

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1177  
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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

1 G.S. 143-215.1 or of a special order or other appropriate document  
2 issued pursuant to G.S. 143-215.2; or any rule of the Commission  
3 implementing any of these sections, shall be guilty of a Class J felony,  
4 punishable by a fine not to exceed one hundred thousand dollars  
5 (\$100,000) per day of violation, provided that this fine shall not exceed  
6 a cumulative total of five hundred thousand dollars (\$500,000) for  
7 each period of 30 days during which a violation continues, or by  
8 imprisonment not to exceed three years, or by both.

9 (1b) Any person who knowingly violates any classification, standard, or  
10 limitation established pursuant to G.S. 143-214.1, 143-214.2, or 143-  
11 215; any term, condition, or requirement of a permit issued pursuant to  
12 G.S. 143-215.1 or of a special order or other appropriate document  
13 issued pursuant to G.S. 143-215.2; or any rule of the Commission  
14 implementing any of these sections, and who knows at that time that  
15 he thereby places another person in imminent danger of death or  
16 serious bodily injury shall be guilty of a Class H felony, punishable by  
17 a fine not to exceed two hundred fifty thousand dollars (\$250,000) per  
18 day of violation, provided that this fine shall not exceed a cumulative  
19 total of one million dollars (\$1,000,000) for each period of 30 days  
20 during which a violation continues, or by imprisonment not to exceed  
21 10 years, or by both.

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

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

38 (4) For purposes of this subsection, the term 'person' shall mean, in  
39 addition to the definition contained in G.S. 143-213, any responsible  
40 corporate or public officer or employee; provided, however, that where  
41 a vote of the people is required to effectuate the intent and purpose of  
42 this Article by a county, city, town, or other political subdivision of the  
43 State, and the vote on the referendum is against the means or  
44 machinery for carrying said intent and purpose into effect, then, and

1 only then, this subsection shall not apply to elected officials or to any  
2 responsible appointed officials or employees of such county, city,  
3 town, or political subdivision. No proceeding shall be brought or  
4 continued under this subsection for or on account of a violation by any  
5 person who has previously been convicted of a federal violation or a  
6 local ordinance violation based upon the same set of facts."

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

8 "(b) Criminal Penalties. –

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

20 (1a) Any person who knowingly violates any classification, standard, or  
21 limitation established pursuant to G.S. 143-215.107; any term,  
22 condition, or requirement of a permit issued pursuant to G.S. 143-  
23 215.108 or of a special order or other appropriate document issued  
24 pursuant to G.S. 143-215.110; or any rule of the Commission  
25 implementing any of these sections, shall be guilty of a Class J felony,  
26 punishable by a fine not to exceed one hundred thousand dollars  
27 (\$100,000) per day of violation, provided that this fine shall not exceed  
28 a cumulative total of five hundred thousand dollars (\$500,000) for  
29 each period of 30 days during which a violation continues, or by  
30 imprisonment not to exceed three years, or by both.

31 (1b) Any person who knowingly violates any classification, standard, or  
32 limitation established pursuant to G.S. 143-215.107; any term,  
33 condition, or requirement of a permit issued pursuant to G.S. 143-  
34 215.108 or of a special order or other appropriate document issued  
35 pursuant to G.S. 143-215.110; or any rule of the Commission  
36 implementing any of these sections, and who knows at that time that  
37 he thereby places another person in imminent danger of death or  
38 serious bodily injury shall be guilty of a Class H felony, punishable by  
39 a fine not to exceed two hundred fifty thousand dollars (\$250,000) per  
40 day of violation, provided that this fine shall not exceed a cumulative  
41 total of one million dollars (\$1,000,000) for each period of 30 days  
42 during which a violation continues, or by imprisonment not to exceed  
43 10 years or by both.

- 1 (2) Any person who knowingly makes any false statement, representation,  
2 or certification in any application, record, report, plan, or other  
3 document filed or required to be maintained under this Article and  
4 Article 21, or a rule implementing this Article and Article 21, or who  
5 falsifies, tampers with, or knowingly renders inaccurate any recording  
6 or monitoring device or method required to be operated or maintained  
7 under this Article and Article 21 or regulations of the Commission  
8 implementing this Article and Article 21, shall be guilty of a  
9 misdemeanor punishable by a fine not to exceed ten thousand dollars  
10 (\$10,000), or by imprisonment not to exceed six months, or by both.
- 11 (3) Any person convicted of an offense under ~~either subdivision (1) or~~  
12 ~~subdivision (2)~~ subdivision (1), (1a), (1b), or (2) of this subsection  
13 following a previous conviction under such subdivision shall be  
14 subject to a fine, or imprisonment, or both, not exceeding twice the  
15 amount of the fine or twice the term of imprisonment provided in the  
16 subdivision under which the second or subsequent conviction occurs.
- 17 (4) For purposes of this subsection, the term 'person' shall mean, in  
18 addition to the definition contained in G.S. 143-213, any responsible  
19 corporate or public officer or employee; provided, however, that where  
20 a vote of the people is required to effectuate the intent and purpose of  
21 this Article by a county, city, town, or other political subdivision of the  
22 State, and the vote on the referendum is against the means or  
23 machinery for carrying said intent and purpose into effect, then, and  
24 only then, this subsection shall not apply to elected officials or to any  
25 responsible appointed officials or employees of such county, city,  
26 town, or political subdivision. No proceeding shall be brought or  
27 continued under this subsection for or on account of a violation by any  
28 person who has previously been convicted of a federal violation or a  
29 local ordinance violation based upon the same set of facts."

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

31 "(b) Criminal Penalties. –

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

1           (2) Any person who knowingly discharges or causes or permits the  
2 discharge of oil or other hazardous substances in violation of this Part,  
3 and who knows at that time that he places another person in imminent  
4 danger of death or serious bodily injury shall be guilty of a Class H  
5 felony punishable by imprisonment not to exceed 10 years or by fine  
6 not to exceed two hundred fifty thousand dollars (\$250,000) per day of  
7 violation, provided that this fine shall not exceed a cumulative total of  
8 one million dollars (\$1,000,000) for each period of 30 days during  
9 which a violation continues, or by both, in the discretion of the court.  
10 No proceeding shall be brought or continued under this subsection for  
11 or on account of a violation by any person who has previously been  
12 convicted of a federal violation or a local ordinance violation based  
13 upon the same set of facts."

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

16 **"§ 130A-29. Criminal violation of Article 9.**

17           (a) Any person who knowingly:

- 18           (1) Transports or causes to be transported any hazardous waste identified  
19 or listed under G.S. 130A-294(c) to a facility which does not have a  
20 permit or interim status under G.S. 130A-294(c) or 42 USC §6921, et  
21 seq.; or  
22           (2) Transports or causes to be transported such hazardous waste with the  
23 intent of delivery to a facility without a permit; or  
24           (3) Treats, stores, or disposes of such hazardous waste without a permit or  
25 interim status under G.S. 130A-294(c) or 42 USC §6921, et seq., or in  
26 knowing violation of any material condition or requirement or such  
27 permit or applicable interim status rules;

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

33           (b) Any person who knowingly:

- 34           (1) Transports or causes to be transported hazardous waste without a  
35 manifest as required under G.S. 130A-294(c); or  
36           (2) Transports hazardous waste without an Environmental Protection  
37 Agency (EPA) identification number as required by rules promulgated  
38 under G.S. 130A-294(c); or  
39           (3) Omits material information or makes any false material statement or  
40 representation in any application, label, manifest, record, report,  
41 permit, or other document filed, maintained, or used for purposes of  
42 compliance with rules promulgated under G.S. 130A-294(c); or  
43           (4) Generates, stores, treats, transports, disposes of, exports, or otherwise  
44 handles any hazardous waste or any used oil burned for energy

1                   recovery and who knowingly destroys, alters, conceals, or fails to file  
2                   any record, application, manifest, report, or other document required to  
3                   be maintained or filed for purposes of compliance with rules  
4                   promulgated under G.S. 130A-294(c);

5 shall be guilty of a Class J felony, punishable by a fine not to exceed one hundred  
6 thousand dollars (\$100,000) per day of violation, provided that the fine shall not exceed  
7 a cumulative total of five hundred thousand dollars (\$500,000) for each period of 30  
8 days during which a violation continues, or by imprisonment not to exceed three years,  
9 or by both.

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

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

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

29               Sec. 5. This act shall become effective October 1, 1989, and shall apply to  
30 offenses committed on or after that date.