

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1205
HOUSE BILL 1200

AN ACT TO AMEND ARTICLE 13B OF CHAPTER 130 OF THE GENERAL STATUTES
TO PROVIDE FOR PENALTIES AND REMEDIES.

The General Assembly of North Carolina enacts:

Section 1. Article 13B of Chapter 130 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 130-166.21E. Penalties; remedies. — (a) The department may impose an administrative penalty on any person

- (1) who fails to comply with this Article, any order issued hereunder, or the solid waste management rules, or
- (2) who refuses to allow an authorized representative of the Commission for Health Services, any local board of health, or the Department of Human Resources a right of entry as provided for in G.S. 130-204.

(b) Each day of a continued violation shall constitute a separate violation. Such penalty shall not exceed five hundred dollars (\$500.00) per day in the case of a violation involving nonhazardous waste. Such penalty shall not exceed one thousand dollars (\$1,000) per day in the case of a violation involving hazardous waste. In determining the amount of the penalty, the department shall consider the degrees and extent of the harm caused by the violation and the cost of rectifying the damage. Any person assessed a penalty shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment.

(c) Any person wishing to contest a penalty or other order issued under this Article shall be entitled to an administrative hearing and judicial review conducted according to the procedures outlined in G.S. 150A-23 through G.S. 150A-52.

(d) The secretary may bring a civil action in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the administrative penalty whenever a person

- (1) who has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or
- (2) who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150A-36.

(e) The department may promulgate rules concerning the imposition of civil penalties under this section.

(f) In addition to any other remedies provided for in this section, the secretary may institute a civil action in the Superior Court of the county in which the defendant in said civil action resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Article or any order or regulation issued pursuant to this Article."

Sec. 2. G.S. 130-203 and G.S. 130-305 shall be inapplicable to this Article.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June,

1978.