

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 849

Short Title: Environmental Enforcement Accountability Act. (Public)

Sponsors: Representatives Weiss; Insko, Jeffus, and Luebke.

Referred to: Environment and Natural Resources.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES TO ESTABLISH AND MAINTAIN A LIST OF CHRONIC
VIOLATORS AND A DATABASE OF ENFORCEMENT ACTIONS AND TO
FURTHER DISCOURAGE VIOLATIONS RELATING TO THE
ENVIRONMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.12. List of chronic violators; enforcement database.

(a) The Department of Environment and Natural Resources shall establish and maintain a chronic violators list that identifies each permittee or licensee required to obtain a permit or license issued by the Department of Environment and Natural Resources that, during the preceding five years, the Department of Environment and Natural Resources or a court determined was the subject of two or more enforcement actions or was convicted of a crime regarding a violation. The Department of Environment and Natural Resources shall make this list available to the public by publishing it on the web site of the Department of Environment and Natural Resources. The Department of Environment and Natural Resources shall remove a chronic violator from this list if the permittee or licensee has complied with all enforcement actions for the past violations or crimes that resulted in being included on this list and has not been the subject of an enforcement action or convicted of a crime regarding a violation for at least two years.

(b) Any permittee or licensee required to obtain a permit or license issued by the Department of Environment and Natural Resources shall notify the Department of Environment and Natural Resources within 30 days of being convicted of a crime regarding a violation.

(c) The Department of Environment and Natural Resources shall establish and maintain an enforcement database of violations and enforcement actions taken by the

1 Department of Environment and Natural Resources and shall make it available to the
2 public by publishing it on the web site of the Department of Environment and Natural
3 Resources. The enforcement database shall include all of the following:

- 4 (1) A list of each violation.
- 5 (2) The extent of each violation.
- 6 (3) Any enforcement action that is ongoing or that was taken in the
7 preceding two years.
- 8 (4) The number and date of any notices of violations sent by the
9 Department of Environment and Natural Resources prior to its taking
10 an enforcement action.
- 11 (5) The results of each enforcement action taken by the Department of
12 Environment and Natural Resources.

13 (d) The enforcement database established under subsection (c) of this section
14 shall contain and be searchable by all of the following:

- 15 (1) The name of the violator and its permit number.
- 16 (2) The name of the facility at which the violation occurred, if applicable.
- 17 (3) The location at which the violation occurred.
- 18 (4) The nature of the violation, including whether the violation involved a
19 discharge to air or water or onto land.

20 (e) The Department of Environment and Natural Resources shall adopt any rules
21 needed to implement this section.

22 (f) As used in this section:

- 23 (1) 'Enforcement action' means an action taken by the Department of
24 Environment and Natural Resources in response to a violation by a
25 permittee or a licensee required to obtain a permit or license issued by
26 the Department of Environment and Natural Resources. Enforcement
27 action includes a civil penalty, an injunction, a special order by
28 consent, a restraining order, and a stopwork order. Enforcement action
29 does not include a notice of violation.
- 30 (2) 'Violation' means any violation of a federal or State law, regulation, or
31 rule for the protection of the environment or any violation of a
32 condition of a permit or license issued by the Department of
33 Environment and Natural Resources."

34 **SECTION 2.** G.S. 143B-279.2 reads as rewritten:

35 **"§ 143B-279.2. Department of Environment and Natural Resources – duties.**

36 (a) It shall be the duty of the ~~Department~~ Department of Environment and
37 Natural Resources:

- 38 (1) To provide for the protection of the environment;
- 39 (1a) To administer the State Outer Continental Shelf (OCS) Task Force and
40 coordinate State participation activities in the federal outer continental
41 shelf resource recovery programs as provided under the OCS Lands
42 Act Amendments of 1978 (43 USC §§ 1801 et seq.) and the OCS
43 Lands Act Amendments of 1986 (43 USC §§ 1331 et seq.).

1 (1b) To provide for the protection of the environment and public health
2 through the regulation of solid waste and hazardous waste
3 management and the administration of environmental health programs.

4 (2) Repealed by Session Laws 1997-443, s. 11A.5.

5 (2a) To provide and keep a museum or collection of the natural history of
6 the State and to maintain the North Carolina Biological Survey; and

7 (3) To provide for the management of the State's natural resources.

8 (b) The Department of Environment and Natural Resources shall, when
9 considering the amount to assess as a civil penalty, consider the amount of money saved
10 by noncompliance, in addition to all the other relevant factors that it may consider."

11 **SECTION 3.** Article 3 of Chapter 143 of the General Statutes is amended by
12 adding a new section to read:

13 **§ 143-59.3. Contracts with chronic environmental violators prohibited.**

14 (a) Ineligible Vendors. – The Secretary of Administration and other entities to
15 which this Article applies shall not contract for goods or services with any vendor that
16 appears in the list, under G.S. 143B-279.12, of chronic violators of federal or State laws,
17 regulations, or rules for the protection of the environment or conditions of permits or
18 licenses issued by the Department of Environment and Natural Resources. The
19 Department of Administration shall adopt rules needed to implement this section.

20 (b) Vendor Certification. – The Secretary of Administration shall require each
21 vendor submitting a bid or contract to certify that the vendor is not an ineligible vendor
22 as set forth in subsection (a) of this section. Any person who submits a certification
23 required by this subsection that is false shall be subject to a civil penalty not to exceed
24 ten thousand dollars (\$10,000) for each occurrence."

25 **SECTION 4.** The Department of Environment and Natural Resources shall
26 prepare a report describing its ability, within its existing resources, to comply with the
27 requirements of G.S. 143B-279.12(a), as enacted by Section 1 of this act, and a detailed
28 estimate of the costs and additional resources needed to create and maintain the
29 database under G.S. 143B-279.12(c), as enacted in Section 1 of this act. The
30 Department of Environment and Natural Resources shall submit the report to the
31 Environmental Review Commission on or before January 1, 2004.

32 **SECTION 5.** Nothing contained in this act shall be construed as limiting any
33 existing remedy for noncompliance available to the Department of Environment and
34 Natural Resources under existing law.

35 **SECTION 6.** This act becomes effective September 1, 2003.