

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 27

Short Title: NC May Exceed US Environmental Regs.

(Public)

Sponsors: Senators Winner, Daniel; Ballance, Barker, Basnight, Block, Bryan, Cobb, Ezzell, Guy, Hunt of Durham, Hunt of Moore, Johnson of Wake, Martin of Pitt, Martin of Guilford, Marvin, Odom, Raynor, Richardson, Sands, Shaw, Simpson, Staton, Swain, Taft, Tally, Walker, and Ward.

Referred to: Environment and Natural Resources.

January 18, 1989

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THOSE PORTIONS OF THE GENERAL STATUTES THAT
2 LIMIT THE STATE TO THE ADOPTION OF ENVIRONMENTAL
3 REGULATIONS REGARDING WATER QUALITY, AIR QUALITY, OR
4 HAZARDOUS WASTE THAT ARE NO MORE STRICT THAN FEDERAL
5 ENVIRONMENTAL REGULATIONS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 130-166.21D is repealed.

9 Sec. 2. G.S. 143-215 reads as rewritten:

10 **"§ 143-215. Effluent standards and limitations.**

11 (a) The Commission is authorized and directed to develop, adopt, modify and
12 revoke effluent standards and limitations and waste treatment management practices as
13 it determines necessary to prohibit, abate, or control water pollution. The effluent
14 standards or limitations or management practices may provide, without limitation,
15 standards or limitations or management practices for any point source or sources;
16 standards, limitations, management practices, or prohibitions for toxic wastes or
17 combinations of toxic wastes discharged from any point source or sources; and
18 pretreatment standards for wastes discharged to any disposal system subject to effluent
19 standards or limitations or management practices.

20 (b) The effluent standards and limitations developed and adopted by the
21 Commission shall provide limitations upon the effluents discharged from pretreatment

1 facilities and from outlets and point sources to the waters of the State adequate to limit
2 the waste loads upon the waters of the State to the extent necessary to maintain or
3 enhance the chemical, physical, biological and radiological integrity of the waters. The
4 management practices developed and adopted by the Commission shall prescribe
5 practices necessary to be employed in order to prevent or reduce contribution of
6 pollutants to the State's waters.

7 ~~(e) In adopting effluent standards and limitations and management practices the~~
8 ~~Commission shall be guided by the same considerations and criteria set forth, from time~~
9 ~~to time, in federal law for the guidance of federal agencies administering the Federal~~
10 ~~Water Pollution Control Program. It is the intent of the General Assembly that the~~
11 ~~effluent standards and limitations and management practices adopted hereunder shall be~~
12 ~~no more restrictive than the most nearly applicable federal effluent standards and~~
13 ~~limitations and management practices."~~

14 Sec. 3. G.S. 143-215.107 reads as rewritten:

15 **"§ 143-215.107. Air quality standards and classifications.**

16 (a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed
17 and empowered, as rapidly as possible within the limits of funds and facilities available
18 to it, and subject to the procedural requirements of this Article and Article 21:

- 19 (1) To prepare and develop, after proper study, a comprehensive plan or
20 plans for the prevention, abatement and control of air pollution in the
21 State or in any designated area of the State.
- 22 (2) To determine by means of field sampling and other studies, including
23 the examination of available data collected by any local, State or
24 federal agency or any person, the degree of air contamination and air
25 pollution in the State and the several areas of the State.
- 26 (3) To develop and adopt, after proper study, air quality standards
27 applicable to the State as a whole or to any designated area of the State
28 as the Commission deems proper in order to promote the policies and
29 purposes of this Article and Article 21 most effectively.
- 30 (4) To develop and adopt classifications for use in classifying air
31 contaminant sources, which in the judgment of the Commission may
32 cause or contribute to air pollution, according to levels and types of
33 emissions and other characteristics which relate to air pollution and
34 may require reporting for any such class or classes. Such
35 classifications may be for application to the State as a whole or to any
36 designated area of the State, and shall be made with special reference
37 to effects on health, economic and social factors, and physical effects
38 on property. Any person operating or responsible for the operation of
39 air contaminant sources of any class for which the Commission
40 requires reporting shall make reports containing such information as
41 may be required by the Commission concerning location, size, and
42 height of contaminant outlets, processes employed, fuels used, and the
43 nature and time periods or duration of emissions, and such other

1 information as is relevant to air pollution and available or reasonably
2 capable of being assembled.

3 (5) To develop and adopt such emission control standards as in the
4 judgment of the Commission may be necessary to prohibit, abate or
5 control air pollution commensurate with established air quality
6 standards. Such standards may be applied uniformly to the State as a
7 whole or to any area of the State designated by the Commission.

8 (6) To adopt, when necessary and practicable, a program for testing
9 emissions from motor vehicles and to adopt motor vehicle emission
10 standards in compliance with applicable federal regulations.

11 (7) To develop and adopt standards and plans necessary to implement
12 programs for the prevention of significant deterioration and for the
13 attainment of air quality standards in nonattainment areas; ~~provided, that~~
14 ~~the Commission shall adopt no standard which is not made mandatory upon~~
15 ~~approved State programs by rules, regulations or published guidelines of the~~
16 ~~United States Environmental Protection Agency or the Federal Clean Air~~
17 ~~Act.~~ areas.

18 (b) Criteria for Standards. – In developing air quality and emission control
19 standards, the Commission shall recognize varying local conditions and requirements
20 and may prescribe different standards for different areas as may be necessary and
21 appropriate to facilitate accomplishment of the stated purposes of this Article and
22 Article 21.

23 (c) Chapter 150B of the General Statutes governs the adoption and publication of
24 rules under this Article.

25 (f) ~~Guidance of Federal Criteria and Legislative Intent. – In adopting air quality~~
26 ~~policies, rules, and procedures, the Commission or any other State or local regulatory~~
27 ~~body shall be guided by the same standards, definitions, considerations and criteria set~~
28 ~~forth, from time to time, in federal law, rules or regulations for the guidance of federal,~~
29 ~~State or local agencies administering the Federal Clean Air Program.~~

30 ~~It is the intent of the General Assembly (i) that the air quality rules, procedures,~~
31 ~~plans, practices, air quality standards, and emission control standards adopted by the~~
32 ~~Commission pursuant to this Article or Article 21, or by any other State or local~~
33 ~~regulatory body under the General Statutes of North Carolina, shall be no more~~
34 ~~restrictive and no more stringent than required to comply with federal ambient air~~
35 ~~quality standards or other applicable federal requirements, if any, adopted in final or~~
36 ~~proposed regulations by the United States Environmental Protection Agency under or~~
37 ~~pursuant to the Federal Clean Air Act, and amendments thereto; except (ii) that no air~~
38 ~~quality rules, procedures, plans, practices, air quality standards or emission control~~
39 ~~standards shall be adopted by the Commission with respect to matters on which the~~
40 ~~United States Environmental Protection Agency has not proposed or adopted final~~
41 ~~regulations unless the Commission first considers, among other things, an assessment of~~
42 ~~the economic impact of the proposed standards. The Department shall prepare and~~
43 ~~submit into the record of the rule-making hearing an economic impact study of such~~
44 ~~proposed standards. Such study shall include an estimate of the economic and social~~

1 ~~costs to commerce and industry, units of local government, and agriculture necessary to~~
2 ~~comply with the proposed standards and an examination of the economic and social~~
3 ~~benefits of such compliance."~~

4 Sec. 4. G.S. 20-128.2(a) reads as rewritten:

5 "(a) The rules and regulations promulgated pursuant to G.S.143-215.107(a)(6) for the
6 purposes of this section shall be limited to carbon monoxide, shall be statewide in scope
7 but enforced on a county unit basis when ambient air pollutant concentrations exceed
8 the National Ambient Air Quality Standards established pursuant to the Clean Air Act
9 of 1970 as amended by the Clean Air Act amendments of 1977 and when the
10 Environmental Management Commission certifies to the Commissioner of Motor
11 Vehicles that the ambient air quality within a specified county requires a motor vehicle
12 inspection/maintenance program; provided the Environmental Management
13 Commission may prescribe different standards for different areas as may be necessary
14 and appropriate to facilitate accomplishment of the stated purposes of this section. ~~Such~~
15 ~~standards shall be no more restrictive or stringent than federal standards, as required by G.S.~~
16 ~~143-215.107(f)."~~

17 Sec. 5. This act is effective upon ratification.