

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-255
SENATE BILL 1587**

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) CLARIFY THE REQUIREMENT THAT MOTOR VEHICLES OPERATED ON A FEDERAL INSTALLATION IN AN EMISSIONS COUNTY ARE SUBJECT TO EMISSIONS INSPECTION REQUIREMENTS; (2) CLARIFY THE REQUIREMENT THAT LAND-DISTURBING ACTIVITY BE CONDUCTED IN ACCORDANCE WITH AN APPROVED PLAN; (3) AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION AND THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE TO CONTRACT FOR CONSULTANTS IN CERTAIN CIRCUMSTANCES; (4) PROVIDE THAT A PERSON WHO MANUFACTURES, INSTALLS, REPAIRS, OR PUMPS SEPTIC SYSTEMS MAY PURCHASE AND INSTALL APPROVED EFFLUENT FILTERS; (5) DELAY BY ONE YEAR THE EFFECTIVE DATE OF CERTAIN PROVISIONS OF S.L. 2005-384, AN ACT TO REQUIRE THE REMOVAL, COLLECTION, AND RECOVERY OF MERCURY SWITCHES FROM CERTAIN MOTOR VEHICLES; (5.1) PROVIDE THAT SEPTAGE GENERATED BY THE OPERATION OF A WASTEWATER FACILITY PERMITTED UNDER ARTICLE 11 OF CHAPTER 130A OF THE GENERAL STATUTES MAY BE MANAGED AS PROVIDED BY G.S. 130A-291.1; (5.2) ESTABLISH THE EMERGENCY DRINKING WATER FUND; (5.3) PROVIDE, ON A TEMPORARY BASIS, THAT DONATIONS OF REAL PROPERTY TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES THAT SERVE AS ALTERNATIVES TO MAINTENANCE OF RIPARIAN BUFFERS ARE LIMITED TO A PROPERTY THAT IS LOCATED IN THE SAME RIVER BASIN AS THE RIPARIAN BUFFER THAT IS LOST BUT ARE NOT LIMITED TO A PROPERTY THAT IS LOCATED ON THE SAME STREAM AS THE RIPARIAN BUFFER THAT IS LOST; (5.4) MODIFY THE METHOD BY WHICH BASELINE EMISSIONS ARE DETERMINED FOR CERTAIN COAL-FIRED ELECTRIC GENERATING UNITS; (6) REMOVE DEER AND ELK FROM THE DEFINITION OF LIVESTOCK; (7) CLARIFY THAT THE FOR HIRE BLANKET COASTAL RECREATIONAL FISHING LICENSE IS ISSUED FOR THE FOR HIRE BOAT; (8) CLARIFY THAT SPECIAL LANDHOLDER AND GUEST FISHING LICENSES ONLY APPLY WHEN THE GUESTS ARE NONPAYING; (9) INCREASE THE TYPES OF LICENSES THAT THE WILDLIFE RESOURCES COMMISSION MAY ESTABLISH AS PERSONALIZED LICENSES; (10) CLARIFY THAT THE LIFETIME UNIFIED INLAND/COASTAL RECREATIONAL FISHING LICENSE IS A RESIDENT-ONLY LICENSE; (11) PROVIDE FOR THE CONFIDENTIALITY OF INFORMATION OBTAINED BY THE WILDLIFE RESOURCES COMMISSION, THE MARINE FISHERIES COMMISSION, AND THE DIVISION OF MARINE FISHERIES; (12) AUTHORIZE THE MARINE FISHERIES COMMISSION TO EXEMPT CERTAIN ORGANIZED FISHING EVENTS FROM LICENSE REQUIREMENTS; AND (13) CLARIFY THE AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO CARRY OUT CERTAIN RESPONSIBILITIES RELATED TO THE PREVENTION AND CONTROL OF LEAD POISONING IN CHILDREN.

The General Assembly of North Carolina enacts:

PART I. AMEND ENVIRONMENTAL LAWS

SECTION 1. G.S. 20-183.2(b)(1) reads as rewritten:

"(1) It is subject to registration with the Division under Article 3 of this ~~Chapter~~Chapter, except for motor vehicles operated on a federal installation as provided in sub-subdivision e. of subdivision (5) of this subsection."

SECTION 2. G.S. 113A-57 is amended by adding a new subdivision to read:

"(5) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan."

SECTION 3.1. G.S. 120-70.44 reads as rewritten:

"§ 120-70.44. Additional powers.

(a) The Environmental Review Commission, while in the discharge of official duties, may exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Environmental Review Commission may meet at any time upon the call of either cochairman, whether or not the General Assembly is in session. The Environmental Review Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

(b) Notwithstanding any rule or resolution to the contrary, proposed legislation to implement any recommendation of the Environmental Review Commission regarding any study the Environmental Review Commission is authorized to undertake or any report authorized or required to be made by or to the Environmental Review Commission may be introduced and considered during any session of the General Assembly.

(c) The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02."

SECTION 3.2. G.S. 120-70.63 reads as rewritten:

"§ 120-70.63. Additional powers.

(a) The Commission, while in the discharge of official duties, may exercise all the powers of a joint committee of the General Assembly provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the call of either cochair, whether or not the General Assembly is in session. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

(b) The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02."

SECTION 4. G.S. 130A-335.1(a) reads as rewritten:

"(a) ~~The manufacturer of each person who manufactures, installs, repairs, or pumps any~~ septic tank to be installed in this State as a part of a septic tank system that is designed to treat 3,000 gallons per day or less of sewage shall provide an effluent filter approved by the Department pursuant to the requirements of G.S. 130A-335, this section, and rules adopted by the Commission. Any person who manufactures, installs, repairs, or pumps systems described in this section may purchase and install any approved filters on the systems. The person who installs the ~~septic tank system effluent filter~~ shall install the effluent filter as a part of the septic tank system in accordance with the specifications provided by the manufacturer of the effluent filter. An effluent filter shall:

(1) Be made of materials that are capable of withstanding the corrosives to which septic tank systems are normally subject.

- (2) Prevent solid material larger than one-sixteenth of an inch, as measured along the shortest axis of the material, from entering the drainfield.
- (3) Be designed and constructed to allow for routine maintenance.
- (4) Be designed and constructed so as not to require maintenance more frequently than once in any three-year period under normally anticipated use."

SECTION 5. Section 4 of S.L. 2005-384 reads as rewritten:

"SECTION 4. Sections 1, 3, and 4 of this act are effective when this act becomes law, except that G.S. 130A-310.53, 130A-310.54(c), and 130A-310.55 become effective 1 July ~~2006-2007~~. Section 2 of this act becomes effective 1 October 2005. Each vehicle manufacturer that is subject to the requirements of this act shall provide the information required by G.S. 130A-310.52(b), either individually or as a group of manufacturers, on or before 1 January ~~2006-2007~~. This act expires on 1 July 2026."

SECTION 5.1.(a) G.S. 130A-291.1 is amended by adding a new subsection to read:

"(j) Septage generated by the operation of a wastewater system permitted under Article 11 of this Chapter may be managed as provided in this section and may be land applied at a septage land application site permitted under this section."

SECTION 5.1.(b) Management, including land application, of septage generated by the operation of a wastewater system permitted under Article 11 of Chapter 130A of the General Statutes shall be governed by 40 Code of Federal Regulations Part 503 (1 July 2003 Edition) and rules adopted by the Commission for Health Services pursuant to G.S. 130A-291.1, as amended by subsection (a) of this section.

SECTION 5.2. Article 7 of Chapter 87 of the General Statutes is amended by adding a new section to read:

"§ 87-98. Emergency Drinking Water Fund.

(a) The Emergency Drinking Water Fund is established within the Department.

(b) The Fund may be used to pay for notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business. The funds may also be used to cover the costs of testing private drinking water wells for contamination and for the provision of alternative drinking water supplies to persons whose drinking water well is contaminated.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The funds shall not be used for remediation of groundwater contamination. Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse funds from this Fund and may adopt any rules necessary to implement this section."

SECTION 5.3. If Senate Bill 1862, 2005 Regular Session, becomes law, then Senate Bill 1862, 2005 Regular Session is amended by adding a new section to read:

"SECTION 2.1. A donation of real property or of an interest in real property to the Department of Environment and Natural Resources, another State agency, a unit of local government, or a private nonprofit conservation organization under G.S. 143-214.20 shall be limited to property that is located in the same river basin as the riparian buffer that is lost but shall not be limited to a donation of property located on the same stream as the riparian buffer that is lost."

SECTION 5.4. The provisions of 15A NCAC 2D .0530(b)(1)(A)(iv) as adopted by the Environmental Management Commission on 10 February 2005 and as approved by the Rules Review Commission on 21 April 2005, do not apply to any application for an air quality permit that is submitted and determined to be administratively complete by the Department of Environment and Natural Resources on or before 1 August 2006. An air quality permit issued pursuant to an application described in this section shall both:

- (1) Include a requirement that the permittee will install advanced control technology designed to remove ninety-nine percent (99%) of any pollutants at each electric generating unit to which 15A NCAC 2D .0530(b)(1)(A)(iv) would otherwise apply and that the permittee will operate the advanced control technology at any time that electricity is being produced by the electric generating unit other than during startup of the unit.
- (2) State that the actual emissions of sulfur dioxide (SO₂) shall be no greater than 0.15 pound per million British Thermal Units (BTUs) as measured on a rolling 30-day average.

PART II. AMEND NATURAL RESOURCES LAWS

SECTION 6. G.S. 106-581.1(3) reads as rewritten:

"(3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, ~~deer, elk,~~ and other animals for individual and public use, consumption, and marketing."

SECTION 7. G.S. 113-174.3(a) reads as rewritten:

"(a) License. – A person who operates a for hire boat may purchase a For Hire Blanket CRFL issued by the ~~Division~~ Division for the for hire boat. A For Hire Blanket CRFL authorizes all individuals on the for hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. ~~This license~~ A For Hire Blanket CRFL is valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL is:

- (1) Two hundred fifty dollars (\$250.00) for a vessel captained by an individual who holds a certification from the United States Coast Guard to carry six or fewer passengers.
- (2) Three hundred fifty dollars (\$350.00) for a vessel captained by an individual who holds a certification from the United States Coast Guard to carry greater than six passengers."

SECTION 8. G.S. 113-271(d)(9) reads as rewritten:

"(9) Special Landholder and Guest Fishing License – \$50.00. This license shall be issued only to the ~~owner or lessee~~ landholder of private property bordering inland or joint fishing waters, ~~including public mountain trout waters, and entitles persons~~ waters. This license shall entitle the landholder and guests of the landholder to fish from the shore or any pier or dock originating from the property without any additional fishing license. This license is applicable only to private property and private docks and piers and is not valid for any public property, pier, or dock nor for any private property, pier, or dock

operated for any commercial purpose whatsoever. ~~The guest fishing~~This license shall not be in force unless displayed on the premises of the property and only entitles fishing without additional license to persons fishing from the licensed property and then only when fishing within the private property lines. The guest fishing~~This license is not transferable as to person or location. For purposes of this subdivision, a guest is any individual invited by the landholder to fish from the property at no charge. A charge includes any fee, assessment, dues, rent, or other consideration which must be paid, whether directly or indirectly, in order to be allowed to fish from the property, regardless of the stated reason for such charge.~~"

SECTION 9. G.S. 113-272.3(d) reads as rewritten:

"(d) In issuing lifetime ~~sportsman combination~~ licenses, the Wildlife Resources Commission is authorized to adopt rules to establish a personalized series for certain license types and to charge a five dollar (\$5.00) administrative fee, to be deposited in the Wildlife Fund, to defray the cost of issuance of the personalized license."

SECTION 10. G.S. 113-351(c)(4)a. reads as rewritten:

"(4) Lifetime Unified Inland/Coastal Recreational Fishing Licenses. – Except as provided in sub-subdivisions b. and c. of this subdivision, a license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.
a. Resident Lifetime Unified Inland/Coastal Recreational Fishing License. – \$450.00."

SECTION 11.1. G.S. 143-254.5 reads as rewritten:

"§ 143-254.5. Disclosure of personal identifying information.

~~(a) Personal identifying information obtained by the Commission from an applicant for a license, title, permit, or registration issued by the Commission, from a consumer who purchases or subscribes to a good or service offered by the Commission, or from a donor in connection with any gift to the Commission is confidential under G.S. 132-1.2 and shall only be disclosed by the Commission as provided in this section.~~

~~(b) Personal identifying information obtained from the holder of a license issued under Article 14B or Article 25A of Chapter 113 of the General Statutes shall be disclosed to the Division of Marine Fisheries and the Marine Fisheries Commission.~~

~~(c) Personal identifying information may be disclosed to any officer, employee, or authorized representative of any federal, state, or local government agency if disclosure is necessary to carry out a proper function of the Commission or other agency.~~

~~(d) As used in this section, "personal identifying information" includes a person's mailing address, residence address, date of birth, telephone number, electronic mail address, driver license number, and social security number. Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, 'identifying information' also includes a person's mailing address, residence address, date of birth, and telephone number."~~

SECTION 11.2. G.S. 143B-289.52(h) reads as rewritten:

~~"(h) Neither the Commission nor the Department may disclose personal information provided by an applicant for a license issued under Article 14A or 14B of Chapter 113 of the General Statutes. Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, 'identifying information' also includes a person's mailing address, residence address, date of birth, and telephone number."~~

SECTION 12. G.S. 143B-289.52 is amended by adding a new subsection to read:

"(i) The Commission may adopt rules to exempt individuals who participate in organized fishing events held in coastal or joint fishing waters from recreational fishing license requirements for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission."

PART III. CLARIFY AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO IMPLEMENT THE CHILDHOOD LEAD POISONING PREVENTION PROGRAM

SECTION 13.1. G.S. 130A-4(c) reads as rewritten:

"(c) The Secretary of Environment and Natural Resources shall administer and enforce the provisions of Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12 of this Chapter and the rules of the Commission."

SECTION 13.2. G.S. 130A-12 reads as rewritten:

"§ 130A-12. Confidentiality of records.

All records containing privileged patient medical ~~information or information~~, information protected under ~~45 C.F.R. Code of Federal Regulations Parts 160 and 164~~ 164, and information collected under the authority of Part 4 of Article 5 of this Chapter that are in the possession of the Department of Health and Human Services, the Department of Environment and Natural Resources, or local health departments shall be confidential and shall not be public records pursuant to G.S. 132-1. Information contained in the records may be disclosed only when disclosure is authorized or required by State or federal law. Notwithstanding G.S. 8-53 or G.S. 130A-143, the information contained in the records may be disclosed for purposes of treatment, payment, or health care operations. For purposes of this section, the terms "treatment," "payment," and "health care operations" have the meanings given those terms in ~~45 C.F.R. Code of Federal Regulations § 164.501.~~

SECTION 13.3. G.S. 130A-17(b) reads as rewritten:

"(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."

SECTION 13.4. G.S. 130A-18(b) reads as rewritten:

"(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."

SECTION 13.5. G.S. 130A-19(b) reads as rewritten:

"(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."

SECTION 13.6. G.S. 130A-20(b) reads as rewritten:

"(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."

PART IV. EFFECTIVE DATE

SECTION 14. Section 5 of this act is effective retroactively to 1 July 2006. Section 5.3 of this act becomes effective 1 August 2006 and expires 1 September 2007. All other sections of this act are effective when the act becomes law.

In the General Assembly read three times and ratified this the 20th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:50 p.m. this 23rd day of August, 2006