

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 650
Committee Substitute Favorable 4/22/93
Committee Substitute Favorable 5/6/93

Short Title: Asbestos Program Penalties.

(Public)

Sponsors:

Referred to:

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE IMPOSITION OF ADMINISTRATIVE PENALTIES
FOR VIOLATIONS OF ASBESTOS HAZARD MANAGEMENT PROVISIONS,
AND TO TRANSFER ASBESTOS RULE-MAKING AUTHORITY TO THE
COMMISSION FOR HEALTH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-22 is amended by adding a new subsection to read:

"(b1) The Secretary may impose an administrative penalty on a person who violates Article 19 of this Chapter or a rule adopted pursuant to that Article. Each day of a continuing violation is a separate violation. The penalty shall not exceed ten thousand dollars (\$10,000) for each day the violation continues. The Secretary may not assess a penalty for more than one day of a continuing violation unless the Secretary has given the person who is in violation a written notice of the violation that describes the violation and recommends a course of action to correct the violation. A violation is not considered to continue during the period a person who has received a notice of violation is attempting to correct the violation by following the course of action recommended in the notice.

In determining the amount of a penalty, the Secretary shall consider the following factors:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation.
- (2) The duration and gravity of the violation.

- 1 (3) The effect on air quality.
- 2 (4) The cost of rectifying the damage.
- 3 (5) The amount of money the violator saved by noncompliance.
- 4 (6) The prior record of the violator in complying or failing to comply with
5 Article 19 of this Chapter or a rule adopted pursuant to that Article.
- 6 (7) The cost to the State of the enforcement procedures.
- 7 (8) The size of the renovation and demolition involved in the violation.

8 Civil penalties imposed by the Secretary under this subsection shall be credited to
9 the General Fund as nontax revenue."

10 Sec. 2. G.S. 130A-451 reads as rewritten:

11 **"§ 130A-451. Commission to adopt rules.**

12 For the protection of the public health, the Commission shall adopt rules to
13 implement this Article and AHERA. Article, AHERA, and the regulations contained in
14 40 C.F.R. Part 61, Subpart M - Asbestos, that address renovations and demolitions."

15 Sec. 3. G.S. 143-215.107(a)(5) reads as rewritten:

- 16 "(5) To develop and adopt such emission control standards as in the
17 judgment of the Commission may be necessary to prohibit, abate or
18 control air pollution commensurate with established air quality
19 standards. ~~Such~~The standards may be applied uniformly to the State as
20 a whole or to any area of the State designated by the Commission.
21 This subdivision does not apply to asbestos renovations and
22 demolitions that are subject to regulation by the Commission for
23 Health Services under Article 19 of Chapter 130A of the General
24 Statutes."

25 Sec. 4. This act becomes effective October 1, 1993, and applies to violations
26 occurring on or after that date.