

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 171

Short Title: Certain Env'al Violations/Entry/1st Penalty. (Public)

Sponsors: Representatives Holliman; E. Floyd, Goforth, and Lucas.

Referred to: Environment and Natural Resources, if favorable, Judiciary III.

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT RIGHT OF ENTRY REQUESTS TO CONDUCT ROUTINE INSPECTIONS RELATED TO ENFORCING ARTICLE 9 OF CHAPTER 130A OF THE GENERAL STATUTES BE MADE TO PERSONS WHO OWN THE BUSINESS LOCATED ON THE PREMISES OR HAVE CONTROL OVER THE BUSINESS LOCATED ON THE PREMISES AND TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ASSESS NO CIVIL PENALTY FOR CERTAIN FIRST-TIME VIOLATIONS UNDER THIS SAME ARTICLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130-A-17(b) reads as rewritten:

"§ 130A-17. **Right of entry.**

(a) The Secretary and a local health director shall have the right of entry upon the premises of any place where entry is necessary to enforce the provisions of this Chapter or the rules adopted by the Commission or a local board of health. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises.

(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12 of this Chapter. Any person seeking to enter the premises under this subsection for the purpose of conducting a routine inspection related to enforcing the provisions of Article 9 of this Chapter shall request entry from the person who owns the business located on the premises or has control over the business located on the premises."

SECTION 2. G.S. 130A-22(d) reads as rewritten:

"(d) In determining the amount of the penalty in subsections (a), ~~(b) and (c)~~, (b), and (c) of this section, the Secretary and the Secretary of Environment and Natural Resources shall consider the degree and extent of the harm caused by the violation and the cost of rectifying the damage. The entire amount of the penalty shall be remitted when all of the following apply:

(1) The violator employs no more than 100 employees.

(2) The violator has not been assessed any civil penalty for previous violations under any program over which the Department of Environment and Natural Resources has regulatory authority.

(3) The violator has voluntarily come into compliance regarding each violation under subsection (a), (b), or (c) of this section."

SECTION 3. This act is effective when it becomes law and applies to notices of assessments of civil penalties that are issued on or after that date.

