

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 521
SENATE BILL 741

AN ACT TO AMEND G.S. 143, ARTICLE 21A, RELATING TO CONTROL OF OIL POLLUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.99 is hereby repealed.

Sec. 2. G.S. 143, Article 21A, is hereby amended by adding a new Part to be numbered "4" and to be entitled "Oil Refining Facility Permits", to read as follows:

"Part 4. Oil Refining Facility Permits.

"§ 143-215.99. **Oil refining facility permits.** — No facility which is to be used or is capable of being used for the purpose of refining oil shall be initiated or constructed after the effective date of this Part without a permit from the Secretary of Natural and Economic Resources.

"§ 143-215.100. **Powers of the secretary.** — The secretary, in addition to any other powers granted under the laws of this State, shall have the power:

(a) To adopt, modify and revoke rules and regulations relating to the issuance of oil refining facility permits. Such rules and regulations may include, but shall not be limited to, the following matters:

- (1) Requirements for submission of engineering reports, plans and specifications for the location and construction of oil terminal facilities.
- (2) Establishment of procedures and methods of reporting discharges and other occurrences prohibited by this Article.
- (3) Establishment of procedures, methods, means, and equipment to be used in the removal of oil pollutants.

(b) To deny the issuance of a permit upon a finding that:

- (1) The installation will have substantial adverse effects on wildlife or on fresh water, estuarine or marine fisheries; or
- (2) The operation of the installation will violate standards of air or water quality promulgated or administered by the Environmental Management Commission; or
- (3) The installation will have a substantial adverse effect on a publicly owned park, forest, or recreation area.

(c) To grant permits for the operation of existing or proposed oil refining facilities and to impose such terms and conditions therein as it shall deem necessary and appropriate to effectuate the purposes of this Article.

(d) To require the installation of such facilities and the employment of such protective measures and operating procedures as are deemed necessary to prevent, insofar as possible, any oil discharges to the waters or lands of the State.

(e) To issue guidelines consistent with the Uniform Administrative Practices Act for the issuance or denial of permits.

"§ 143-215.101. **Penalties.** — (a) Civil Penalty. Any person who violates any provision of this Part, or any rule, regulation or order made pursuant to this Part, shall incur, in addition to any other penalty provided by law, a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for every such violation, the amount to be determined by the commission after taking

into consideration the gravity of the violation, the previous record of the violator in complying or failing to comply with the provisions of this Article as well as G.S. 143-215.1, and such other considerations as the commission deems appropriate. The penalty herein provided for shall become due and payable when the person incurring the penalty receives a notice in writing from the commission describing the violation with reasonable particularity and advising such person that the penalty is due. The commission may, upon written application therefor, received within 15 days, and when deemed in the best interest of the State in carrying out the purposes of this Article, remit or mitigate any penalty provided for in this section or discontinue any action to recover the penalty upon such terms, as it, in its discretion shall deem proper, and shall have the authority to ascertain facts upon all such applications in such manner and under such regulations as the commission may adopt. If the amount of such penalty is not paid to the Department of Natural and Economic Resources within 15 days after receipt of notice, or if an application for remission or mitigation has not been made within 15 days as herein provided, the amount provided in the order issued by the commission subsequent to such application is not paid within 15 days of receipt thereof, the Attorney General, upon request of the commission, shall bring an action in the name of the State in the Superior Court of Wake County or of any other county wherein such violator resides or does business, to recover the amount specified in the final order of the commission. In any such action, the amount of the penalty shall be subject to review by the court. In all such actions the procedures and rules of evidence shall be the same as in an ordinary civil action except as otherwise in this Article provided. Any sums recovered under this subsection shall be payable to the Oil Pollution Protection Fund as established by this Article.

(b) Criminal Penalties. Any person who intentionally or knowingly or willfully violates any provision of this Part, or any rule, regulation or order made pursuant to this Part shall be guilty of a misdemeanor punishable by imprisonment not to exceed six months or by fine to be not more than ten thousand dollars (\$10,000), or both, in the discretion of the court. No proceeding shall be brought or continued under this subsection for or on account of a violation by any person who has previously been convicted of a federal violation or a local ordinance violation based upon the same set of facts."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.