143B-301.1. Definitions.**

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

Sec. 22. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of July, 1992.

James C. Gardner  
President of the Senate

Daniel Blue, Jr.  
Speaker of the House of Representatives