

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE DRH50528-TAf-11 (03/01)**

Short Title: Radiation Protection Program Fee Amendments. (Public)

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Sponsors: Representatives Gibson and Allen (Primary Sponsors).

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH AND COLLECT CERTAIN FEES UNDER THE RADIATION PROTECTION ACT AND TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ASSESS THE REASONABLE COSTS OF INVESTIGATION, INSPECTION, OR MONITORING AGAINST PERSONS WHO VIOLATE THE RADIATION PROTECTION ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 104E-9 (a) reads as rewritten:

**"§ 104E-9. Powers and functions of Department of Environment and Natural Resources.**

(a) The Department of Environment and Natural Resources is authorized:

...

(8) To establish annual fees for activities under this Chapter based on actual administrative costs to be applied to ~~training, enforcement, and inspection pursuant to~~ implementation of the provisions of this Chapter and to charge and collect fees from operators and users of low-level radioactive waste facilities pursuant to the provisions of this Chapter.

...

(12) To recover all reasonable costs incurred by the Department in responding to and mitigating an emergency, as defined in G.S. 104E-5(7).

(b) The Division of Environmental Health of the Department shall develop a training program for tanning equipment operators that meets the training rules adopted by the Commission. If the training program is provided by the Department, the

1 Department may charge each person trained a reasonable fee to recover the actual cost  
2 of the training program."

3 **SECTION 2.** G.S. 104E-19(a) reads as rewritten:

4 "(a) In order to meet the anticipated costs of administering the educational and  
5 training programs ~~in G.S. 104E-11(e)~~, under G.S. 104E-11(c); of enforcing and carrying  
6 out the inspection provisions in G.S. 104E-7(a)(7) and ~~G.S. 104E-11(a)~~, G.S. 104E-  
7 11(a); and of administering the licensing program in and registration provisions under  
8 G.S. 104E-7(a)(2), G.S. 104E-7(a)(4), G.S. 104E-7(a)(6), and G.S. 104E-10.3,  
9 104E-10.3; and of reviewing submissions as provided under G.S. 104E-9(a)(3); the  
10 Department is authorized to charge and collect such reasonable fees as it may by rule  
11 establish."

12 **SECTION 3.** G.S. 104E-24 reads as rewritten:

13 "**§ 104E-24. Administrative penalties, penalties and investigative costs.**

14 (a) The Department may impose an administrative penalty on any person:

- 15 (1) Who fails to comply with this Chapter, any order issued hereunder, or  
16 any rules adopted pursuant to this Chapter;
- 17 (2) Who refuses to allow an authorized representative of the Radiation  
18 Protection Commission or the Department of Environment and Natural  
19 Resources a right of entry as provided for in G.S. 104E-11 or  
20 impounding materials as provided for in G.S. 104E-14.

21 (b) Each day of a continuing violation shall constitute a separate violation. Such  
22 penalty shall not exceed ten thousand dollars (\$10,000) per day. In determining the  
23 amount of the penalty, the Department shall consider the degree and extent of the harm  
24 caused by the violation. Any person assessed a penalty shall be notified of the  
25 assessment by registered or certified mail, and the notice shall specify the reasons for  
26 the assessment.

27 (c) Any person wishing to contest a penalty or order issued under this section  
28 shall be entitled to an administrative hearing and judicial review in accordance with the  
29 procedures outlined in Articles 3, 3A, and 4 of Chapter 150B of the General Statutes.

30 (d) The Secretary may bring a civil action in the superior court of the county in  
31 which such violation is alleged to have occurred to recover the amount of administrative  
32 penalty whenever a person:

- 33 (1) Who has not requested an administrative hearing fails to pay the  
34 penalty within 60 days after being notified of such penalty, or
- 35 (2) Who has requested an administrative hearing fails to pay the penalty  
36 within 60 days after service of a written copy of the decision as  
37 provided in G.S. 150B-36.

38 (e) The clear proceeds of penalties imposed pursuant to this section shall be  
39 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

40 (f) If an investigation reveals a violation of this Chapter, a violation of any rule,  
41 standard, or limitation adopted by the Commission pursuant to this Chapter or a  
42 violation of any permit or order issued pursuant to this Chapter, the Department may  
43 assess the reasonable costs of any investigation, inspection, or monitoring undertaken  
44 by the Department that revealed or established the nature or extent of the violation

1 against the person responsible for the violation. If the person responsible for the  
2 violation refuses or fails within a reasonable time to pay any sums assessed, the  
3 Secretary may institute a civil action in the superior court of the county in which the  
4 violation occurred or, in the Secretary's discretion, in the superior court of the county in  
5 which the person resides or has its principal place of business, to recover the sums  
6 assessed."

7           **SECTION 4.** This act becomes effective 1 July 2007.