

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1780
Committee Substitute Favorable 7/24/07
Committee Substitute #2 Favorable 7/26/07

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

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND
3 NATURAL RESOURCES TO ESTABLISH AND COLLECT CERTAIN FEES
4 UNDER THE RADIATION PROTECTION ACT AND TO AUTHORIZE THE
5 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO
6 ASSESS THE ACTUAL COSTS OF MONITORING OR INVESTIGATION
7 AGAINST PERSONS WHO VIOLATE THE RADIATION PROTECTION ACT.

8 The General Assembly of North Carolina enacts:

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

10 "**§ 104E-9. Powers and functions of Department of Environment and Natural**
11 **Resources.**

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

13 ...

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

19 ...

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

22 (b) The Division of Environmental Health of the Department shall develop a
23 training program for tanning equipment operators that meets the training rules adopted
24 by the Commission. If the training program is provided by the Department, the
25 Department may charge each person trained a reasonable fee to recover the actual cost
26 of the training program."

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

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

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

10 "**§ 104E-24. Administrative ~~penalties, penalties and~~ investigative costs.**

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

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

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

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

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

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

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

37 (f) If an investigation reveals a violation of this Chapter, a violation of any rule,
38 standard, or limitation adopted by the Commission pursuant to this Chapter, or a
39 violation of any permit or order issued pursuant to this Chapter, the Department may
40 assess the actual costs of any monitoring or investigation undertaken by the Department
41 that revealed or established the nature or extent of the violation against the person
42 responsible for the violation. If the person responsible for the violation refuses or fails
43 within a reasonable time to pay any sums assessed, the Secretary may institute a civil
44 action in the superior court of the county in which the violation occurred or, in the

1 Secretary's discretion, in the superior court of the county in which the person resides or
2 has his or her principal place of business, to recover the sums assessed. This subsection
3 shall not apply to diagnostic X-ray machines that are owned or operated by dentists
4 licensed pursuant to Article 2 of Chapter 90 of the General Statutes."

5 **SECTION 4.** This act becomes effective when it becomes law.