

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH70294-RT-14 (4/4)

Short Title: Environmental Enforcement Accountability Act. (Public)

Sponsors: Representatives Harrison, Luebke, and Weiss (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH AND MAINTAIN A LIST OF CHRONIC VIOLATORS AND A DATABASE OF ENFORCEMENT ACTIONS AND TO FURTHER DISCOURAGE VIOLATIONS RELATING TO THE ENVIRONMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.13. List of chronic violators; enforcement database.

(a) As used in this section:

(1) 'Enforcement action' means an action taken by the Department of Environment and Natural Resources in response to a violation by a permittee or a licensee required to obtain a permit or license issued by the Department of Environment and Natural Resources. Enforcement action includes a civil penalty, an injunction, a special order by consent, a restraining order, and a stopwork order. Enforcement action does not include a notice of violation.

(2) 'Violation' means any violation of a federal or State law, regulation, or rule for the protection of the environment or any violation of a condition of a permit or license issued by the Department of Environment and Natural Resources.

(b) The Department of Environment and Natural Resources shall establish and maintain a list of chronic violators that identifies each permittee or licensee required to obtain a permit or license issued by the Department of Environment and Natural Resources that, during the preceding five years, the Department of Environment and Natural Resources or a court determined was the subject of two or more enforcement

1 actions or was convicted of a crime regarding a violation. The Department of
2 Environment and Natural Resources shall make this list available to the public by
3 publishing it on the Web site of the Department of Environment and Natural Resources.
4 The Department of Environment and Natural Resources shall remove a chronic violator
5 from this list if the permittee or licensee has complied with all enforcement actions for
6 the past violations or crimes that resulted in being included on this list and has not been
7 the subject of an enforcement action or convicted of a crime regarding a violation for at
8 least two years.

9 (c) Any permittee or licensee required to obtain a permit or license issued by the
10 Department of Environment and Natural Resources shall notify the Department of
11 Environment and Natural Resources within 30 days of being convicted of a crime
12 regarding a violation.

13 (d) The Department of Environment and Natural Resources shall establish and
14 maintain an enforcement database of violations and enforcement actions taken by the
15 Department of Environment and Natural Resources and shall make it available to the
16 public by publishing it on the Web site of the Department of Environment and Natural
17 Resources. The enforcement database shall include all of the following:

- 18 (1) A list of each violation.
- 19 (2) The name of the violator and its permit number.
- 20 (3) The name of the facility at which the violation occurred, if applicable.
- 21 (4) The location at which the violation occurred.
- 22 (5) A description of the nature and extent of each violation, including
23 whether the violation involved a discharge to air or water or onto land.
- 24 (6) Any enforcement action that is ongoing or that was taken in the
25 preceding two years.
- 26 (7) The number and date of any notices of violations sent by the
27 Department of Environment and Natural Resources prior to its taking
28 an enforcement action.
- 29 (8) The results of each enforcement action taken by the Department of
30 Environment and Natural Resources.

31 (e) The enforcement database established under subsection (d) of this section
32 shall be searchable by all of the following:

- 33 (1) The name of the violator and its permit number.
- 34 (2) The name of the facility at which the violation occurred, if applicable.
- 35 (3) The location at which the violation occurred.
- 36 (4) The nature of the violation, including whether the violation involved a
37 discharge to air or water or onto land.

38 (f) The Department of Environment and Natural Resources shall adopt any rules
39 needed to implement this section."

40 **SECTION 2.** Article 3 of Chapter 143 of the General Statutes is amended by
41 adding a new section to read:

42 **"§ 143-59.4. Contracts with chronic environmental violators prohibited.**

43 (a) Ineligible Vendors. – The Secretary of Administration and other entities to
44 which this Article applies shall not contract for goods or services with any vendor that

1 appears in the list of chronic violators established pursuant to G.S. 143B-279.13(b). The
2 Department of Administration shall adopt rules needed to implement this section.

3 (b) Vendor Certification. – The Secretary of Administration shall require each
4 vendor submitting a bid or contract to certify that the vendor is not an ineligible vendor
5 as set forth in subsection (a) of this section. Any person who submits a certification
6 required by this subsection that is false shall be subject to a civil penalty not to exceed
7 ten thousand dollars (\$10,000) for each occurrence."

8 **SECTION 3.** The Department of Environment and Natural Resources shall
9 prepare a report describing its ability, within its existing resources, to comply with the
10 requirements of G.S. 143B-279.13(b), as enacted by Section 1 of this act, and a detailed
11 estimate of the costs and additional resources needed to create and maintain the
12 database under G.S. 143B-279.13(d), as enacted in Section 1 of this act. The
13 Department of Environment and Natural Resources shall submit the report to the
14 Environmental Review Commission on or before 1 January 2006.

15 **SECTION 4.** Nothing contained in this act shall be construed as limiting any
16 existing remedy for noncompliance available to the Department of Environment and
17 Natural Resources under existing law.

18 **SECTION 5.** This act becomes effective 1 September 2005.