

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 644

Short Title: Clarify Inactive Haz. Sites Law.

(Public)

Sponsors: Representatives Grimmer; and Justus.

Referred to: Basic Resources.

March 16, 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF "RESPONSIBLE PARTY" WITHIN
THE MEANING OF THE STATUTES REGARDING INACTIVE HAZARDOUS
WASTE SITES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-310.7 reads as rewritten:

"§ 130A-310.7. **Action for reimbursement; liability of responsible parties.**

(a) Notwithstanding any other provision or rule of law, and subject only to the
defenses set forth in this subsection, a responsible party means any person who:

(1) Discharges or deposits; or

(2) Contracts or arranges for any discharge or deposit; or

(3) Accepts for discharge or ~~deposit~~ deposit; or

(4) Transports or arranges for transport for the purpose of discharge or
deposit

any hazardous substance; the result of which discharge or deposit is the existence of an
inactive hazardous substance or waste disposal site, ~~shall be considered a responsible party;
except that site.~~ Any person who owns or operates an inactive hazardous substance or
waste disposal site, or who owned or operated an inactive hazardous substance or waste
disposal site at the time of discharge or deposit also shall be considered a responsible
party. However, the following shall not be considered a responsible party: an innocent
landowner who is a bona fide purchaser of the inactive hazardous substance or waste
disposal site without knowledge or without a reasonable basis for knowing that
hazardous substance or waste disposal had occurred or, a person whose interest or
ownership in the inactive hazardous substance or waste disposal site is based on or

1 derived from a security interest in the property. A responsible party shall be directly
2 liable to the State for any or all of the reasonably necessary expenses of developing and
3 implementing a remedial action program for such site. The Secretary shall bring an
4 action for reimbursement of the Carolina Clean Drinking Water Fund in the name of the
5 State in the superior court of the county in which the site is located to recover such sum
6 and the cost of bringing the action. The State must show that a danger to the public
7 health or the environment existed and that the State complied with the provisions of this
8 Part.

9 (b) There shall be no liability under this section for a person who can establish by
10 a preponderance of the evidence that the danger to the public health or the environment
11 caused by the site was caused solely by:

- 12 (1) An act of God; or
- 13 (2) An act of war; or
- 14 (3) An intentional act or omission of a third party (but this defense shall
15 not be available if the act or omission is that of an employee or agent
16 of the defendant, or if the act or omission occurs in connection with a
17 contractual relationship with the defendant); or
- 18 (4) Any combination of the above causes.

19 (c) There shall be no liability under this section for any response costs or
20 damages resulting from the application in accordance with label instructions of a
21 pesticide product registered under the Federal Insecticide, Fungicide and Rodenticide
22 Act."

23 Sec. 2. This act is effective upon ratification.