

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1177

Short Title: Penalties for Environmental Crimes.

(Public)

Sponsors: Representatives Cooper; and Miller.

Referred to: Judiciary.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CRIMINAL PENALTIES FOR VIOLATIONS OF
THE WATER QUALITY, AIR QUALITY, OIL AND HAZARDOUS
SUBSTANCES CONTROL, AND HAZARDOUS WASTE MANAGEMENT
PROGRAMS THAT ARE KNOWINGLY COMMITTED OR THAT INVOLVE
KNOWING ENDANGERMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.6(b) reads as rewritten:

"(b) Criminal Penalties. –

(1) Any person who ~~willfully or~~ negligently violates any classification, standard or limitation established pursuant to G.S. 143-214.1, 143-214.2, or 143-215; any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.1 or of a special order or other appropriate document issued pursuant to G.S. 143-215.2; or any rule of the Commission implementing any of the said sections, shall be guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars (\$15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars (\$200,000) for each period of 30 days during which a violation continues, or by imprisonment not to exceed six months, or by both.

(1a) Any person who knowingly violates any classification, standard, or limitation established pursuant to G.S. 143-214.1, 143-214.2, or 143-215; any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.1 or of a special order or other appropriate document

1 issued pursuant to G.S. 143-215.2; or any rule of the Commission
2 implementing any of these sections, shall be guilty of a Class J felony,
3 punishable by a fine not to exceed one hundred thousand dollars
4 (\$100,000) per day of violation, provided that this fine shall not exceed
5 a cumulative total of five hundred thousand dollars (\$500,000) for
6 each period of 30 days during which a violation continues, or by
7 imprisonment not to exceed three years, or by both.

8 (1b) Any person who knowingly violates any classification, standard, or
9 limitation established pursuant to G.S. 143-214.1, 143-214.2, or 143-
10 215; any term, condition, or requirement of a permit issued pursuant to
11 G.S. 143-215.1 or of a special order or other appropriate document
12 issued pursuant to G.S. 143-215.2; or any rule of the Commission
13 implementing any of these sections, and who knows at that time that
14 he thereby places another person in imminent danger of death or
15 serious bodily injury shall be guilty of a Class H felony, punishable by
16 a fine not to exceed two hundred fifty thousand dollars (\$250,000) per
17 day of violation, provided that this fine shall not exceed a cumulative
18 total of one million dollars (\$1,000,000) for each period of 30 days
19 during which a violation continues, or by imprisonment not to exceed
20 10 years, or by both.

21 (2) Any person who knowingly makes any false statement, representation,
22 or certification in any application, record, report, plan, or other
23 document filed or required to be maintained under this Article or a rule
24 implementing this Article, or who falsifies, tampers with, or
25 knowingly renders inaccurate any recording or monitoring device or
26 method required to be operated or maintained under this Article or
27 regulations of the Commission implementing this Article, shall be
28 guilty of a misdemeanor punishable by a fine not to exceed ten
29 thousand dollars (\$10,000), or by imprisonment not to exceed six
30 months, or by both.

31 (3) Any person convicted of an offense under ~~either subdivision (1) or~~
32 ~~subdivision (2)~~ subdivision (1), (1a), (1b), or (2) of this subsection
33 following a previous conviction under such subdivision shall be
34 subject to a fine, or imprisonment, or both, not exceeding twice the
35 amount of the fine, or twice the term of imprisonment provided in the
36 subdivision under which the second or subsequent conviction occurs.

37 (4) For purposes of this subsection, the term 'person' shall mean, in
38 addition to the definition contained in G.S. 143-213, any responsible
39 corporate or public officer or employee; provided, however, that where
40 a vote of the people is required to effectuate the intent and purpose of
41 this Article by a county, city, town, or other political subdivision of the
42 State, and the vote on the referendum is against the means or
43 machinery for carrying said intent and purpose into effect, then, and
44 only then, this subsection shall not apply to elected officials or to any

1 responsible appointed officials or employees of such county, city,
2 town, or political subdivision."

3 Sec. 2. G.S. 143-215.114(b) reads as rewritten:

4 "(b) Criminal Penalties. –

5 (1) Any person who ~~willfully or~~ negligently violates any classification,
6 standard or limitation established pursuant to G.S. 143-215.107; any
7 term, condition, or requirement of a permit issued pursuant to G.S.
8 143-215.108 or of a special order or other appropriate document issued
9 pursuant to G.S. 143-215.110 or any rule of the Commission
10 implementing any of the said section, shall be guilty of a misdemeanor
11 punishable by a fine not to exceed fifteen thousand dollars (\$15,000)
12 per day of violation, provided that such fine shall not exceed a
13 cumulative total of two hundred thousand dollars (\$200,000) for each
14 period of 30 days during which a violation continues, or by
15 imprisonment not to exceed six months, or by both.

16 (1a) Any person who knowingly violates any classification, standard, or
17 limitation established pursuant to G.S. 143-215.107; any term,
18 condition, or requirement of a permit issued pursuant to G.S. 143-
19 215.107 or of a special order or other appropriate document issued
20 pursuant to G.S. 143-215.110; or any rule of the Commission
21 implementing any of these sections, shall be guilty of a Class J felony,
22 punishable by a fine not to exceed one hundred thousand dollars
23 (\$100,000) per day of violation, provided that this fine shall not exceed
24 a cumulative total of five hundred thousand dollars (\$500,000) for
25 each period of 30 days during which a violation continues, or by
26 imprisonment not to exceed three years, or by both.

27 (1b) Any person who knowingly violates any classification, standard, or
28 limitation established pursuant to G.S. 143-215.107; any term,
29 condition, or requirement of a permit issued pursuant to G.S. 143-
30 215.107 or of a special order or other appropriate document issued
31 pursuant to G.S. 143-215.110; or any rule of the Commission
32 implementing any of these sections, and who knows at that time that
33 he thereby places another person in imminent danger of death or
34 serious bodily injury shall be guilty of a Class H felony, punishable by
35 a fine not to exceed two hundred fifty thousand dollars (\$250,000) per
36 day of violation, provided that this fine shall not exceed a cumulative
37 total of one million dollars (\$1,000,000) for each period of 30 days
38 during which a violation continues, or by imprisonment not to exceed
39 10 years or by both.

40 (2) Any person who knowingly makes any false statement, representation,
41 or certification in any application, record, report, plan, or other
42 document filed or required to be maintained under this Article and
43 Article 21, or a rule implementing this Article and Article 21, or who
44 falsifies, tampers with, or knowingly renders inaccurate any recording

1 or monitoring device or method required to be operated or maintained
2 under this Article and Article 21 or regulations of the Commission
3 implementing this Article and Article 21, shall be guilty of a
4 misdemeanor punishable by a fine not to exceed ten thousand dollars
5 (\$10,000), or by imprisonment not to exceed six months, or by both.

6 (3) Any person convicted of an offense under ~~either subdivision (1) or~~
7 ~~subdivision (2)~~ subdivision (1), (1a), (1b), or (2) of this subsection
8 following a previous conviction under such subdivision shall be
9 subject to a fine, or imprisonment, or both, not exceeding twice the
10 amount of the fine or twice the term of imprisonment provided in the
11 subdivision under which the second or subsequent conviction occurs.

12 (4) For purposes of this subsection, the term 'person' shall mean, in
13 addition to the definition contained in G.S. 143-213, any responsible
14 corporate or public officer or employee; provided, however, that where
15 a vote of the people is required to effectuate the intent and purpose of
16 this Article by a county, city, town, or other political subdivision of the
17 State, and the vote on the referendum is against the means or
18 machinery for carrying said intent and purpose into effect, then, and
19 only then, this subsection shall not apply to elected officials or to any
20 responsible appointed officials or employees of such county, city,
21 town, or political subdivision."

22 Sec. 3. G.S. 143-215.91(b) reads as rewritten:

23 "(b) Criminal Penalties. –

24 (1) Any person who ~~intentionally or knowingly or willfully~~ discharges or
25 causes or permits the discharge of oil or other hazardous substances in
26 violation of this Part shall be guilty of a ~~misdemeanor~~ Class J felony
27 punishable by imprisonment not to exceed ~~six months~~ three years or by
28 fine to be not more than ~~ten thousand dollars (\$10,000)~~, one hundred
29 thousand dollars (\$100,000) per day of violation, provided that this
30 fine shall not exceed a cumulative total of five hundred thousand
31 dollars (\$500,000) for each period of 30 days during which a violation
32 continues, or by both, in the discretion of the court. No proceeding
33 shall be brought or continued under this subsection for or on account
34 of a violation by any person who has previously been convicted of a
35 federal violation or a local ordinance violation based upon the same set
36 of facts.

37 (2) Any person who knowingly discharges or causes or permits the
38 discharge of oil or other hazardous substances in violation of this Part,
39 and who knows at that time that he places another person in imminent
40 danger of death or serious bodily injury shall be guilty of a Class H
41 felony punishable by imprisonment not to exceed 10 years or by fine
42 not to exceed two hundred fifty thousand dollars (\$250,000) per day of
43 violation, provided that this fine shall not exceed a cumulative total of
44 one million dollars (\$1,000,000) for each period of 30 days during

1 which a violation continues, or by both, in the discretion of the court.
2 No proceeding shall be brought or continued under this subsection for
3 or on account of a violation by any person who has previously been
4 convicted of a federal violation or a local ordinance violation based
5 upon the same set of facts."

6 Sec. 4. Part 2 of Article 1 of Chapter 130A of the General Statutes is
7 amended by adding a new section to read:

8 **"§ 130A-29. Criminal violation of Article 9.**

9 (a) Any person who knowingly:

- 10 (1) Transports or causes to be transported any hazardous waste identified
11 or listed under G.S. 130A-294(c) to a facility which does not have a
12 permit or interim status under G.S. 130A-294(c) or 42 USC §6921, et
13 seq.; or
14 (2) Transports or causes to be transported such hazardous waste with the
15 intent of delivery to a facility without a permit; or
16 (3) Treats, stores, or disposes of such hazardous waste without a permit or
17 interim status under G.S. 130A-294(c) or 42 USC §6921, et seq., or in
18 knowing violation of any material condition or requirement or such
19 permit or applicable interim status rules;

20 shall be guilty of a Class I felony, punishable by a fine not to exceed one hundred
21 thousand dollars (\$100,000) per day of violation, provided that this fine shall not exceed
22 a cumulative total of five hundred thousand dollars (\$500,000) for each period of 30
23 days during which a violation continues, or by imprisonment not to exceed five years, or
24 by both.

25 (b) Any person who knowingly:

- 26 (1) Transports or causes to be transported hazardous waste without a
27 manifest as required under G.S. 130A-294(c); or
28 (2) Transports hazardous waste without an Environmental Protection
29 Agency (EPA) identification number as required by rules promulgated
30 under G.S. 130A-294(c); or
31 (3) Omits material information or makes any false material statement or
32 representation in any application, label, manifest, record, report,
33 permit, or other document filed, maintained, or used for purposes of
34 compliance with rules promulgated under G.S. 130A-294(c); or
35 (4) Generates, stores, treats, transports, disposes of, exports, or otherwise
36 handles any hazardous waste or any used oil burned for energy
37 recovery and who knowingly destroys, alters, conceals, or fails to file
38 any record, application, manifest, report, or other document required to
39 be maintained or filed for purposes of compliance with rules
40 promulgated under G.S. 130A-294(c);

41 shall be guilty of a Class J felony, punishable by a fine not to exceed one hundred
42 thousand dollars (\$100,000) per day of violation, provided that the fine shall not exceed
43 a cumulative total of five hundred thousand dollars (\$500,000) for each period of 30

1 days during which a violation continues, or by imprisonment not to exceed three years,
2 or by both.

3 (c) Any person who knowingly transports, treats, stores, disposes of, or exports
4 any hazardous waste or used oil regulated under G.S. 130A-294(c) in violation of
5 subsection (a) or (b) of this section, who knows at the time that he thereby places
6 another person in imminent danger of death or personal bodily injury shall be guilty of a
7 Class H felony punishable by imprisonment not to exceed 10 years or by fine not to
8 exceed two hundred fifty thousand dollars (\$250,000) per day of violation, provided that
9 this fine shall not exceed a cumulative total of one million dollars (\$1,000,000) for each
10 period of 30 days during which a violation continues, or by both, in the discretion of the
11 court.

12 (d) Any person convicted of an offense under subsection (a), (b), or (c) of this
13 section following a previous conviction under such subsection shall be subject to a fine,
14 or imprisonment, or both, not exceeding twice the amount of the time, or twice the term
15 of imprisonment provided in the subsection under which the second or subsequent
16 conviction occurs.

17 (e) The definition 'person' in G.S. 130A-290 shall apply to this section. For
18 purposes of this section, the term shall also include any responsible corporate or public
19 officer or employee. No proceeding shall be brought or continued under this section for
20 or on account of a violation by any person who has previously been convicted of a
21 federal violation based upon the same set of facts."

22 Sec. 5. This act is effective upon ratification and applies to offenses
23 committed on or after that date.