

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1961*

Committee Substitute Favorable 6/8/94

Committee Substitute #2 Favorable 6/14/94

Senate Environment and Natural Resources Committee Substitute Adopted 6/28/94

Short Title: Encourage Voluntary Remediation.

(Public)

Sponsors:

Referred to:

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE THE VOLUNTARY REMEDIATION OF CONTAMINATED SITES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, AND TO PROVIDE THAT A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT IN DOCUMENTS REQUIRED UNDER THE SOLID WASTE LAWS IS GUILTY OF A MISDEMEANOR.

Whereas, the General Assembly of North Carolina recognizes the importance of protecting the environment of this State, as well as the health and safety of its inhabitants and employees; and

Whereas, man's past activities, even those that were legal and proper at the time, have resulted in the contamination of land, surface water, groundwater, and other media within North Carolina; and

Whereas, the number of such contaminated sites exceeds the abilities of North Carolina and federal officials to manage in an expeditious fashion; and

Whereas, the expeditious cleanup of such contaminated sites is in the best interests of the State of North Carolina and its citizens and environment, in that it more quickly removes or reduces any threat to public health or the environment while often lowering the total costs of such actions; and

Whereas, more contaminated sites could be cleaned up more expeditiously and effectively by allowing the Department of Environment, Health, and Natural Resources to use independent outside consultants to oversee such work; Now, therefore,

1 The General Assembly of North Carolina enacts:

2 Section 1. G.S. 130A-310.9 reads as rewritten:

3 "**§ 130A-310.9. ~~Maximum financial responsibility; voluntary remedial actions.~~**
4 **Voluntary remedial actions; maximum financial responsibility;**
5 **agreements; implementation and oversight by private engineering and**
6 **consulting firms.**

7 (a) No one owner, operator, or other responsible party who voluntarily
8 participates in the implementation of a remedial action program under G.S. 130A-310.3
9 or G.S. 130A-310.5 may be required to pay in excess of three million dollars
10 (\$3,000,000) for the cost of implementing ~~such a~~ remedial action program at a single
11 inactive hazardous substance or waste disposal site. The limitation of liability contained
12 in this section applies only to the cost of implementation of the program and does not
13 apply to the cost of the development of the remedial action plan.

14 (b) The Secretary may enter into an agreement with an owner, operator, or other
15 responsible party which provides for implementation of a voluntary remedial action
16 program in accordance with a remedial action plan approved by the Department.
17 Investigations, evaluations, and voluntary remedial actions are subject to the provisions
18 of G.S. 130A-310.1(c), 130A-310.1(d), 130A-310.3(d), 130A-310.5, 130A-310.8, and
19 any other requirement imposed by the Department. A voluntary remedial action and all
20 documents that relate to the voluntary remedial action shall be fully subject to
21 inspection and audit by the Department. At least 30 days prior to entering into any
22 agreement providing for the implementation of a voluntary remedial action program, the
23 Secretary shall mail notice of ~~such the~~ proposed agreement as provided in G.S. 130A-
24 310.4(c)(2). Sites undergoing voluntary remedial actions shall be so identified as a
25 separate category in the inventory of sites maintained pursuant to G.S. 130A-310.1 but
26 shall not be included on the Inactive Hazardous Waste Sites Priority List required by
27 G.S. 130A-310.2.

28 (c) The Department may select and hire private environmental consulting and
29 engineering firms to implement and oversee voluntary remedial actions by owners,
30 operators, or other responsible parties. An owner, operator, or other responsible party
31 that chooses to use a private environmental consulting or engineering firm shall
32 reimburse the Department for the cost of all work performed by the firm. A voluntary
33 remedial action that is implemented and overseen by a private environmental consulting
34 or engineering firm shall be subject to rules adopted pursuant to G.S. 130A-310.12(b)."

35 Sec. 2. G.S. 130A-310.12 reads as rewritten:

36 "**§ 130A-310.12. Administrative procedure; adoption of rules.**

37 (a) ~~Except as may be otherwise specifically provided the~~ The provisions of Chapter
38 150B of the General Statutes apply to this Part. The Commission shall adopt, pursuant to
39 ~~Chapter 150B of the General Statutes, administrative adopt~~ rules for the implementation of
40 this Part not later than six months after enactment. Such rules may be the same as or similar to
41 ~~the federal rules for implementation of CERCLA/SARA. Part.~~

42 (b) The Commission shall adopt rules governing the selection and use of private
43 environmental engineering and consulting firms to implement and oversee voluntary

1 remedial actions by owners, operators, or other responsible parties under G.S. 130A-
2 310.9(c). Rules adopted under this subsection shall specify:

- 3 (1) Standards applicable to private environmental consulting and
4 engineering firms.
- 5 (2) Procedures for identifying and choosing firms.
- 6 (3) Standards and procedures governing charges by private environmental
7 consulting and engineering firms and the reimbursement of those
8 charges.
- 9 (4) Financial assurances to be required of an owner, operator, or other
10 responsible party that chooses to implement a voluntary remedial
11 action under G.S. 130A-310.9(c)."

12 Sec. 3. Part 2 of Article 1 of Chapter 130A of the General Statutes is
13 amended by adding a new section to read:

14 **"§ 130A-26.2. Penalty for false reporting under Article 9.**

15 Any person who knowingly makes any false statement, representation, or
16 certification in any application, record, report, plan, or other document filed or required
17 to be maintained under Article 9 of this Chapter or rules adopted under Article 9 of this
18 Chapter; or who knowingly makes a false statement of a material fact in a rule-making
19 proceeding or contested case under Article 9 of this Chapter; or who falsifies, tampers
20 with, or knowingly renders inaccurate any recording or monitoring device or method
21 required to be operated or maintained under Article 9 of this Chapter or rules adopted
22 under Article 9 of this Chapter is guilty of a Class 2 misdemeanor. The maximum fine
23 that may be imposed for an offense under this section is ten thousand dollars
24 (\$10,000)."

25 Sec. 4. The Environmental Review Commission may study, in cooperation
26 with personnel designated by the Secretary of Environment, Health, and Natural
27 Resources, the possible implementation of a program that would use licensed site
28 professionals to oversee voluntary and other remedial actions by responsible parties in
29 lieu of oversight by State personnel, the procedures and standards that would govern the
30 designation and licensing of licensed site professionals, the functions of licensed site
31 professionals, and the weight to be accorded by a State agency to any work overseen
32 and approved by a licensed site professional.

33 Sec. 5. Sections 1 and 3 of this act become effective 1 January 1995.
34 Sections 2, 4, and 5 of this act are effective upon ratification. Rules adopted pursuant to
35 G.S. 130A-310.12(b), as enacted by Section 2 of this act, shall not become effective
36 prior to 1 January 1995.