

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS55118-RW-21A* (3/4)

Short Title: Debarment of DOT Contractors.-AB

(Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO GOVERN DEBARMENT OF CONTRACTORS ON DEPARTMENT
OF TRANSPORTATION CONSTRUCTION PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 136 of the General Statutes is amended by adding a
new section to read:

"§ 136-28.13. Debarment of contractors.

(a) In addition to other provisions of law, the Department shall have the authority to suspend for a period of up to three years from the date of conviction of any person and any subsidiary or affiliate of any person from further bidding to the Department and from being a subcontractor to a contractor for the Department and from being a supplier to the Department if that person or any officer, director, employee, or agent of that person:

- (1) Has been debarred or suspended from bidding by any other state or federal agency.
- (2) Has been convicted or pled guilty to commission of fraud or a criminal offense in connection with the obtaining, attempting to obtain, or performing a public or private agreement or transaction.
- (3) Has been convicted or pled guilty to commission of embezzlement, theft, forgery, or bribery, falsification or destruction of records, falsification of statements or claims, receipt of stolen property, or obstruction of justice in connection with any public or private agreement.
- (4) Has been convicted or pled guilty to any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a person.

1 (5) Has violated the terms of a public agreement or transaction so serious
2 as to affect the integrity of an agency program, such as willful failure
3 to perform in accordance with the terms of a contract on a public
4 transaction, or a history of failure to perform or unsatisfactory
5 performance on a public contract, or a willful violation of a statutory
6 or regulatory provision or requirement applicable to a public
7 agreement or transaction.

8 (b) The Department shall have the authority to order a temporary suspension of
9 any contractor, subcontractor, or supplier or subsidiary or affiliate thereof charged in an
10 indictment in any state or federal court with engaging in any of the activities listed in
11 subsection (a) of this section until the charges are resolved.

12 (c) For purposes of this section,

13 (1) The term "person" shall mean any individual, partnership, corporation,
14 association, or other entity formed for the purpose of doing business as
15 a contractor, subcontractor, or supplier; and

16 (2) The term "subsidiary" shall mean a corporation with respect to which
17 another corporation by virtue of its shareholdings alone has legal
18 power, either directly or indirectly through another corporation or
19 series of other corporations, domestic or foreign, to elect a majority of
20 the directors. A corporation is a subsidiary of each such corporation,
21 including any corporation through which this legal power may be
22 indirectly exercised."

23 **SECTION 2.** This act becomes effective July 1, 2005.