

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 372
SENATE BILL 372

AN ACT TO REQUIRE CERTIFICATION OF PERSONS WHO INSTALL OR
OPERATE SANITARY SEWAGE SYSTEMS UNDER THE JURISDICTION OF
THE DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90A-35 reads as rewritten:

"§ 90A-35. Purpose.

It is the purpose of this Article to protect the public health and to conserve and protect the quality of the water resources of the State and maintain the quality of receiving streams as assigned by the North Carolina Environmental Management Commission; to protect the public investment in wastewater treatment ~~facilities;~~ facilities and sanitary sewage systems; to provide for the classifying of wastewater treatment ~~plants;~~ plants and sanitary sewage systems; to require the examination of wastewater treatment plant operators and persons who install or operate sanitary sewage systems and the certification of their competency to supervise the operation of such ~~facilities;~~ facilities and systems; and to establish procedures for such classification and certification."

Sec. 2. G.S. 90A-37 reads as rewritten:

"§ 90A-37. Classification of wastewater treatment ~~facilities.~~ facilities and sanitary sewage systems.

The Wastewater Treatment Plant Operators Certification Commission, with the advice and assistance of the Secretary of Natural Resources and Community ~~Development,~~ Development and the Secretary of the Department of Human Resources, shall classify all wastewater treatment facilities under the jurisdiction of the North Carolina Environmental Management Commission, as provided in G.S. 143-215.1, sanitary sewage systems under the jurisdiction of the Division of Health Services of the Department of Human Resources, and those operated by institutions and agencies of the State of North Carolina. In making the classification, the Wastewater Treatment Plant Operators Certification Commission shall give due regard, among other factors, to the size of the ~~facility,~~ facility or system, the nature of the wastes to be treated or removed from the wastewater, the treatment process to be employed, and the degrees of skill, knowledge and experience that the operator of the wastewater treatment facility or person who installs or operates sanitary sewage systems must have to install or supervise the operation of the facility or system so as to adequately protect the public health and maintain the water quality standards in the receiving waters as assigned by the North Carolina Environmental Management Commission."

Sec. 3. G.S. 90A-38 reads as rewritten:

"§ 90A-38. Grades of certificates.

(a) The Wastewater Treatment Plant Operators Certification Commission, with the advice and assistance of the Secretary of Natural Resources and Community ~~Development, Development~~ and the Secretary of the Department of Human Resources, shall establish grades of certification for wastewater treatment plant operators and persons who install or operate sanitary sewage systems corresponding to the classification of wastewater treatment ~~facilities. facilities and sanitary sewage systems.~~ The grades of certification shall be ranked so that a person holding a certification in the highest grade is thereby affirmed competent to operate wastewater treatment facilities or sanitary sewage systems in the highest classification and any treatment facility or system in a lower classification; a person holding a certification in the next highest grade is affirmed as competent to operate wastewater treatment facilities or systems in the next-to-the-highest classification and any lower classification; and in a like manner through the range of grades of certification and classification of wastewater treatment ~~facilities. facilities and sanitary sewage systems.~~

(b) No certificate shall be required under this Article to install or operate a conventional septic tank system. For purposes of this section, 'conventional septic tank system' means a subsurface sanitary sewage system consisting of a settling tank and a subsurface disposal field without a pump or other appurtenances."

Sec. 4. G.S. 90A-39 reads as rewritten:

"§ 90A-39. ~~Operator qualifications~~ Qualifications and examination.

The Wastewater Treatment Plant Operators Certification Commission, with the advice and assistance of the Secretary of Natural Resources and Community ~~Development, Development~~ and Secretary of the Department of Human Resources, shall establish minimum requirements of education, experience and knowledge for each grade of certification for wastewater treatment plant operators, and persons who install or operate sanitary sewage systems and shall establish procedures for receiving applications for certification, conducting examinations, and making investigations of applicants as may be necessary and appropriate to the end that prompt and fair consideration be given every application and the wastewater treatment facilities and sanitary sewage systems within the State may be adequately supervised by certified operators."

Sec. 5. G.S. 90A-40 reads as rewritten:

"§ 90A-40. Issuance of certificates.

(a) An applicant, upon meeting satisfactorily the appropriate requirements, shall be issued a suitable certificate by the Wastewater Treatment Plant Operators Certification Commission designating the level of his competency. Certificates shall be permanent unless revoked for cause or replaced by one of a higher grade.

(b) A certificate may be issued in an appropriate grade without examination to any person who is properly registered on the "National Association of Boards of Certification" reciprocal registry who meets all other requirements of rules adopted under this Article.

(c) Repealed by Session Laws 1987, c. 582, s. 2.

(d) Certificates in an appropriate grade will be issued without examination to any person or persons certified by the governing board in the case of a city, town, county, sanitary district, or other political subdivision, or by the owner in the case of a private utility or industry, to have been in responsible charge of its wastewater treatment facilities on the date the Wastewater Treatment Plant Operators Certification Commission notifies the governing board, or owner, of the classification of its treatment facility, and if the application for such certification is made within one year of the date of notification. A certificate so issued will be valid for use by the holder only in the treatment facility for which he had responsible charge at the time of his certification. Provided: that no certification shall be issued under this subsection after July 1, 1979. Operators of these facilities receiving initial notification of classification after July 1, 1979, shall be eligible for a temporary certificate to be valid as provided in subsection (e).

(e) Temporary certificates, in any grade and without examination, may be issued to any person employed as a wastewater treatment plant operator or sanitary sewage system operator when the Wastewater Treatment Plant Operators Certification Commission finds that the supply of certified operators, or persons with training and experience necessary to certification, is inadequate or when certificates without examination would formerly have been granted under subsection (d) of this section. Temporary certificates shall be valid for only one year, but may be renewed. Temporary certificates may be issued with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the Wastewater Treatment Plant Operators Certification Commission may deem necessary to protect the public health and maintain the water quality standards in the receiving waters as assigned by the North Carolina Environmental Management Commission.

(f) Certificates in an appropriate grade will be issued without examination to any person or persons certified by the governing board in the case of a city, town, county, sanitary district, or other political subdivision, or by the owner in the case of a private utility or industry, to have been in responsible charge of its sanitary sewage system on the date the Wastewater Treatment Plant Operators Certification Commission notifies the governing board, or owner, of the classification of its sanitary sewage system, and if the application for such certification is made within one year of the date of notification. A certificate so issued will be valid for use by the holder only in the treatment facility for which he had responsible charge at the time of his certification.

(g) Certificates in the appropriate grade will be issued, without examination, to sanitary sewage system operators who, on January 1, 1990, hold certificates of competency issued under the voluntary certification program now being administered through the North Carolina Water Pollution Control Association."

Sec. 6. G.S. 90A-41 reads as rewritten:

"§ 90A-41. Revocation of certificate.

The Wastewater Treatment Plant Operators Certification Commission, in accordance with the procedure set forth in Chapter ~~450A-150B~~ of the General Statutes of North Carolina, may suspend or revoke the certificate of an operator or may issue a written

reprimand to an operator of a wastewater treatment facility or person who installs or operates a sanitary sewage system, when it is found-finds that the operator has practiced fraud or deception; that reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable to properly perform his duties."

Sec. 7. G.S. 90A-42(10) reads as rewritten:

"(10) Mailing List Charges–The Wastewater Treatment Plant Operators Certification Commission may provide mailing lists of certified wastewater treatment plant and sanitary sewage system operators and of wastewater treatment plants and sanitary sewage systems to persons who request such lists. The charge for such lists shall be five dollars (\$5.00) per 100 names of certified operators or treatment ~~plants, plants and systems,~~ with a minimum charge of fifty dollars (\$50.00)."

Sec. 8. G.S. 90A-43 reads as rewritten:

"§ 90A-43. Promotion of training and other powers.

The Wastewater Treatment Plant Operators Certification Commission and the Secretary of Natural Resources and Community Development and the Secretary of the Department of Human Resources are authorized to take all necessary and appropriate steps in order to effectively and fairly achieve the purposes of this Article, including, but not limited to, the providing of training for operators of wastewater treatment facilities or persons who install or operate sanitary sewage systems, and cooperating with educational institutions and private and public ~~associations,~~ associations, persons, or corporations in the promotion of training for wastewater treatment and sanitary sewage personnel."

Sec. 9. G.S. 90A-45 reads as rewritten:

"§ 90A-45. Commercial wastewater treatment and sanitary sewage operation firms.

(a) Every person, firm, or corporation, municipal or private, owning or having control of a wastewater treatment works or a sanitary sewage system may contract with a responsible commercial wastewater treatment works operation firm for operational and other services of that firm, and that firm shall designate an employee as the operator in responsible charge. Such designee and other licensed employees of the firm shall be responsible for the total operation and maintenance of the wastewater treatment ~~works-~~ works or sanitary sewage system. Contractual firms shall not be limited as to the number of facilities, distance between facilities, location of office or residence, frequency of visits, utilization of local persons who are not certified, or other internal management procedures.

(b) Any employee designated by the firm as operator in responsible charge must obtain certification from the Wastewater Treatment Plant Operators Certification Commission and must comply with all of the requirements specified in Chapter 90A and the rules and reasonable standards of the Commission, applicable to all operators in responsible charge, designed to assure satisfactory operation of wastewater and sanitary sewage facilities."

Sec. 10. G.S. 143B-301 reads as rewritten:

"§ 143B-301. Wastewater Treatment Plant Operators Certification Commission – members; selection; removal; compensation; quorum; services.

(a) The Wastewater Treatment Plant Operators Certification Commission of the Department of Natural Resources and Community Development shall consist of ~~seven~~ nine members appointed by the Secretary of Natural Resources and Community Development with the approval of the Environmental Management Commission with the following qualifications:

- (1) Two members shall be currently employed as wastewater treatment plant operators, wastewater plant superintendents, water and sewer superintendents, or equivalent positions with a North Carolina municipality;
- (2) One member shall be manager of a North Carolina municipality having a population of more than 10,000 as of the most recent federal census;
- (3) One member shall be manager of a North Carolina municipality having a population of less than 10,000 as of the most recent federal census;
- (4) One member shall be employed by a private industry and shall be responsible for supervising the treatment or pretreatment of industrial wastewater;
- (5) One member who is a faculty member of a four-year college or university and whose major field is related to wastewater treatment; ~~and~~
- (6) One member who is employed by the Department of Natural Resources and Community Development and works in the field of water pollution control, who shall serve as chairman of the Certification ~~Commission~~. Commission; and
- (7) Two members shall be currently employed as sanitary sewage system operators, wastewater collection system superintendents, water and sewer department directors, or equivalent positions with a North Carolina municipality.

(b) The initial members of the Commission shall be the members of the Wastewater Treatment Plant Operators Board of Certification who shall serve for a period equal to the remainder of their current terms on the Wastewater Treatment Plant Operators Board of Certification. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for staggered terms of three years and until their successors are appointed and qualify.

(c) The chairman of the Wastewater Treatment Plant Operators Certification Commission shall serve at the pleasure of the Secretary of Natural Resources and Community Development.

(d) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(e) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(f) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

(g) A majority of the Commission shall constitute a quorum for the transaction of business.

(h) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department."

Sec. 11. The requirements of Article 3 of Chapter 90A of the General Statutes as they relate to persons who install and operate sanitary sewage systems shall apply only to those persons who are regulated under Article 11 of Chapter 130A of the General Statutes until June 30, 1992. Effective July 1, 1992, Article 3 of Chapter 90A of the General Statutes shall apply to all persons who install and operate sanitary sewage systems.

Sec. 12. This act shall become effective July 1, 1990, except that authorization of the Wastewater Treatment Plant Operators Certification Commission to adopt rules necessary to implement this act is effective upon ratification. Rules adopted by the Wastewater Treatment Plant Operators Certification Commission shall become effective July 1, 1990.

In the General Assembly read three times and ratified this the 21st day of June, 1989.