

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

FILED SENATE  
Mar 25, 2015  
S.B. 453  
PRINCIPAL CLERK

S

D

SENATE DRS25136-SBf-13 (01/15)

Short Title: Regulatory Reform Act of 2015. (Public)

Sponsors: Senators Wade, Brock, and B. Jackson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF  
3 NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE  
4 REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED  
5 STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING  
6 CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS  
7 OTHER STATUTORY CHANGES.

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. ADMINISTRATIVE REFORMS**

11  
12 **REPEAL OBSOLETE STATUTES**

13 **SECTION 1.1.** The following statues are repealed:

- 14 (1) G.S. 14-197. Using profane or indecent language on public highways;  
15 counties exempt.  
16 (2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency;  
17 false statement of emergency.

18  
19 **BURDEN OF PROOF IN CERTAIN CONTESTED CASES**

20 **SECTION 1.2.(a)** Article 3 of Chapter 150B of the General Statutes is amended by  
21 adding a new section to read:

22 **"§ 150B-25.1. Burden of proof.**

23 (a) Except as otherwise provided by law or by this section, the petitioner in a contested  
24 case has the burden of proving the facts alleged in the petition by a preponderance of the  
25 evidence.

26 (b) In a contested case involving the imposition of civil fines or penalties by a State  
27 agency for violation of the law, the burden of showing by a preponderance of the evidence that  
28 the person who was fined actually committed the act for which the fine or penalty was imposed  
29 rests with the State agency.

30 (c) The burden of showing by a preponderance of the evidence that a career State  
31 employee subject to Chapter 126 of the General Statutes was discharged, suspended, or  
32 demoted for just cause rests with the agency employer."

33 **SECTION 1.2.(b)** The Joint Legislative Administrative Procedure Oversight  
34 Committee shall study whether there are other categories of contested cases in which the  
35 burden of proof should be placed with the agency.



\* D R S 2 5 1 3 6 - S B F - 1 3 \*

1           **SECTION 1.2.(c)** This section is effective when this act becomes law and applies  
2 to contested cases commenced on or after that date.

#### 3 4 **LEGISLATIVE APPOINTMENTS**

5           **SECTION 1.3.(a)** G.S. 120-121 is amended by adding two new subsections to  
6 read:

7           "(e) The following applies in any case where the Speaker of the House of  
8 Representatives or the President Pro Tempore of the Senate is directed by law to make a  
9 recommendation for an appointment by the General Assembly, and the legislator is also  
10 directed to make the recommendation in consultation with or upon the recommendation of a  
11 third party:

12           (1) The recommendation or consultation is discretionary and is not binding upon  
13 the legislator.

14           (2) The third party must submit the recommendation or consultation at least 60  
15 days prior to the expiration of the term or within 10 business days from the  
16 occurrence of a vacancy.

17           (3) Failure by the third party to submit the recommendation or consultation to  
18 the legislator within the time periods required under this subsection shall be  
19 deemed a waiver by the third party of the opportunity.

20           (f) The following applies in any case where the Speaker of the House of  
21 Representatives or the President Pro Tempore of the Senate is directed by law to make a  
22 recommendation for an appointment by the General Assembly, and the legislator is also  
23 directed to make the recommendation from nominees provided by a third party:

24           (1) The third party must submit the nominees at least 60 days prior to the  
25 expiration of the term or within 10 business days from the occurrence of a  
26 vacancy.

27           (2) Failure by the third party to submit the nomination to the legislator within  
28 the time periods required under this subsection shall be deemed a waiver by  
29 the third party of the opportunity."

30           **SECTION 1.3.(b)** Article 16 of Chapter 120 of the General Statutes is amended by  
31 adding a new section to read:

#### 32 **"§ 120-124. Appointments made by legislators.**

33           (a) In any case where a legislator is called upon by law to appoint a member to a board  
34 or commission upon the recommendation of or in consultation with a third party, the  
35 recommendation or consultation is discretionary and is not binding upon the legislator. The  
36 third party must submit the recommendation or consultation at least 60 days prior to the  
37 expiration of the term or within 10 business days from the occurrence of a vacancy.

38           (b) In any case where a legislator is called upon by law to appoint a member to a board  
39 or commission from nominees provided by a third party, the third party must submit the  
40 nominees at least 60 days prior to the expiration of the term or within 10 business days from the  
41 occurrence of a vacancy. This subsection does not apply to nominations made under  
42 G.S. 120-99(a) or G.S. 120-100(b).

43           (c) Failure to submit the recommendation, consultation, or nomination within the time  
44 periods required under this section shall be deemed a waiver by the third party of the  
45 opportunity."

46           **SECTION 1.3.(c)** This section is effective when this act becomes law and applies  
47 to recommendations, consultations, and nominations made on or after that date.

#### 48 49 **PART II. BUSINESS REGULATION**

**EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED PROPERTY**

**SECTION 2.1.** G.S. 93A-2(c)(1) reads as rewritten:

"(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

(1) Any partnership, corporation, limited liability company, association, or other business entity that, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein. The exemption from licensure under this subsection shall extend to the following persons when those persons are engaged in acts or services for which the corporation, partnership, limited liability company, or other business entity would be exempt hereunder:

- a. The officers and employees of an exempt corporation, the corporation.
- b. The general partners and employees of an exempt partnership, and the partnership.
- c. The managers and employees of an exempt limited liability company when said persons are engaged in acts or services for which the corporation, partnership, or limited liability company would be exempt hereunder.
- d. The owners of an exempt closely held business entity. For purposes of this subdivision, a closely held business entity is a limited liability company or a corporation with no more than two legal owners.
- e. The officers, managers, and employees of a closely held business entity owned by a person exempt under sub-subdivision d. of this subdivision."

**PART III. STATE AND LOCAL GOVERNMENT REGULATION****REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY**

**SECTION 3.1.** Subsection 6A.14(a) of S.L. 2011-145 reads as rewritten:

**"SECTION 6A.14.(a)** Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device

1 procurement, and related phone, data, Internet, and other usage plans for and by their  
 2 employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State  
 3 employees and contractors are complying with agency policies and State requirements for their  
 4 use.

5 Beginning October 1, 2011, each agency shall report ~~quarterly~~annually to the Chairs of the  
 6 House of Representatives Committee on Appropriations and the House of Representatives  
 7 Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations  
 8 and the Senate Appropriations Committee on General Government and Information  
 9 Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal  
 10 Research Division, and the Office of State Budget and Management on the following:

- 11 (1) Any changes to agency policies on the use of mobile devices.
- 12 (2) The number and types of new devices issued since the last report.
- 13 (3) The total number of mobile devices issued by the agency.
- 14 (4) The total cost of mobile devices issued by the agency.
- 15 (5) The number of each type of mobile device issued, with the total cost for each  
 16 type."

## 18 INCREASE PENALTIES FOR PARKING IN HANDICAPPED SPACE WITHOUT 19 REQUIRED PLACARD

20 SECTION 3.2.(a) G.S. 20-37.6 reads as rewritten:

21 "§ 20-37.6. Parking privileges for handicapped drivers and passengers.

22 ...  
 23 (d) Designation of Parking Spaces. – Designation of parking spaces for handicapped  
 24 persons on streets and public vehicular areas shall comply with G.S. 136-30. A sign designating  
 25 a parking space for handicapped persons ~~shall~~may state the maximum penalty for parking in the  
 26 space in violation of the law. A sign designating a parking space for handicapped persons shall  
 27 not state the incorrect maximum penalty for parking in the space in violation of the law.

28 ...  
 29 (f) Penalties for Violation. –

- 30 (1) A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a  
 31 penalty of at least ~~one hundred dollars (\$100.00)~~two hundred fifty dollars  
 32 (\$250.00) but not more than ~~two hundred fifty dollars (\$250.00)~~five hundred  
 33 dollars (\$500.00) and whenever evidence shall be presented in any court of  
 34 the fact that any automobile, truck, or other vehicle was found to be parked  
 35 in a properly designated handicapped parking space in violation of the  
 36 provisions of this section, it shall be prima facie evidence in any court in the  
 37 State of North Carolina that the vehicle was parked and left in the space by  
 38 the person, firm, or corporation in whose name the vehicle is registered and  
 39 licensed according to the records of the Division. No evidence tendered or  
 40 presented under this authorization shall be admissible or competent in any  
 41 respect in any court or tribunal except in cases concerned solely with a  
 42 violation of this section.

43 ...."

44 SECTION 3.2.(b) This section becomes effective December 1, 2015, and applies  
 45 to violations committed on or after that date.

## 47 GOOD SAMARITAN EXPANSION

48 SECTION 3.3.(a) G.S. 14-56 reads as rewritten:

49 "§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles,  
 50 trailers, aircraft, boats, or other watercraft.

1       (a) If any person, with intent to commit any felony or larceny therein, breaks or enters  
2 any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing  
3 any goods, wares, freight, or other thing of value, or, after having committed any felony or  
4 larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other  
5 watercraft of any kind containing any goods, wares, freight, or other thing of value, that person  
6 is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this  
7 section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or  
8 other watercraft.

9       (b) It shall not be a violation of this section for any person to break or enter any railroad  
10 car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more of the  
11 following circumstances exist:

- 12       (1) The person acts in good faith to access a person inside the railroad car,  
13 motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to  
14 provide first aid or emergency health care treatment, or because the person  
15 inside is, or is in imminent danger of becoming, unconscious, ill, or injured.  
16       (2) It is reasonably apparent that the circumstances require prompt decisions and  
17 actions in medical, other health care, or other assistance.  
18       (3) The necessity of immediate health care treatment or removal of the person  
19 from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft  
20 of any kind is so reasonably apparent that any delay in the rendering of  
21 treatment or removal would seriously worsen the physical condition or  
22 endanger the life of the person."

23       **SECTION 3.3.(b)** This section becomes effective July 1, 2015, and applies to  
24 offenses committed on or after that date.

25       **SECTION 3.4.(a)** Chapter 1 of the General Statutes is amended by adding a new  
26 Article to read:

27                               "Article 43F.

28                               "Immunity for Damage to Vehicle.

29 **"§ 1-539.27. Immunity from civil liability for damage to railroad car, motor vehicle,**  
30 **trailer, aircraft, boat, or other watercraft necessary for assistance.**

31       Any person who enters or attempts to enter any railroad car, motor vehicle, trailer, aircraft,  
32 boat, or other watercraft of any kind shall not be liable in civil damages for any damage to the  
33 railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more  
34 of the following circumstances exist:

- 35       (1) The person acts in good faith to access a person inside the railroad car,  
36 motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to  
37 provide first aid or emergency health care treatment, or because the person  
38 inside is, or is in imminent danger of becoming, unconscious, ill, or injured.  
39       (2) It is reasonably apparent that the circumstances require prompt decisions and  
40 actions in medical care, other health care, or other assistance.  
41       (3) The necessity of immediate health care treatment or removal of the person  
42 from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft  
43 of any kind is so reasonably apparent that any delay in the rendering of  
44 treatment or removal would seriously worsen the physical condition or  
45 endanger the life of the person.

46 This section shall not apply to any acts of gross negligence, wanton conduct, or intentional  
47 wrongdoing."

48       **SECTION 3.4.(b)** This section becomes effective July 1, 2015, and applies to  
49 causes of action arising on or after that date.

50  
51 **NO DENIAL OF EXPUNCTION SOLELY BASED ON A BOATING VIOLATION**

1           **SECTION 3.5.(a)** G.S. 15A-145.5(c) reads as rewritten:

2           "(c) A person may file a petition, in the court where the person was convicted, for  
3 expunction of a nonviolent misdemeanor or nonviolent felony conviction from the person's  
4 criminal record if the person has no other misdemeanor or felony convictions, other than a  
5 traffic or boating violation. The petition shall not be filed earlier than 15 years after the date of  
6 the conviction or when any active sentence, period of probation, and post-release supervision  
7 has been served, whichever occurs later. The petition shall contain, but not be limited to, the  
8 following:

- 9           (1) An affidavit by the petitioner that the petitioner has been of good moral  
10 character since the date of conviction for the nonviolent misdemeanor or  
11 nonviolent felony and has not been convicted of any other felony or  
12 misdemeanor, other than a traffic or boating violation, under the laws of the  
13 United States or the laws of this State or any other state.
- 14           (2) Verified affidavits of two persons who are not related to the petitioner or to  
15 each other by blood or marriage, that they know the character and reputation  
16 of the petitioner in the community in which the petitioner lives and that the  
17 petitioner's character and reputation are good.
- 18           (3) A statement that the petition is a motion in the cause in the case wherein the  
19 petitioner was convicted.
- 20           (4) An application on a form approved by the Administrative Office of the  
21 Courts requesting and authorizing a name-based State and national criminal  
22 history record check by the Department of Public Safety using any  
23 information required by the Administrative Office of the Courts to identify  
24 the individual, a search by the Department of Public Safety for any  
25 outstanding warrants on pending criminal cases, and a search of the  
26 confidential record of expunctions maintained by the Administrative Office  
27 of the Courts. The application shall be forwarded to the Department of  
28 Public Safety and to the Administrative Office of the Courts, which shall  
29 conduct the searches and report their findings to the court.
- 30           (5) An affidavit by the petitioner that no restitution orders or civil judgments  
31 representing amounts ordered for restitution entered against the petitioner  
32 are outstanding.

33           Upon filing of the petition, the petition shall be served upon the district attorney of the court  
34 wherein the case was tried resulting in conviction. The district attorney shall have 30 days  
35 thereafter in which to file any objection thereto and shall be duly notified as to the date of the  
36 hearing of the petition. Upon good cause shown, the court may grant the district attorney an  
37 additional 30 days to file objection to the petition. The district attorney shall make his or her  
38 best efforts to contact the victim, if any, to notify the victim of the request for expunction prior  
39 to the date of the hearing.

40           The presiding judge is authorized to call upon a probation officer for any additional  
41 investigation or verification of the petitioner's conduct since the conviction. The court shall  
42 review any other information the court deems relevant, including, but not limited to, affidavits  
43 or other testimony provided by law enforcement officers, district attorneys, and victims of  
44 crimes committed by the petitioner.

45           If the court, after hearing, finds that the petitioner has not previously been granted an  
46 expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or  
47 15A-145.4; the petitioner has remained of good moral character; the petitioner has no  
48 outstanding warrants or pending criminal cases; the petitioner has no other felony or  
49 misdemeanor convictions other than a traffic or boating violation; the petitioner has no  
50 outstanding restitution orders or civil judgments representing amounts ordered for restitution  
51 entered against the petitioner; and the petitioner was convicted of an offense eligible for

1 expunction under this section and was convicted of, and completed any sentence received for,  
2 the nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the  
3 petition, it may order that such person be restored, in the contemplation of the law, to the status  
4 the person occupied before such arrest or indictment or information. If the court denies the  
5 petition, the order shall include a finding as to the reason for the denial."

6 **SECTION 3.5.(b)** G.S. 15A-145 reads as rewritten:

7 "**§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of**  
8 **conviction of misdemeanor; expunction of certain other misdemeanors.**

9 (a) Whenever any person who has not previously been convicted of any felony, or  
10 misdemeanor other than a traffic or boating violation, under the laws of the United States, the  
11 laws of this State or any other state, (i) pleads guilty to or is guilty of a misdemeanor other than  
12 a traffic or boating violation, and the offense was committed before the person attained the age  
13 of 18 years, or (ii) pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant  
14 to G.S. 18B-302(b)(1), and the offense was committed before the person attained the age of 21  
15 years, he may file a petition in the court where he was convicted for expunction of the  
16 misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two years  
17 after the date of the conviction, or (ii) the completion of any period of probation, whichever  
18 occurs later, and the petition shall contain, but not be limited to, the following:

- 19 (1) An affidavit by the petitioner that he has been of good behavior for the  
20 two-year period since the date of conviction of the misdemeanor in question  
21 and has not been convicted of any felony, or misdemeanor other than a  
22 traffic or boating violation, under the laws of the United States or the laws of  
23 this State or any other state.
- 24 (2) Verified affidavits of two persons who are not related to the petitioner or to  
25 each other by blood or marriage, that they know the character and reputation  
26 of the petitioner in the community in which he lives and that his character  
27 and reputation are good.
- 28 (3) A statement that the petition is a motion in the cause in the case wherein the  
29 petitioner was convicted.
- 30 (4) Repealed by Session Laws 2010-174, s. 2, effective October 1, 2010, and  
31 applicable to petitions for expunctions filed on or after that date.
- 32 (4a) An application on a form approved by the Administrative Office of the  
33 Courts requesting and authorizing a name-based State and national criminal  
34 record check by the Department of Public Safety using any information  
35 required by the Administrative Office of the Courts to identify the individual  
36 and a search of the confidential record of expunctions maintained by the  
37 Administrative Office of the Courts. The application shall be forwarded to  
38 the Department of Public Safety and to the Administrative Office of the  
39 Courts, which shall conduct the searches and report their findings to the  
40 court.
- 41 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
42 representing amounts ordered for restitution entered against him are  
43 outstanding.

44 The petition shall be served upon the district attorney of the court wherein the case was  
45 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file  
46 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

47 The judge to whom the petition is presented is authorized to call upon a probation officer  
48 for any additional investigation or verification of the petitioner's conduct during the two-year  
49 period that he deems desirable.

50 (b) If the court, after hearing, finds that the petitioner had remained of good behavior  
51 and been free of conviction of any felony or misdemeanor, other than a traffic or boating

1 violation, for two years from the date of conviction of the misdemeanor in question, the  
2 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered  
3 for restitution entered against him, and (i) petitioner was not 18 years old at the time of the  
4 offense in question, or (ii) petitioner was not 21 years old at the time of the offense of  
5 possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be  
6 restored, in the contemplation of the law, to the status he occupied before such arrest or  
7 indictment or information. No person as to whom such order has been entered shall be held  
8 thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false  
9 statement by reason of his failure to recite or acknowledge such arrest, or indictment,  
10 information, or trial, or response to any inquiry made of him for any purpose.

11 ...."

12 **SECTION 3.5.(c)** G.S. 15A-145.1 reads as rewritten:

13 **"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**  
14 **conviction of certain gang offenses.**

15 (a) Whenever any person who has not previously been convicted of any felony or  
16 misdemeanor other than a traffic or boating violation under the laws of the United States or the  
17 laws of this State or any other state pleads guilty to or is guilty of (i) a Class H felony under  
18 Article 13A of Chapter 14 of the General Statutes or (ii) an enhanced offense under  
19 G.S. 14-50.22, or has been discharged and had the proceedings against the person dismissed  
20 pursuant to G.S. 14-50.29, and the offense was committed before the person attained the age of  
21 18 years, the person may file a petition in the court where the person was convicted for  
22 expunction of the offense from the person's criminal record. Except as provided in  
23 G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two  
24 years after the date of the conviction or (ii) the completion of any period of probation,  
25 whichever occurs later. The petition shall contain, but not be limited to, the following:

- 26 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
27 (i) during the period of probation since the decision to defer further  
28 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)  
29 during the two-year period since the date of conviction of the offense in  
30 question, whichever applies, and has not been convicted of any felony or  
31 misdemeanor other than a traffic or boating violation under the laws of the  
32 United States or the laws of this State or any other state.
- 33 (2) Verified affidavits of two persons who are not related to the petitioner or to  
34 each other by blood or marriage, that they know the character and reputation  
35 of the petitioner in the community in which the petitioner lives, and that the  
36 petitioner's character and reputation are good.
- 37 (3) If the petition is filed subsequent to conviction of the offense in question, a  
38 statement that the petition is a motion in the cause in the case wherein the  
39 petitioner was convicted.
- 40 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and  
41 applicable to petitions for expunctions filed on or after that date.
- 42 (4a) An application on a form approved by the Administrative Office of the  
43 Courts requesting and authorizing a name-based State and national criminal  
44 record check by the Department of Public Safety using any information  
45 required by the Administrative Office of the Courts to identify the individual  
46 and a search of the confidential record of expunctions maintained by the  
47 Administrative Office of the Courts. The application shall be forwarded to  
48 the Department of Public Safety and to the Administrative Office of the  
49 Courts, which shall conduct the searches and report their findings to the  
50 court.



- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
2 representing amounts ordered for restitution entered against the petitioner  
3 are outstanding.

4 The petition shall be served upon the district attorney of the court wherein the case was  
5 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file  
6 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

7 The judge to whom the petition is presented is authorized to call upon a probation officer  
8 for any additional investigation or verification of the petitioner's conduct during the  
9 probationary period or during the two-year period after conviction.

10 (b) If the court, after hearing, finds that (i) the petitioner was dismissed and the  
11 proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had  
12 not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of  
13 good behavior and been free of conviction of any felony or misdemeanor other than a traffic or  
14 boating violation for two years from the date of conviction of the offense in question, the  
15 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered  
16 for restitution entered against the petitioner, and the petitioner had not attained the age of 18  
17 years at the time of the offense in question, it shall order that such person be restored, in the  
18 contemplation of the law, to the status occupied by the petitioner before such arrest or  
19 indictment or information, and that the record be expunged from the records of the court. No  
20 person as to whom such order has been entered shall be held thereafter under any provision of  
21 any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's  
22 failure to recite or acknowledge such arrest, or indictment or information, or trial, or response  
23 to any inquiry made of the person for any purpose. The court shall also direct all law  
24 enforcement agencies, the Division of Adult Correction of the Department of Public Safety, the  
25 Division of Motor Vehicles, and any other State or local government agencies identified by the  
26 petitioner as bearing record of the same to expunge their records of the petitioner's criminal  
27 charge and any conviction resulting from the charge. The clerk shall notify State and local  
28 agencies of the court's order as provided in G.S. 15A-150.

29 ...."

30 **SECTION 3.5.(d)** G.S. 15A-145.2 reads as rewritten:

31 **"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**  
32 **time of the offense of certain drug offenses.**

33 (a) Whenever a person is discharged, and the proceedings against the person dismissed,  
34 pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the  
35 offense, the person may apply to the court for an order to expunge from all official records,  
36 other than the confidential files retained under G.S. 15A-151, all recordation relating to the  
37 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge  
38 pursuant to this section. The applicant shall attach to the application the following:

- 39 (1) An affidavit by the petitioner that he or she has been of good behavior  
40 during the period of probation since the decision to defer further proceedings  
41 on the offense in question and has not been convicted of any felony or  
42 misdemeanor other than a traffic or boating violation under the laws of the  
43 United States or the laws of this State or any other state;
- 44 (2) Verified affidavits by two persons who are not related to the petitioner or to  
45 each other by blood or marriage, that they know the character and reputation  
46 of the petitioner in the community in which he or she lives, and that the  
47 petitioner's character and reputation are good;
- 48 (3) Repealed by Session Laws 2010-174, s. 5, effective October 1, 2010, and  
49 applicable to petitions for expunctions filed on or after that date.
- 50 (3a) An application on a form approved by the Administrative Office of the  
51 Courts requesting and authorizing a name-based State and national criminal

1 record check by the Department of Public Safety using any information  
2 required by the Administrative Office of the Courts to identify the individual  
3 and a search of the confidential record of expunctions maintained by the  
4 Administrative Office of the Courts. The application shall be forwarded to  
5 the Department of Public Safety and to the Administrative Office of the  
6 Courts, which shall conduct the searches and report their findings to the  
7 court.

8 The judge to whom the petition is presented is authorized to call upon a probation officer  
9 for any additional investigation or verification of the petitioner's conduct during the  
10 probationary period deemed desirable.

11 If the court determines, after hearing, that such person was discharged and the proceedings  
12 against him or her dismissed and that the person was not over 21 years of age at the time of the  
13 offense, it shall enter such order. The effect of such order shall be to restore such person in the  
14 contemplation of the law to the status the person occupied before such arrest or indictment or  
15 information. No person as to whom such order was entered shall be held thereafter under any  
16 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
17 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial  
18 in response to any inquiry made of him or her for any purpose.

19 The court shall also order that all records of the proceeding be expunged from the records  
20 of the court and direct all law enforcement agencies, the Division of Adult Correction, the  
21 Division of Motor Vehicles, and any other State and local government agencies identified by  
22 the petitioner as bearing records of the same to expunge their records of the proceeding. The  
23 clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

24 ...

25 (c) Whenever any person who has not previously been convicted of (i) any felony  
26 offense under any state or federal laws; (ii) any offense under Chapter 90 of the General  
27 Statutes; or (iii) an offense under any statute of the United States or any state relating to  
28 controlled substances included in any schedule of Chapter 90 of the General Statutes or to that  
29 paraphernalia included in Article 5B of Chapter 90 of the General Statutes, pleads guilty to or  
30 has been found guilty of a misdemeanor under Article 5 of Chapter 90 of the General Statutes  
31 by possessing a controlled substance included within Schedules I through VI of Chapter 90, or  
32 by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or pleads guilty to or has  
33 been found guilty of a felony under G.S. 90-95(a)(3), the court may, upon application of the  
34 person not sooner than 12 months after conviction, order cancellation of the judgment of  
35 conviction and expunction of the records of the person's arrest, indictment or information, trial,  
36 and conviction. A conviction in which the judgment of conviction has been canceled and the  
37 records expunged pursuant to this subsection shall not be thereafter deemed a conviction for  
38 purposes of this subsection or for purposes of disqualifications or liabilities imposed by law  
39 upon conviction of a crime, including the additional penalties imposed for second or  
40 subsequent convictions of Article 5 of Chapter 90 of the General Statutes. Cancellation and  
41 expunction under this subsection may occur only once with respect to any person. Disposition  
42 of a case under this subsection at the district court division of the General Court of Justice shall  
43 be final for the purpose of appeal.

44 The granting of an application filed under this subsection shall cause the issue of an order to  
45 expunge from all official records, other than the confidential files retained under G.S. 15A-151,  
46 all recordation relating to the petitioner's arrest, indictment or information, trial, finding of  
47 guilty, judgment of conviction, cancellation of the judgment, and expunction of records  
48 pursuant to this subsection.

49 The judge to whom the petition is presented is authorized to call upon a probation officer  
50 for additional investigation or verification of the petitioner's conduct since conviction. If the  
51 court determines that the petitioner was convicted of (i) a misdemeanor under Article 5 of

1 Chapter 90 of the General Statutes for possessing a controlled substance included within  
2 Schedules I through VI of Article 5 of Chapter 90 of the General Statutes or for possessing  
3 drug paraphernalia as prohibited in G.S. 90-113.22 or (ii) a felony under G.S. 90-95(a)(3), that  
4 the petitioner has no disqualifying previous convictions as set forth in this subsection, that the  
5 petitioner was not over 21 years of age at the time of the offense, that the petitioner has been of  
6 good behavior since his or her conviction, that the petitioner has successfully completed a drug  
7 education program approved for this purpose by the Department of Health and Human  
8 Services, and that the petitioner has not been convicted of a felony or misdemeanor other than a  
9 traffic or boating violation under the laws of this State at any time prior to or since the  
10 conviction for the offense in question, it shall enter an order of expunction of the petitioner's  
11 court record. The effect of such order shall be to restore the petitioner in the contemplation of  
12 the law to the status the petitioner occupied before arrest or indictment or information or  
13 conviction. No person as to whom such order was entered shall be held thereafter under any  
14 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
15 the person's failures to recite or acknowledge such arrest, or indictment or information, or  
16 conviction, or trial in response to any inquiry made of him or her for any purpose. The judge  
17 may waive the condition that the petitioner attend the drug education school if the judge makes  
18 a specific finding that there was no drug education school within a reasonable distance of the  
19 defendant's residence or that there were specific extenuating circumstances which made it  
20 likely that the petitioner would not benefit from the program of instruction.

21 The court shall also order all law enforcement agencies, the Department of Correction, the  
22 Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as  
23 bearing records of the conviction and records relating thereto to expunge their records of the  
24 conviction. The clerk shall notify State and local agencies of the court's order as provided in  
25 G.S. 15A-150.

26 ...."

27 **SECTION 3.5.(e)** G.S. 15A-145.3 reads as rewritten:

28 "**§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**  
29 **time of the offense of certain toxic vapors offenses.**

30 (a) Whenever a person is discharged and the proceedings against the person dismissed  
31 under G.S. 90-113.14(a) or (a1), such person, if he or she was not over 21 years of age at the  
32 time of the offense, may apply to the court for an order to expunge from all official records,  
33 other than the confidential files retained under G.S. 15A-151, all recordation relating to the  
34 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge  
35 pursuant to this section. The applicant shall attach to the application the following:

36 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
37 during the period of probation since the decision to defer further proceedings  
38 on the misdemeanor in question and has not been convicted of any felony or  
39 misdemeanor other than a traffic or boating violation under the laws of the  
40 United States or the laws of this State or any other state;

41 (2) Verified affidavits by two persons who are not related to the petitioner or to  
42 each other by blood or marriage, that they know the character and reputation  
43 of the petitioner in the community in which the petitioner lives, and that his  
44 or her character and reputation are good;

45 (3) Repealed by Session Laws 2010-174, s. 6, effective October 1, 2010, and  
46 applicable to petitions for expunctions filed on or after that date.

47 (3a) An application on a form approved by the Administrative Office of the  
48 Courts requesting and authorizing a name-based State and national criminal  
49 record check by the Department of Public Safety using any information  
50 required by the Administrative Office of the Courts to identify the individual  
51 and a search of the confidential record of expunctions maintained by the

1 Administrative Office of the Courts. The application shall be forwarded to  
2 the Department of Public Safety and to the Administrative Office of the  
3 Courts, which shall conduct the searches and report their findings to the  
4 court.

5 The judge to whom the petition is presented is authorized to call upon a probation officer  
6 for any additional investigation or verification of the petitioner's conduct during the  
7 probationary period deemed desirable.

8 If the court determines, after hearing, that such person was discharged and the proceedings  
9 against the person dismissed and that he or she was not over 21 years of age at the time of the  
10 offense, it shall enter such order. The effect of such order shall be to restore such person in the  
11 contemplation of the law to the status the person occupied before such arrest or indictment or  
12 information. No person as to whom such order was entered shall be held thereafter under any  
13 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
14 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial  
15 in response to any inquiry made of him or her for any purpose.

16 The court shall also order that all records of the proceeding be expunged from the records  
17 of the court and direct all law enforcement agencies bearing records of the same to expunge  
18 their records of the proceeding. The clerk shall notify State and local agencies of the court's  
19 order as provided in G.S. 15A-15.

20 ...

21 (c) Whenever any person who has not previously been convicted of an offense under  
22 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States  
23 or any state relating to controlled substances included in any schedule of Article 5 of Chapter  
24 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the  
25 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A  
26 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner  
27 than 12 months after conviction, order cancellation of the judgment of conviction and  
28 expunction of the records of the person's arrest, indictment or information, trial, and conviction.  
29 A conviction in which the judgment of conviction has been cancelled and the records expunged  
30 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this  
31 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of  
32 a crime, including the additional penalties imposed for second or subsequent convictions of  
33 violation of Article 5A of Chapter 90 of the General Statutes. Cancellation and expunction  
34 under this subsection may occur only once with respect to any person. Disposition of a case  
35 under this subsection at the district court division of the General Court of Justice shall be final  
36 for the purpose of appeal.

37 The granting of an application filed under this subsection shall cause the issue of an order to  
38 expunge from all official records, other than the confidential files retained under G.S. 15A-151,  
39 all recordation relating to the person's arrest, indictment or information, trial, finding of guilty,  
40 judgment of conviction, cancellation of the judgment, and expunction of records pursuant to  
41 this subsection.

42 The judge to whom the petition is presented is authorized to call upon a probation officer  
43 for additional investigation or verification of the petitioner's conduct since conviction. If the  
44 court determines that the petitioner was convicted of a misdemeanor under Article 5A of  
45 Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by  
46 G.S. 90-113.22, that the petitioner was not over 21 years of age at the time of the offense, that  
47 the petitioner has been of good behavior since his or her conviction, that the petitioner has  
48 successfully completed a drug education program approved for this purpose by the Department  
49 of Health and Human Services, and that the petitioner has not been convicted of a felony or  
50 misdemeanor other than a traffic or boating violation under the laws of this State at any time  
51 prior to or since the conviction for the misdemeanor in question, it shall enter an order of

1 expunction of the petitioner's court record. The effect of such order shall be to restore the  
2 petitioner in the contemplation of the law to the status he occupied before such arrest or  
3 indictment or information or conviction. No person as to whom such order was entered shall be  
4 held thereafter under any provision of any law to be guilty of perjury or otherwise giving a  
5 false statement by reason of the person's failures to recite or acknowledge such arrest, or  
6 indictment or information, or conviction, or trial in response to any inquiry made of him or her  
7 for any purpose. The judge may waive the condition that the petitioner attend the drug  
8 education school if the judge makes a specific finding that there was no drug education school  
9 within a reasonable distance of the defendant's residence or that there were specific extenuating  
10 circumstances which made it likely that the petitioner would not benefit from the program of  
11 instruction.

12 The clerk shall notify State and local agencies of the court's order as provided in  
13 G.S. 15A-150.

14 ...."

15 **SECTION 3.5.(f)** G.S. 15A-145.4 reads as rewritten:

16 **"§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**  
17 **the time of the commission of a nonviolent felony.**

18 ...

19 (c) Whenever any person who had not yet attained the age of 18 years at the time of the  
20 commission of the offense and has not previously been convicted of any felony or  
21 misdemeanor other than a traffic or boating violation under the laws of the United States or the  
22 laws of this State or any other state pleads guilty to or is guilty of a nonviolent felony, the  
23 person may file a petition in the court where the person was convicted for expunction of the  
24 nonviolent felony from the person's criminal record. The petition shall not be filed earlier than  
25 four years after the date of the conviction or when any active sentence, period of probation, and  
26 post-release supervision has been served, whichever occurs later. The person shall also perform  
27 at least 100 hours of community service, preferably related to the conviction, before filing a  
28 petition for expunction under this section. The petition shall contain the following:

- 29 (1) An affidavit by the petitioner that the petitioner has been of good moral  
30 character since the date of conviction of the nonviolent felony in question  
31 and has not been convicted of any other felony or any misdemeanor other  
32 than a traffic or boating violation under the laws of the United States or the  
33 laws of this State or any other state.
- 34 (2) Verified affidavits of two persons who are not related to the petitioner or to  
35 each other by blood or marriage, that they know the character and reputation  
36 of the petitioner in the community in which the petitioner lives and that the  
37 petitioner's character and reputation are good.
- 38 (3) A statement that the petition is a motion in the cause in the case wherein the  
39 petitioner was convicted.
- 40 (4) An application on a form approved by the Administrative Office of the  
41 Courts requesting and authorizing (i) a State and national criminal history  
42 record check by the Department of Public Safety using any information  
43 required by the Administrative Office of the Courts to identify the  
44 individual; (ii) a search by the Department of Public Safety for any  
45 outstanding warrants or pending criminal cases; and (iii) a search of the  
46 confidential record of expunctions maintained by the Administrative Office  
47 of the Courts. The application shall be forwarded to the Department of  
48 Public Safety and to the Administrative Office of the Courts, which shall  
49 conduct the searches and report their findings to the court.

- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
2 representing amounts ordered for restitution entered against the petitioner  
3 are outstanding.
- 4 (6) An affidavit by the petitioner that the petitioner has performed at least 100  
5 hours of community service since the conviction for the nonviolent felony.  
6 The affidavit shall include a list of the community services performed, a list  
7 of the recipients of the services, and a detailed description of those services.
- 8 (7) An affidavit by the petitioner that the petitioner possesses a high school  
9 diploma, a high school graduation equivalency certificate, or a General  
10 Education Development degree.

11 The petition shall be served upon the district attorney of the court wherein the case was  
12 tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file  
13 any objection thereto and shall be duly notified as to the date of the hearing of the petition. The  
14 district attorney shall make his or her best efforts to contact the victim, if any, to notify the  
15 victim of the request for expunction prior to the date of the hearing.

16 ...

17 (e) The court may order that the person be restored, in the contemplation of the law, to  
18 the status the person occupied before the arrest or indictment or information if the court finds  
19 all of the following after a hearing:

- 20 (1) The petitioner has remained of good moral character and has been free of  
21 conviction of any felony or misdemeanor, other than a traffic or boating  
22 violation, for four years from the date of conviction of the nonviolent felony  
23 in question or any active sentence, period of probation, or post-release  
24 supervision has been served, whichever is later.
- 25 (2) The petitioner has not previously been convicted of any felony or  
26 misdemeanor other than a traffic or boating violation under the laws of the  
27 United States or the laws of this State or any other state.
- 28 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 29 (4) The petitioner has no outstanding restitution orders or civil judgments  
30 representing amounts ordered for restitution entered against the petitioner.
- 31 (5) The petitioner was less than 18 years old at the time of the commission of  
32 the offense in question.
- 33 (6) The petitioner has performed at least 100 hours of community service since  
34 the time of the conviction and possesses a high school diploma, a high  
35 school graduation equivalency certificate, or a General Education  
36 Development degree.
- 37 (7) The search of the confidential records of expunctions conducted by the  
38 Administrative Office of the Courts shows that the petitioner has not been  
39 previously granted an expunction.

40 ...."

41 **SECTION 3.5.(g)** G.S. 15A-145.6(f) reads as rewritten:

42 "(f) The court shall order that the person be restored, in the contemplation of the law, to  
43 the status the person occupied before the arrest or indictment or information if the court finds  
44 all of the following after a hearing:

- 45 (1) The criteria set out in subsection (b) of this section are satisfied.
- 46 (2) The petitioner has remained of good moral character and has been free of  
47 conviction of any felony or misdemeanor, other than a traffic or boating  
48 violation, since the date of conviction of the prostitution offense in question.
- 49 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 50 (4) The petitioner has no outstanding restitution orders or civil judgments  
51 representing amounts ordered for restitution entered against the petitioner.

1 (5) The search of the confidential records of expunctions conducted by the  
2 Administrative Office of the Courts shows that the petitioner has not been  
3 previously granted an expunction, other than an expunction for a prostitution  
4 offense."

5 **SECTION 3.5.(h)** This section is effective when this act becomes law.  
6

7 **AUTHORIZE DMV TO ISSUE PERMANENT PLATES FOR TRAILERS ATTACHED**  
8 **TO MOTORCYCLES**

9 **SECTION 3.6.(a)** G.S. 20-84(b) is amended by adding a new subdivision to read:

10 "(20) A trailer used as an attachment to the rear of a motorcycle."

11 **SECTION 3.6.(b)** This section becomes effective July 1, 2015.  
12

13 **INCREASED PENALTY FOR UNSECURED CHILD IN MOTOR VEHICLE**

14 **SECTION 3.7.(a)** G.S. 20-137.1 reads as rewritten:

15 "**§ 20-137.1. Child restraint systems required.**

16 (a) Every driver who is transporting one or more passengers of less than 16 years of age  
17 shall have all such passengers properly secured in a child passenger restraint system or seat belt  
18 which meets federal standards applicable at the time of its manufacture.

19 (a1) A child less than eight years of age and less than 80 pounds in weight shall be  
20 properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped  
21 with an active passenger-side front air bag, if the vehicle has a rear seat, a child less than five  
22 years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless  
23 the child restraint system is designed for use with air bags. If no seating position equipped with  
24 a lap and shoulder belt to properly secure the weight-appropriate child passenger restraint  
25 system is available, a child less than eight years of age and between 40 and 80 pounds may be  
26 restrained by a properly fitted lap belt only.

27 (b) The provisions of this section shall not apply: (i) to ambulances or other emergency  
28 vehicles; (ii) if all seating positions equipped with child passenger restraint systems or seat  
29 belts are occupied; or (iii) to vehicles which are not required by federal law or regulation to be  
30 equipped with seat belts.

31 (c) Any driver found responsible for a violation of this section may be punished by a  
32 penalty not to exceed ~~twenty five dollars (\$25.00), one hundred dollars (\$100.00),~~ even when  
33 more than one child less than 16 years of age was not properly secured in a restraint system. ~~No~~  
34 ~~driver charged under this section for failure to have a child under eight years of age properly~~  
35 ~~secured in a restraint system shall be convicted if he produces at the time of his trial proof~~  
36 ~~satisfactory to the court that he has subsequently acquired an approved child passenger restraint~~  
37 ~~system for a vehicle in which the child is normally transported.~~

38 (d) A violation of this section shall have all of the following consequences:

39 (1) Two drivers license points shall be assessed pursuant to G.S. 20-16.

40 (2) No insurance points shall be assessed.

41 (3) The violation shall not constitute negligence per se or contributory  
42 negligence per se.

43 (4) The violation shall not be evidence of negligence or contributory negligence.

44 (e) The failure of an occupant that appears to be a child less than eight years of age and  
45 less than 80 pounds in weight to be restrained as required by this section shall be justification  
46 for the stop of a vehicle."

47 **SECTION 3.7.(b)** This section becomes effective December 1, 2015, and applies  
48 to offenses committed on or after that date.  
49

50 **STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY**  
51 **ACCREDITED**

1           **SECTION 3.8.** G.S. 122C-81 reads as rewritten:

2   "**§ 122C-81. National accreditation benchmarks.**

3       (a) As used in this section, the term:

4           (1) "National accreditation" applies to accreditation by an entity approved by the  
5               Secretary that accredits mental health, developmental disabilities, and  
6               substance abuse services.

7           (2) "Provider" applies to only those providers of services, including facilities,  
8               requiring national accreditation, which services are designated by the  
9               Secretary pursuant to subsection (b) of this section.

10       (b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted  
11       by the Secretary, shall designate the mental health, developmental disabilities, and substance  
12       abuse services that require national accreditation. In accordance with rules of the Commission,  
13       the Secretary may exempt a provider that is accredited under this section and in good standing  
14       with the national accrediting agency from undergoing any routine monitoring that is duplicative  
15       of the oversight by the national accrediting agency.

16       ...

17       (e) The Commission may adopt rules establishing a procedure by which a provider that  
18       is accredited under this section and in good standing with the national accrediting agency may  
19       be exempt from undergoing any routine monitoring that is duplicative of the oversight by the  
20       national accrediting agency. Any provider shall continue to be subject to inspection by the  
21       Secretary, provided the inspection is not duplicative of inspections required by the national  
22       accrediting agency. Rules adopted under this subsection may not waive any requirements that  
23       may be imposed under federal law."

24  
25   **CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED**  
26   **FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME**  
27   **ESTABLISHMENT IN THAT LOCATION BECOMES VOID**

28           **SECTION 3.9.** G.S. 130A-248(c) reads as rewritten:

29       "(c) If ownership of an establishment is transferred or the establishment is leased, the  
30       new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for  
31       a transitional permit. A transitional permit may be issued upon the transfer of ownership or  
32       lease of an establishment to allow the correction of construction and equipment problems that  
33       do not represent an immediate threat to the public health. Upon issuance of a new permit or a  
34       transitional permit for ~~an~~the same establishment, any previously issued permit for an  
35       establishment in that location becomes void. This subsection does not prohibit issuing more  
36       than one owner or lessee a permit for the same location if (i) more than one establishment is  
37       operated in the same physical location and (ii) if each establishment satisfies all of the  
38       requirements of rules and requirements of subsection (g) of this section."

39  
40   **DAYCARE CURRICULUM CHANGE**

41           **SECTION 3.10.(a)** Section 10.7(b) of S.L. 2011-145 reads as rewritten:

42       "**SECTION 10.7.(b)** The Childcare Commission shall adopt rules for programmatic  
43       standards for regulation of prekindergarten classrooms. The Commission shall ~~review and~~  
44       ~~approve-recommend~~ comprehensive, evidenced-based early childhood curricula with a reading  
45       component. ~~These curricula shall be added to the currently approved "More At Four"~~  
46       ~~curricula."~~

47           **SECTION 3.10.(b)** Section 10.7(d) of S.L. 2011-145 reads as rewritten:

48       "**SECTION 10.7.(d)** The additional curricula ~~approved and~~ taught in prekindergarten  
49       classrooms shall also be taught in four- and five-star rated facilities in the non-prekindergarten  
50       four-year-old classrooms. The Child Care Commission shall increase standards in the four- and  
51       five-star-rated facilities for the purpose of placing an emphasis on early reading. The



1 Commission shall require the four- and five-star-rated facilities to teach from the Commission's  
2 ~~approved-recommended~~ curricula. The Division of Child Development may use funds from the  
3 Child Care Development Fund Block Grant to assist with the purchase of curricula or adjust  
4 rates of reimbursements to cover increased costs."

5 **SECTION 3.10.(c)** Section 12B.1(c) of S.L. 2013-360 reads as rewritten:

6 **"SECTION 12B.1.(c)** Programmatic Standards. – All entities operating prekindergarten  
7 classrooms shall adhere to all of the policies prescribed by the Division of Child Development  
8 and Early Education regarding programmatic standards and classroom requirements. The North  
9 Carolina Foundations for Early Learning and Development report (Foundations) produced by  
10 the North Carolina Foundations Task Force standards shall be used by four- and five-star  
11 facilities for selecting any curriculum and formative assessments that are used by the facilities  
12 in each classroom where four-year-old children are enrolled. At least one administrator and one  
13 teacher or instructional leader from each facility shall be trained by the Division of Child  
14 Development and Early Education in the implementation of Foundations across classrooms.  
15 The administer and the teacher or instructional leader that have received direct Foundations  
16 training from the Division of Child Development and Early Education shall train other  
17 instructional staff in their respective facilities within 90 days of the initial training of the  
18 administrator and the teacher or instructional leader receiving the initial training from the  
19 Division or within 90 days of the hiring of a new instructional staff person."

## 21 **PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION**

### 23 **ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY**

24 **SECTION 4.1.(a)** Chapter 8 of the General Statutes is amended by adding a new  
25 Part to read:

26 "Part 7D. Environmental Audit Privilege and Limited Immunity.

#### 27 **"§ 8-58.50. Purpose.**

28 (a) In order to encourage owners and operators of facilities and persons conducting  
29 activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or  
30 conducting activities regulated under other environmental laws, to conduct voluntary internal  
31 environmental audits of their compliance programs and management systems and to assess and  
32 improve compliance with statutes, an environmental audit privilege is recognized to protect the  
33 confidentiality of communications relating to voluntary internal environmental audits.

34 (b) Notwithstanding any other provisions of law, nothing in this Part shall be construed  
35 to protect owners and operators of facilities and regulated persons from a criminal investigation  
36 or prosecution carried out by any appropriate governmental entity.

37 (c) Notwithstanding any other provision of law, any privilege granted by this Part shall  
38 apply only to those communications, oral or written, pertaining to and made in connection with  
39 the environmental audit and shall not apply to the facts relating to the violation itself.

#### 40 **"§ 8-58.51. Definitions.**

41 The following definitions apply in this Part:

- 42 (1) "Department" means the Department of Environment and Natural Resources.
- 43 (2) "Enforcement agencies" means the Department, any other agency of the  
44 State, and units of local government responsible for enforcement of  
45 environmental laws.
- 46 (3) "Environmental audit" means a voluntary, internal evaluation or review of  
47 one or more facilities or an activity at one or more facilities regulated under  
48 federal, State, regional, or local environmental law, or of compliance  
49 programs, or management systems related to the facility or activity if  
50 designed to identify and prevent noncompliance and to improve compliance  
51 with these laws. For the purposes of this Part, an environmental audit does

1 not include an environmental site assessment of a facility conducted solely  
2 in anticipation of the purchase, sale, or transfer of the business or facility. An  
3 environmental audit may be conducted by the owner or operator, the parent  
4 corporation of the owner or operator or by their officers or employees, or by  
5 independent contractors. An environmental audit must be a discrete activity  
6 with a specified beginning date and scheduled ending date reflecting the  
7 auditor's bona fide intended completion schedule.

8 (4) "Environmental audit report" means a document marked or identified as  
9 such with a completion date existing either individually or as a compilation  
10 prepared in connection with an environmental audit. An environmental audit  
11 report may include field notes and records of observations, findings,  
12 opinions, suggestions, recommendations, conclusions, drafts, memoranda,  
13 drawings, photographs, computer-generated or electronically-recorded  
14 information, maps, charts, graphs, and surveys, provided the supporting  
15 information is collected or developed for the primary purpose and in the  
16 course of an environmental audit. An environmental audit report, when  
17 completed, may include all of the following components:

18 a. An audit report prepared by an auditor, which may include the scope  
19 and date of the audit and the information gained in the audit, together  
20 with exhibits and appendices and may include conclusions,  
21 recommendations, exhibits, and appendices.

22 b. Memoranda and documents analyzing any portion of the audit report  
23 or issues relating to the implementation of an audit report.

24 c. An implementation plan that addresses correcting past  
25 noncompliance, improving current compliance, or preventing future  
26 noncompliance.

27 (5) "Environmental laws" means all provisions of federal, State, and local laws,  
28 rules, and ordinances pertaining to environmental matters.

29 **"§ 8-58.52. Applicability.**

30 This Part applies to activities regulated under environmental laws, including all of the  
31 following provisions of the General Statutes, and rules adopted thereunder:

32 (1) Article 7 of Chapter 74.

33 (2) Chapter 104E.

34 (3) Article 25 of Chapter 113.

35 (4) Articles 1, 4, and 7 of Chapter 113A.

36 (5) Article 9 of Chapter 130A.

37 (6) Articles 21, 21A, and 21B of Chapter 143.

38 (7) Part 1 of Article 7 of Chapter 143B.

39 **"§ 8-58.53. Environmental audit report; privilege.**

40 (a) An environmental audit report or any part of an environmental audit report is  
41 privileged and, therefore, immune from discovery and is not admissible as evidence in civil or  
42 administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided,  
43 however, all of the following documents are exempt from the privilege established by this Part:

44 (1) Information obtained by observation of an enforcement agency.

45 (2) Information obtained from a source independent of the environmental audit.

46 (3) Documents, communication, data, reports, or other information required to  
47 be collected, maintained, otherwise made available, or reported to a  
48 enforcement agency or any other entity by environmental laws, permit,  
49 order, consent agreement, or as otherwise provided by law.

1           (4)    Documents prepared either prior to the beginning of the environmental audit  
2           or subsequent to the completion date of the audit report and, in all cases, any  
3           documents prepared independent of the audit or audit report.

4           (5)    Documents prepared as a result of multiple or continuous self-auditing  
5           conducted in an effort to intentionally avoid liability for violations.

6           (6)    Information which is knowingly misrepresented or misstated or which is  
7           knowingly deleted or withheld from an environmental audit report, whether  
8           or not included in a subsequent environmental audit report.

9           (7)    Information in instances where the material shows evidence of  
10          noncompliance with environmental laws, permits, orders, consent  
11          agreements, and the owner or operator failed to either promptly take  
12          corrective action or eliminate any violation of law identified during the  
13          environmental audit within a reasonable period of time.

14          (b)    If an environmental audit report or any part of an environmental audit report is  
15          subject to the privilege provided for in subsection (a) of this section, no person who conducted  
16          or participated in the audit or who significantly reviewed the audit report may be compelled to  
17          testify regarding the audit report or a privileged part of the audit report except as provided for  
18          in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

19          (c)    Nothing in this Part shall be construed to restrict a party in a proceeding before the  
20          Industrial Commission from obtaining or discovering any evidence necessary or appropriate for  
21          the proof of any issue pending in an action before the Commission, regardless of whether  
22          evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to  
23          prevent the admissibility of evidence which is otherwise relevant and admissible in a  
24          proceeding before the Industrial Commission, regardless of whether the evidence is privileged  
25          pursuant to this Part. Provided, however, the Commission, upon motion made by a party to the  
26          proceeding, may issue appropriate protective orders preventing disclosure of information  
27          outside of the Commission's proceeding.

28          (d)    Nothing in this Part shall be construed to circumvent the employee protection  
29          provisions provided by federal or State law.

30          (e)    The privilege created by this Part does not apply to criminal investigations or  
31          proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the  
32          privilege created by this Part shall continue to apply and is not waived in civil and  
33          administrative proceedings and is not discoverable or admissible in civil or administrative  
34          proceedings even if disclosed during a criminal proceeding.

35          **"§ 8-58.54. Waiver of privilege.**

36          (a)    The privilege established under G.S. 8-58.53 does not apply to the extent that it is  
37          expressly waived in writing by the owner or operator of a facility at which an environmental  
38          audit was conducted and who prepared or caused to be prepared the audit report as a result of  
39          the audit.

40          (b)    The audit report and information generated by the audit may be disclosed without  
41          waiving the privilege established under G.S. 8-58.53 to all of the following persons:

42               (1)    A person employed by the owner or operator or the parent corporation of the  
43               audited facility.

44               (2)    A legal representative of the owner or operator or parent corporation.

45               (3)    An independent contractor retained by the owner or operator or parent  
46               corporation to conduct an audit on or to address an issue or issues raised by  
47               the audit.

48          (c)    Disclosure of an audit report or information generated by the audit under all of the  
49          following circumstances shall not constitute a waiver of the privilege established under  
50          G.S. 8-58.53:

- 1           (1)    Disclosure made under the terms of a confidentiality agreement between the  
2           owner or operator of the facility audited and a potential purchaser of the  
3           business or facility audited.
- 4           (2)    Disclosure made under the terms of a confidentiality agreement between  
5           governmental officials and the owner or operator of the facility audited.
- 6           (3)    Disclosure made under the terms of a confidentiality agreement between a  
7           customer, lending institution, or insurance company with an existing or  
8           proposed relationship with the facility.

9    **"§ 8-58.55. Notification of audit.**

10    In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the  
11    facility conducting the environmental audit shall, upon inspection of the facility by an  
12    enforcement agency, or no later than 10 working days after completion of an agency's  
13    inspection, notify the enforcement agency of the existence of any audit relevant to the subject  
14    of the agency's inspection, as well as the beginning date and completion date of that audit. Any  
15    environmental audit report shall include a signed certification from the owner or operator of the  
16    facility that documents the date the audit began and the completion date of the audit.

17    **"§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

18    In a civil or administrative proceeding, an enforcement agency may seek by motion a  
19    declaratory ruling on the issue of whether an environmental audit report is privileged. The court  
20    shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set  
21    forth in this section apply. In a civil proceeding, the court, after an in camera review, shall  
22    revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of  
23    the environmental audit report was sought after the effective date of this Part and either of the  
24    following apply:

- 25           (1)    The privilege is asserted for purposes of deception or evasion.
- 26           (2)    The material shows evidence of significant noncompliance with applicable  
27           environmental laws; the owner or operator of the facility has not promptly  
28           initiated and pursued with diligence appropriate action to achieve  
29           compliance with these environmental laws or has not made reasonable  
30           efforts to complete any necessary permit application; and, as a result, the  
31           owner or operator of the facility did not or will not achieve compliance with  
32           applicable environmental laws or did not or will not complete the necessary  
33           permit application within a reasonable period of time.

34    **"§ 8-58.57. Privilege in criminal proceedings.**

35    The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

36    **"§ 8-58.58. Burden of proof.**

37    A party asserting the privilege established under G.S. 8-58.53 has the burden of proving  
38    that (i) the materials claimed as privileged constitute an environmental audit report as defined  
39    by this Part and (ii) compliance has been achieved or will be achieved within a reasonable  
40    period of time. A party seeking disclosure under G.S. 8-58.56 has the burden of proving the  
41    condition for disclosure set forth in that section.

42    **"§ 8-58.59. Stipulations; declaratory rulings.**

43    The parties to a proceeding may at any time stipulate to entry of an order directing that  
44    specific information contained in an environmental audit report is or is not subject to the  
45    privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an  
46    enforcement agency may seek a declaratory ruling from a court on the issue of whether the  
47    materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be  
48    revoked pursuant to G.S. 8-58.56.

49    **"§ 8-58.60. Construction of Part.**

50    Nothing in this Part limits, waives, or abrogates any of the following:

- 1           (1)    The scope or nature of any statutory or common law privilege, including the  
2               work-product privilege or the attorney-client privilege.
- 3           (2)    Any existing ability or authority under State law to challenge privilege.
- 4           (3)    An enforcement agency's ability to obtain or use documents or information  
5               that the agency otherwise has the authority to obtain under State law adopted  
6               pursuant to federally delegated programs.

7   "**§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative**  
8       **penalties and fines.**

9       (a)    An owner or operator of a facility is immune from imposition of civil and  
10       administrative penalties and fines for a violation of environmental laws voluntarily disclosed  
11       subject to the requirements and criteria set forth in this section. Provided, however, that waiver  
12       of penalties and fines shall not be granted until the applicable enforcement agency has certified  
13       that the violation was corrected within a reasonable period of time. If compliance is not  
14       certified by the enforcement agency, the enforcement agency shall retain discretion to assess  
15       penalties and fines for the violation.

16       (b)    If a person or entity makes a voluntary disclosure of a violation of environmental  
17       laws discovered through performance of an environmental audit, that person has the burden of  
18       proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection  
19       (c) of this section and (ii) that the person is therefore entitled to immunity from any  
20       administrative or civil penalties associated with the issues disclosed. Nothing in this section  
21       may be construed to provide immunity from criminal penalties.

22       (c)    For purposes of this section, disclosure is voluntary if all of the following criteria  
23       are met:

- 24           (1)    The disclosure is made within 14 days following a reasonable investigation  
25               of the violation's discovery through the environmental audit.
- 26           (2)    The disclosure is made to an enforcement agency having regulatory  
27               authority over the violation disclosed.
- 28           (3)    The person or entity making the disclosure initiates an action to resolve the  
29               violation identified in the disclosure in a diligent manner.
- 30           (4)    The person or entity making the disclosure cooperates with the applicable  
31               enforcement agency in connection with investigation of the issues identified  
32               in the disclosure.
- 33           (5)    The person or entity making the disclosure diligently pursues compliance  
34               and promptly corrects the noncompliance within a reasonable period of time.

35       (d)    A disclosure is not voluntary for purposes of this section if any of the following  
36       factors apply:

- 37           (1)    Specific permit conditions require monitoring or sampling records and  
38               reports or assessment plans and management plans to be maintained or  
39               submitted to the enforcement agency pursuant to an established schedule.
- 40           (2)    Environmental laws or specific permit conditions require notification of  
41               releases to the environment.
- 42           (3)    The violation was committed intentionally, wilfully, or through criminal  
43               negligence by the person or entity making the disclosure.
- 44           (4)    The violation was not corrected in a diligent manner.
- 45           (5)    The violation posed or poses a significant threat to public health, safety, and  
46               welfare; the environment; and natural resources.
- 47           (6)    The violation occurred within one year of a similar prior violation at the  
48               same facility, and immunity from civil and administrative penalties was  
49               granted by the applicable enforcement agency for the prior violation.
- 50           (7)    The violation has resulted in a substantial economic benefit to the owner or  
51               operator of the facility.

1           (8) The violation is a violation of the specific terms of a judicial or  
2           administrative order.

3           (e) If a person meets the burden of proving that the disclosure is voluntary, the burden  
4 shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the  
5 factors set forth in this section. The person claiming immunity from civil or administrative  
6 penalties or fines under this section retains the ultimate burden of proving the violations were  
7 voluntarily disclosed.

8           (f) A voluntary disclosure made pursuant to this section is subject to disclosure  
9 pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the  
10 General Statutes.

11 **"§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

12 An owner or operator of a facility who makes a voluntary disclosure of a violation of  
13 environmental laws discovered through performance of an environmental audit shall only be  
14 entitled to exercise of the privilege or immunity established by this Part once in a two-year  
15 period, not more than twice in a five-year period, and not more than three times in a 10-year  
16 period.

17 **"§ 8-58.63. Preemption of local laws.**

18 No local law, rule, ordinance, or permit condition may circumvent or limit the privilege  
19 established by this Part or the exercise of the privileges or the presumption and immunity  
20 established by this Part."

21           **SECTION 4.1.(b)** This section becomes effective July 1, 2015, and applies to  
22 environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section,  
23 that are conducted on or after that date.

24  
25 **REPEAL ENERGY AUDIT REQUIREMENTS**

26           **SECTION 4.2.** G.S. 143-64.12 reads as rewritten:

27 **"§ 143-64.12. Authority and duties of the Department; State agencies and State**  
28 **institutions of higher learning.**

29           (a) The Department of Environment and Natural Resources through the State Energy  
30 Office shall develop a comprehensive program to manage energy, water, and other utility use  
31 for State agencies and State institutions of higher learning and shall update this program  
32 annually. Each State agency and State institution of higher learning shall develop and  
33 implement a management plan that is consistent with the State's comprehensive program under  
34 this subsection to manage energy, water, and other utility use, and that addresses any findings  
35 or recommendations resulting from the energy audit required by subsection (b1) of this section.  
36 The energy consumption per gross square foot for all State buildings in total shall be reduced  
37 by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy  
38 consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher  
39 learning shall update its management plan biennially and include strategies for supporting the  
40 energy consumption reduction requirements under this subsection. Each community college  
41 shall submit to the State Energy Office a biennial written report of utility consumption and  
42 costs. Management plans submitted biennially by State institutions of higher learning shall  
43 include all of the following:

- 44           (1) Estimates of all costs associated with implementing energy conservation  
45           measures, including pre-installation and post-installation costs.
- 46           (2) The cost of analyzing the projected energy savings.
- 47           (3) Design costs, engineering costs, pre-installation costs, post-installation costs,  
48           debt service, and any costs for converting to an alternative energy source.
- 49           (4) An analysis that identifies projected annual energy savings and estimated  
50           payback periods.

1 (a1) State agencies and State institutions of higher learning shall carry out the  
2 construction and renovation of facilities in such a manner as to further the policy set forth under  
3 this section and to ensure the use of life-cycle cost analyses and practices to conserve energy,  
4 water, and other utilities.

5 (b) The Department of Administration shall develop and implement policies,  
6 procedures, and standards to ensure that State purchasing practices improve efficiency  
7 regarding energy, water, and other utility use and take the cost of the product over the  
8 economic life of the product into consideration. The Department of Administration shall adopt  
9 and implement Building Energy Design Guidelines. These guidelines shall include energy-use  
10 goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on  
11 building systems and technologies. The Department of Administration shall modify the design  
12 criteria for construction and renovation of facilities of State buildings and State institutions of  
13 higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to  
14 G.S. 143-64.15.

15 (b1) The Department of Administration, as part of the Facilities Condition and  
16 Assessment Program, shall identify and recommend energy conservation maintenance and  
17 operating procedures that are designed to reduce energy consumption within the facility of a  
18 State agency or a State institution of higher learning and that require no significant expenditure  
19 of funds. Every State agency or State institution of higher learning shall implement these  
20 recommendations. Where energy management equipment is proposed for any facility of a State  
21 agency or of a State institution of higher learning, the maximum interchangeability and  
22 compatibility of equipment components shall be required. ~~As part of the Facilities Condition  
23 and Assessment Program under this section, the Department of Administration, in consultation  
24 with the State Energy Office, shall develop an energy audit and a procedure for conducting  
25 energy audits. Every five years the Department shall conduct an energy audit for each State  
26 agency or State institution of higher learning, and the energy audits conducted shall serve as a  
27 preliminary energy survey. The State Energy Office shall be responsible for system-level  
28 detailed surveys.~~

29 ~~(b2) The Department of Administration shall submit a report of the energy audit required  
30 by subsection (b1) of this section to the affected State agency or State institution of higher  
31 learning and to the State Energy Office. The State Energy Office shall review each audit and, in  
32 consultation with the affected State agency or State institution of higher learning, incorporate  
33 the audit findings and recommendations into the management plan required by subsection (a)  
34 of this section.~~

35 ...

36 (j) The State Energy Office shall submit a report by December 1 of every  
37 odd-numbered year to the Joint Legislative Energy Policy Commission describing the  
38 comprehensive program to manage energy, water, and other utility use for State agencies and  
39 State institutions of higher learning required by subsection (a) of this section. The report shall  
40 also contain the following:

- 41 (1) A comprehensive overview of how State agencies and State institutions of  
42 higher learning are managing energy, water, and other utility use and  
43 achieving efficiency gains.
- 44 (2) Any new measures that could be taken by State agencies and State  
45 institutions of higher learning to achieve greater efficiency gains, including  
46 any changes in general law that might be needed.
- 47 (3) A summary of the State agency and State institutions of higher learning  
48 management plans required by subsection (a) of this section ~~and the energy  
49 audits required by subsection (b1) of this section.~~
- 50 (4) A list of the State agencies and State institutions of higher learning that did  
51 and did not submit management plans required by subsection (a) of this

- 1 ~~section and a list of the State agencies and State institutions of higher~~  
2 ~~learning that received an energy audit.~~section.  
3 (5) Any recommendations on how management plans can be better managed  
4 and implemented."  
5

6 **DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES**  
7 **REPORTING REQUIREMENTS**

8 **SECTION 4.3.(a)** G.S. 74-54.1(c) is repealed.

9 **SECTION 4.3.(b)** G.S. 113-175.6 is repealed.

10 **SECTION 4.3.(c)** G.S. 113-182.1(e) reads as rewritten:

11 **"§ 113-182.1. Fishery Management Plans.**

12 ...  
13 (e) The Secretary of Environment and Natural Resources shall monitor progress in the  
14 development and adoption of Fishery Management Plans in relation to the Schedule for  
15 development and adoption of the plans established by the Marine Fisheries Commission. ~~The~~  
16 ~~Secretary of Environment and Natural Resources shall report to the Joint Legislative~~  
17 ~~Commission on Governmental Operations on progress in developing and implementing the~~  
18 ~~Fishery Management Plans on or before 1 September of each year.~~ The Secretary of  
19 Environment and Natural Resources shall report to the Joint Legislative Commission on  
20 Governmental Operations within 30 days of the completion or substantial revision of each  
21 proposed Fishery Management Plan. The Joint Legislative Commission on Governmental  
22 Operations shall review each proposed Fishery Management Plan within 30 days of the date the  
23 proposed Plan is submitted by the Secretary. The Joint Legislative Commission on  
24 Governmental Operations may submit comments and recommendations on the proposed Plan  
25 to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

26 **SECTION 4.3.(d)** G.S. 143B-279.15 is repealed.

27 **SECTION 4.3.(e)** G.S. 143B-289.44(d) is repealed.

28 **SECTION 4.3.(f)** G.S. 159I-29 is repealed.

29 **SECTION 4.3.(g)** Section 2.3 of S.L. 2007-485 is repealed.  
30

31 **DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND ITS RULES FOR**  
32 **TEMPORARY EROSION CONTROL STRUCTURES**

33 **SECTION 4.4.(a)** The Coastal Resources Commission shall amend its rules for the  
34 use of temporary erosion control structures to provide for all of the following:

- 35 (1) Allow the placement of temporary erosion control structures on a property  
36 that is experiencing coastal erosion even if there are no imminently  
37 threatened structures on the property if the property is adjacent to a property  
38 where temporary erosion control structures have been placed.  
39 (2) Allow the placement of contiguous temporary erosion control structures  
40 from one shoreline boundary of a property to the other shoreline boundary,  
41 regardless of proximity to an imminently threatened structure.  
42 (3) The termination date of all permits for contiguous temporary erosion control  
43 structures on the same property shall be the same and shall be the latest  
44 termination date for any of the permits.

45 **SECTION 4.4.(b)** The Coastal Resources Commission shall adopt temporary rules  
46 to implement this section no later than December 31, 2015. The Commission shall also adopt  
47 permanent rules to implement this section.  
48

49 **REPEAL SEDIMENTATION CONTROL COMMISSION AND TRANSFER**  
50 **RESPONSIBILITIES TO THE ENVIRONMENTAL MANAGEMENT COMMISSION**



1           **SECTION 4.5.(a)** Part 8 of Article 7 of Chapter 143B of the General Statutes is  
2 repealed.

3           **SECTION 4.5.(b)** G.S. 113A-52 reads as rewritten:  
4 **"§ 113A-52. Definitions.**

5       As used in this Article, unless the context otherwise requires:

- 6           (1) Repealed by Session Laws 1973, c. 1417, s. 1.
- 7           (1a) "Affiliate" has the same meaning as in 17 Code of Federal Regulations §  
8 240.12(b)-2 (1 June 1993 Edition), which defines "affiliate" as a person that  
9 directly, or indirectly through one or more intermediaries, controls, is  
10 controlled by, or is under common control of another person.
- 11           (2) "Commission" means the ~~North—Carolina—Sedimentation~~  
12 ~~Control~~Environmental Management Commission.
- 13           (3) "Department" means the North Carolina Department of Environment and  
14 Natural Resources.
- 15           (4) "District" means any Soil and Water Conservation District created pursuant  
16 to Chapter 139, North Carolina General Statutes.
- 17           (5) "Erosion" means the wearing away of land surface by the action of wind,  
18 water, gravity, or any combination thereof.
- 19           (6) "Land-disturbing activity" means any use of the land by any person in  
20 residential, industrial, educational, institutional or commercial development,  
21 highway and road construction and maintenance that results in a change in  
22 the natural cover or topography and that may cause or contribute to  
23 sedimentation.
- 24           (7) "Local government" means any county, incorporated village, town, or city,  
25 or any combination of counties, incorporated villages, towns, and cities,  
26 acting through a joint program pursuant to the provisions of this Article.
- 27           (7a) "Parent" has the same meaning as in 17 Code of Federal Regulations §  
28 240.12(b)-2 (1 June 1993 Edition), which defines "parent" as an affiliate that  
29 directly, or indirectly through one or more intermediaries, controls another  
30 person.
- 31           (8) "Person" means any individual, partnership, firm, association, joint venture,  
32 public or private corporation, trust, estate, commission, board, public or  
33 private institution, utility, cooperative, interstate body, or other legal entity.
- 34           (9) "Secretary" means the Secretary of Environment and Natural Resources.
- 35           (10) "Sediment" means solid particulate matter, both mineral and organic, that  
36 has been or is being transported by water, air, gravity, or ice from its site of  
37 origin.
- 38           (10a) "Subsidiary" has the same meaning as in 17 Code of Federal Regulations §  
39 240.12(b)-2 (1 June 1993 Edition), which defines "subsidiary" as an affiliate  
40 that is directly, or indirectly through one or more intermediaries, controlled  
41 by another person.
- 42           (10b) "Tract" means all contiguous land and bodies of water being disturbed or to  
43 be disturbed as a unit, regardless of ownership.
- 44           (11) "Working days" means days exclusive of Saturday and Sunday during which  
45 weather conditions or soil conditions permit land-disturbing activity to be  
46 undertaken."

47           **SECTION 4.5.(c)** G.S. 113A-54.1(c) reads as rewritten:  
48 **"§ 113A-54.1. Approval of erosion control plans.**

49       ...

50       (c) The Commission shall disapprove an erosion and sedimentation control plan if  
51 implementation of the plan would result in a violation of rules adopted by the ~~Environmental~~

1 ~~Management~~ Commission to protect riparian buffers along surface waters. The Director of the  
2 Division of Energy, Mineral, and Land Resources may disapprove an erosion and  
3 sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this  
4 section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- 5 (1) Is conducting or has conducted land-disturbing activity without an approved  
6 plan, or has received notice of violation of a plan previously approved by the  
7 Commission or a local government pursuant to this Article and has not  
8 complied with the notice within the time specified in the notice;
- 9 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local  
10 ordinance adopted pursuant to this Article by the time the payment is due;
- 11 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any  
12 criminal provision of a local ordinance adopted pursuant to this Article; or
- 13 (4) Has failed to substantially comply with State rules or local ordinances and  
14 regulations adopted pursuant to this Article."

15 **SECTION 4.5.(d)** G.S. 113A-57(1) reads as rewritten:

16 **"§ 113A-57. Mandatory standards for land-disturbing activity.**

17 No land-disturbing activity subject to this Article shall be undertaken except in accordance  
18 with the following mandatory requirements:

- 19 (1) No land-disturbing activity during periods of construction or improvement to  
20 land shall be permitted in proximity to a lake or natural watercourse unless a  
21 buffer zone is provided along the margin of the watercourse of sufficient  
22 width to confine visible siltation within the twenty-five percent (25%) of the  
23 buffer zone nearest the land-disturbing activity. Waters that have been  
24 classified as trout waters by the ~~Environmental Management~~ Commission  
25 shall have an undisturbed buffer zone 25 feet wide or of sufficient width to  
26 confine visible siltation within the twenty-five percent (25%) of the buffer  
27 zone nearest the land-disturbing activity, whichever is greater. Provided,  
28 however, that the ~~Sedimentation Control~~ Commission may approve plans  
29 which include land-disturbing activity along trout waters when the duration  
30 of said disturbance would be temporary and the extent of said disturbance  
31 would be minimal. This subdivision shall not apply to a land-disturbing  
32 activity in connection with the construction of facilities to be located on,  
33 over, or under a lake or natural watercourse."

34 **SECTION 4.5.(e)** G.S. 113A-61 reads as rewritten:

35 **"§ 113A-61. Local approval of erosion and sedimentation control plans.**

36 (a) For those land-disturbing activities for which prior approval of an erosion and  
37 sedimentation control plan is required, the Commission may require that a local government  
38 that administers an erosion and sedimentation control program approved under G.S. 113A-60  
39 require the applicant to submit a copy of the erosion and sedimentation control plan to the  
40 appropriate soil and water conservation district or districts at the same time the applicant  
41 submits the erosion and sedimentation control plan to the local government for approval. The  
42 soil and water conservation district or districts shall review the plan and submit any comments  
43 and recommendations to the local government within 20 days after the soil and water  
44 conservation district received the erosion and sedimentation control plan or within any shorter  
45 period of time as may be agreed upon by the soil and water conservation district and the local  
46 government. Failure of a soil and water conservation district to submit comments and  
47 recommendations within 20 days or within agreed upon shorter period of time shall not delay  
48 final action on the proposed plan by the local government.

49 (b) Local governments shall review each erosion and sedimentation control plan  
50 submitted to them and within 30 days of receipt thereof shall notify the person submitting the  
51 plan that it has been approved, approved with modifications, or disapproved. A local

1 government shall only approve a plan upon determining that it complies with all applicable  
2 State and local regulations for erosion and sedimentation control.

3 (b1) A local government shall condition approval of a draft erosion and sedimentation  
4 control plan upon the applicant's compliance with federal and State water quality laws,  
5 regulations, and rules. A local government shall disapprove an erosion and sedimentation  
6 control plan if implementation of the plan would result in a violation of rules adopted by the  
7 ~~Environmental Management Commission~~ to protect riparian buffers along surface waters. A  
8 local government may disapprove an erosion and sedimentation control plan or disapprove a  
9 transfer of a plan under subsection (b3) of this section upon finding that an applicant or a  
10 parent, subsidiary, or other affiliate of the applicant:

- 11 (1) Is conducting or has conducted land-disturbing activity without an approved  
12 plan, or has received notice of violation of a plan previously approved by the  
13 Commission or a local government pursuant to this Article and has not  
14 complied with the notice within the time specified in the notice.
- 15 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local  
16 ordinance adopted pursuant to this Article by the time the payment is due.
- 17 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any  
18 criminal provision of a local ordinance adopted pursuant to this Article.
- 19 (4) Has failed to substantially comply with State rules or local ordinances and  
20 regulations adopted pursuant to this Article.

21 ...."

22 **SECTION 4.5.(f)** G.S. 113A-125 reads as rewritten:

23 **"§ 113A-125. Transitional provisions.**

24 (a) Existing regulatory permits shall continue to be administered within the coastal area  
25 by the agencies presently responsible for their administration until a date (not later than 44  
26 months after July 1, 1974), to be designated by the Secretary of Natural and Economic  
27 Resources as the permit changeover date. Said designation shall be effective from and after its  
28 filing with the Secretary of State.

29 (b) From and after the "permit changeover date," all existing regulatory permits within  
30 the coastal area shall be administered in coordination and consultation with (but not subject to  
31 the veto of) the Commission. No such existing permit within the coastal area shall be issued,  
32 modified, renewed or terminated except after consultation with the Commission. The  
33 provisions of this subsection concerning consultation and coordination shall not be interpreted  
34 to authorize or require the extension of any deadline established by this Article or any other law  
35 for completion of any permit, licensing, certification or other regulatory proceedings.

36 (c) Within the meaning of this section, "existing regulatory permits" include dredge and  
37 fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4;  
38 air pollution control and water pollution control permits, special orders or certificates issued  
39 pursuant to G.S. 143-215.1 and 143-215.2, or any other permits, licenses, authorizations,  
40 approvals or certificates issued by the Board of Water and Air Resources pursuant to Chapter  
41 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams  
42 pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water  
43 diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued  
44 pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51;  
45 permissions for construction of wells issued pursuant to G.S. 87-88; and rules concerning  
46 pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the  
47 Department of Health and Human Services of plans for water supply, drainage or sewerage,  
48 pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid waste disposal  
49 sites and facilities, adopted by the Department of Health and Human Services pursuant to  
50 Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued  
51 pursuant to Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and rules

1 issued by the Department of Health and Human Services pursuant to Articles 23 or 24 of  
2 Chapter 130 with reference to mosquito control programs or districts; any permits, licenses,  
3 authorizations, rules, approvals or certificates issued by the Department of Health and Human  
4 Services relating to septic tanks or water wells; oil or gas well rules and orders issued for the  
5 protection of environmental values or resources pursuant to G.S. 113-391; a certificate of  
6 public convenience and necessity issued by the State Utilities Commission pursuant to Chapter  
7 62 for any public utility plant or system, other than a carrier of persons or property; permits,  
8 licenses, leases, options, authorization or approvals relating to the use of State forestlands, State  
9 parks or other state-owned land issued by the State Department of Administration, the State  
10 Department of Natural and Economic Resources or any other State department, agency or  
11 institution; any approvals of erosion and sedimentation control plans that may be issued by the  
12 ~~North Carolina Sedimentation Control~~ Environmental Management Commission pursuant to  
13 G.S. 113A-60 or 113A-61; and any permits, licenses, authorizations, rules, approvals or  
14 certificates issued by any State agency pursuant to any environmental protection legislation not  
15 specified in this subsection that may be enacted prior to the permit changeover date.

16 (d) The Commission shall conduct continuing studies addressed to developing a better  
17 coordinated and more unified system of environmental and land-use permits in the coastal area,  
18 and shall report its recommendations thereon from time to time to the General Assembly."

19 **SECTION 4.5.(g)** G.S. 143B-279.3(b) reads as rewritten:

20 "**§ 143B-279.3. (Effective until August 1, 2015) Department of Environment and Natural**  
21 **Resources – structure.**

22 ...

23 (b) All functions, powers, duties, and obligations previously vested in the following  
24 commissions, boards, councils, and committees of the following departments are transferred to  
25 and vested in the Department of Environment and Natural Resources by a Type II transfer, as  
26 defined in G.S. 143A-6:

- 27 (1) Repealed by Session Laws 1993, c. 501, s. 27.
- 28 (2) Radiation Protection Commission, Department of Health and Human  
29 Services.
- 30 (3) Repealed by Session Laws 1997-443, s. 11A.6.
- 31 (4) Water Treatment Facility Operators Board of Certification, Department of  
32 Health and Human Services.
- 33 (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.
- 34 (9) Coastal Resources Commission, Department of Natural Resources and  
35 Community Development.
- 36 (10) Environmental Management Commission, Department of Natural Resources  
37 and Community Development.
- 38 (11) Air Quality Council, Department of Natural Resources and Community  
39 Development.
- 40 (12) Wastewater Treatment Plant Operators Certification Commission,  
41 Department of Natural Resources and Community Development.
- 42 (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
- 43 (14) North Carolina Mining and Energy Commission, Department of Natural  
44 Resources and Community Development.
- 45 (15) Advisory Committee on Land Records, Department of Natural Resources  
46 and Community Development.
- 47 (16) Marine Fisheries Commission, Department of Natural Resources and  
48 Community Development.
- 49 (17) Parks and Recreation Council, Department of Natural Resources and  
50 Community Development.
- 51 (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.

- 1 (19) North Carolina Trails Committee, Department of Natural Resources and  
2 Community Development.  
3 ~~(20) Sedimentation Control Commission, Department of Natural Resources and~~  
4 ~~Community Development.~~  
5 (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.  
6 (22) North Carolina Zoological Park Council, Department of Natural Resources  
7 and Community Development.  
8 (23) Repealed by Session Laws 1997-286, s. 6.

9 **"§ 143B-279.3. (Effective August 1, 2015) Department of Environment and Natural**  
10 **Resources – structure.**

11 ...

12 (b) All functions, powers, duties, and obligations previously vested in the following  
13 commissions, boards, councils, and committees of the following departments are transferred to  
14 and vested in the Department of Environment and Natural Resources by a Type II transfer, as  
15 defined in G.S. 143A-6:

- 16 (1) Repealed by Session Laws 1993, c. 501, s. 27.  
17 (2) Radiation Protection Commission, Department of Health and Human  
18 Services.  
19 (3) Repealed by Session Laws 1997-443, s. 11A.6.  
20 (4) Water Treatment Facility Operators Board of Certification, Department of  
21 Health and Human Services.  
22 (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.  
23 (9) Coastal Resources Commission, Department of Natural Resources and  
24 Community Development.  
25 (10) Environmental Management Commission, Department of Natural Resources  
26 and Community Development.  
27 (11) Air Quality Council, Department of Natural Resources and Community  
28 Development.  
29 (12) Wastewater Treatment Plant Operators Certification Commission,  
30 Department of Natural Resources and Community Development.  
31 (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.  
32 (14) North Carolina Mining Commission, Department of Natural Resources and  
33 Community Development.  
34 (15) Advisory Committee on Land Records, Department of Natural Resources  
35 and Community Development.  
36 (16) Marine Fisheries Commission, Department of Natural Resources and  
37 Community Development.  
38 (17) Parks and Recreation Council, Department of Natural Resources and  
39 Community Development.  
40 (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.  
41 (19) North Carolina Trails Committee, Department of Natural Resources and  
42 Community Development.  
43 ~~(20) Sedimentation Control Commission, Department of Natural Resources and~~  
44 ~~Community Development.~~  
45 (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.  
46 (22) North Carolina Zoological Park Council, Department of Natural Resources  
47 and Community Development.  
48 (23) Repealed by Session Laws 1997-286, s. 6."

49 **SECTION 4.5.(h) G.S. 150B-19.3 reads as rewritten:**

50 **"§ 150B-19.3. Limitation on certain environmental rules.**

1 (a) An agency authorized to implement and enforce State and federal environmental  
2 laws may not adopt a rule for the protection of the environment or natural resources that  
3 imposes a more restrictive standard, limitation, or requirement than those imposed by federal  
4 law or rule, if a federal law or rule pertaining to the same subject matter has been adopted,  
5 unless adoption of the rule is required by one of the subdivisions of this subsection. A rule  
6 required by one of the following subdivisions of this subsection shall be subject to the  
7 provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more  
8 persons under G.S. 150B-21.3(b2):

- 9 (1) A serious and unforeseen threat to the public health, safety, or welfare.
- 10 (2) An act of the General Assembly or United States Congress that expressly  
11 requires the agency to adopt rules.
- 12 (3) A change in federal or State budgetary policy.
- 13 (4) A federal regulation required by an act of the United States Congress to be  
14 adopted or administered by the State.
- 15 (5) A court order.

16 (b) For purposes of this section, "an agency authorized to implement and enforce State  
17 and federal environmental laws" means any of the following:

- 18 (1) The Department of Environment and Natural Resources created pursuant to  
19 G.S. 143B-279.1.
- 20 (2) The Environmental Management Commission created pursuant to  
21 G.S. 143B-282.
- 22 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- 23 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
- 24 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
- 25 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
- 26 ~~(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.~~
- 27 (8) **(Effective until August 1, 2015)** The North Carolina Mining and Energy  
28 Commission created pursuant to G.S. 143B-293.1.
- 29 (8) **(Effective August 1, 2015)** The North Carolina Oil and Gas Commission  
30 created pursuant to G.S. 143B-293.1.
- 31 (9) The Pesticide Board created pursuant to G.S. 143-436."

32 **SECTION 4.5.(i)** G.S. 143B-282 reads as rewritten:

33 **"§ 143B-282. Environmental Management Commission – creation; powers and duties.**

34 (a) There is hereby created the Environmental Management Commission of the  
35 Department of Environment and Natural Resources with the power and duty to promulgate  
36 rules to be followed in the protection, preservation, and enhancement of the water and air  
37 resources of the State.

- 38 (1) Within the limitations of G.S. 143-215.9 concerning industrial health and  
39 safety, the Environmental Management Commission shall have all of the  
40 following powers and duties:
  - 41 a. To grant a permit or temporary permit, to modify or revoke a permit,  
42 and to refuse to grant permits pursuant to G.S. 143-215.1 and  
43 G.S. 143-215.108 with regard to controlling sources of air and water  
44 pollution.
  - 45 b. To issue a special order pursuant to G.S. 143-215.2(b) and  
46 G.S. 143-215.110 to any person whom the Commission finds  
47 responsible for causing or contributing to any pollution of water  
48 within such watershed or pollution of the air within the area for  
49 which standards have been established.
  - 50 c. To conduct and direct that investigations be conducted pursuant to  
51 G.S. 143-215.3 and G.S. 143-215.108(c)(5).

- 1 d. To conduct public hearings, institute actions in superior court, and  
2 agree upon or enter into settlements, all pursuant to G.S. 143-215.3.
- 3 e. To direct the investigation of any killing of fish and wildlife pursuant  
4 to G.S. 143-215.3.
- 5 f. To consult with any person proposing to construct, install, or acquire  
6 an air or water pollution source pursuant to G.S. 143-215.3 and  
7 G.S. 143-215.111.
- 8 g. To encourage local government units to handle air pollution  
9 problems and to provide technical and consultative assistance  
10 pursuant to G.S. 143-215.3 and G.S. 143-215.112.
- 11 h. To review and have general oversight and supervision over local air  
12 pollution control programs pursuant to G.S. 143-215.3 and  
13 G.S. 143-215.112.
- 14 i. To declare an emergency when it finds a generalized dangerous  
15 condition of water or air pollution pursuant to G.S. 143-215.3.
- 16 j. To render advice and assistance to local government regarding  
17 floodways pursuant to G.S. 143-215.56.
- 18 k. To declare and delineate and modify capacity use areas pursuant to  
19 G.S. 143-215.13.
- 20 l. To grant permits for water use within capacity use areas pursuant to  
21 G.S. 143-215.15.
- 22 m. To direct that investigations be conducted when necessary to carry  
23 out duties regarding capacity use areas pursuant to G.S. 143-215.19.
- 24 n. To approve, disapprove and approve subject to conditions all  
25 applications for dam construction pursuant to G.S. 143-215.28; to  
26 require construction progress reports pursuant to G.S. 143-215.29.
- 27 o. To halt dam construction pursuant to G.S. 143-215.29.
- 28 p. To grant final approval of dam construction work pursuant to  
29 G.S. 143-215.30.
- 30 q. To have jurisdiction and supervision over the maintenance and  
31 operation of dams pursuant to G.S. 143-215.31.
- 32 r. To direct the inspection of dams pursuant to G.S. 143-215.32.
- 33 s. To modify or revoke any final action previously taken by the  
34 Commission pursuant to G.S. 143-214.1 and G.S. 143-215.107.
- 35 t. To have jurisdiction and supervision over oil pollution and  
36 dry-cleaning solvent use, contamination, and remediation pursuant to  
37 Article 21A of Chapter 143 of the General Statutes.
- 38 u. To administer the State's authority under 33 U.S.C. § 1341 of the  
39 federal Clean Water Act.
- 40 v. To approve Coastal Habitat Protection Plans as provided in  
41 G.S. 143B-279.8.
- 42 w. To, in cooperation with the Secretary of Transportation and Highway  
43 Safety and other appropriate State and federal agencies, develop,  
44 promulgate, publicize, and administer a comprehensive State erosion  
45 and sedimentation control program pursuant to Article 4 of Chapter  
46 113A of the General Statutes.
- 47 x. To assist local governments in the development of erosion and  
48 sedimentation programs pursuant to G.S. 113A-60.
- 49 y. To assist and encourage other State agencies in the development of  
50 erosion and sedimentation control programs pursuant to  
51 G.S. 113A-56.

1                   z.       To develop recommended methods of control of sedimentation and  
 2                               prepare and make available for distribution publications and other  
 3                               materials dealing with sedimentation control techniques pursuant to  
 4                               G.S. 113A-54.

5           (2)   The Environmental Management Commission shall adopt rules:

- 6           a.    For air quality standards, emission control standards and  
 7                    classifications for air contaminant sources pursuant to  
 8                    G.S. 143-215.107.  
 9           b.    For water quality standards and classifications pursuant to  
 10                   G.S. 143-214.1 and G.S. 143-215.  
 11           c.    To implement water and air quality reporting pursuant to Part 7 of  
 12                   Article 21 of Chapter 143 of the General Statutes.  
 13           d.    To be applied in capacity use areas pursuant to G.S. 143-215.14.  
 14           e.    To implement the issuance of permits for water use within capacity  
 15                   use areas pursuant to G.S. 143-215.15 and G.S. 143-215.16.  
 16           f.    Repealed by Session Laws 1983, c. 222, s. 3.  
 17           g.    For the protection of the land and the waters over which this State  
 18                   has jurisdiction from pollution by oil, oil products and oil  
 19                   by-products pursuant to Article 21A of Chapter 143.  
 20           h.    Governing underground tanks used for the storage of oil or hazardous  
 21                   substances pursuant to Articles 21, 21A, or 21B of Chapter 143 of  
 22                   the General Statutes, including inspection and testing of these tanks  
 23                   and certification of persons who inspect and test tanks.  
 24           i.    To implement the provisions of Part 2A of Article 21 of Chapter 143  
 25                   of the General Statutes.  
 26           j.    To implement the provisions of Part 6 of Article 21A of Chapter 143  
 27                   of the General Statutes.  
 28           k.    To implement basinwide water quality management plans developed  
 29                   pursuant to G.S. 143-215.8B.  
 30           l.    For matters within its jurisdiction that allow for and regulate  
 31                   horizontal drilling and hydraulic fracturing for the purpose of oil and  
 32                   gas exploration and development.  
 33           m.    For the control of erosion and sedimentation pursuant to  
 34                   G.S. 113A-54.

35           ...."

36           **SECTION 4.5.(j)**   Notwithstanding G.S. 113A-54(b), the Environmental  
 37   Management Commission shall review the rules adopted by the Sedimentation Control  
 38   Commission and amend or repeal any such rules that the Environmental Management  
 39   Commission determines to be outdated, unnecessary, duplicative, or confusing. The  
 40   Environmental Management Commission shall report its findings and any actions taken  
 41   pursuant to this section to the Environmental Review Commission on or before January 1,  
 42   2016.

43           **SECTION 4.5.(k)** This section becomes effective June 30, 2015.

44  
 45   **REPEAL ANNUAL REPORTING REQUIREMENT FOR COMPUTER EQUIPMENT**  
 46   **MANUFACTURERS CONCERNING THE TOTAL WEIGHT OF DISCARDED**  
 47   **EQUIPMENT RECYCLED AND ASSOCIATED COMPLIANCE ACTIVITIES**

48           **SECTION 4.6.** G.S. 130A-309.134(h) is repealed.  
 49



1 **REPEAL ANNUAL REPORTING REQUIREMENT FOR EACH TELEVISION**  
2 **MANUFACTURER CONCERNING ITS MARKET SHARE OF DISCARDED**  
3 **TELEVISIONS RECYCLED**

4 **SECTION 4.7.** G.S. 130A-309.135(g) is repealed.  
5

6 **REPEAL ANNUAL REPORTING REQUIREMENT FROM THE DEPARTMENT OF**  
7 **ENVIRONMENT AND NATURAL RESOURCES TO THE ENVIRONMENTAL**  
8 **REVIEW COMMISSION ON THE RECYCLING OF DISCARDED COMPUTER**  
9 **EQUIPMENT AND TELEVISIONS IN THE STATE**

10 **SECTION 4.8.** G.S. 130A-309.140 is repealed.  
11

12 **STUDY RECYCLING REQUIREMENTS FOR COMPUTER EQUIPMENT AND**  
13 **TELEVISIONS**

14 **SECTION 4.9.** The Department of Environment and Natural Resources shall study  
15 ways to optimize North Carolina's recycling requirements for discarded computer equipment  
16 and televisions. In conducting this study, the Commission shall consider (i) the changing waste  
17 stream, including the transition from televisions containing cathode ray tubes to flat screen  
18 televisions; (ii) the current status of North Carolina's recycling system, including cost and  
19 financing issues, and options that may be available to reduce costs; (iii) opportunities for more  
20 efficient and effective recycling systems; and (iv) any other issue the Department deems  
21 relevant. The Department shall report its findings, including specific recommendations for  
22 legislative action, to the Environmental Review Commission on or before December 1, 2015.  
23

24 **AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO**  
25 **EXTEND ELIGIBILITY UNDER THE PROGRAM TO BONA FIDE PROSPECTIVE**  
26 **PURCHASERS, IN ACCORDANCE WITH FEDERAL LAW**

27 **SECTION 4.12.(a)** G.S. 130A-310.31(b)(10) reads as rewritten:

28 **"§ 130A-310.31. Definitions.**

29 (a) Unless a different meaning is required by the context or unless a different meaning  
30 is set out in subsection (b) of this section, the definitions in G.S. 130A-2 and G.S. 130A-310  
31 apply throughout this Part.

32 (b) Unless a different meaning is required by the context:

33 ...

34 (10) "~~Prospective developer" means any person with a bona fide, demonstrable~~  
35 ~~desire to either buy or sell a brownfields property for the purpose of~~  
36 ~~developing or redeveloping that brownfields property and who did not cause~~  
37 ~~or contribute to the contamination at the brownfields property.~~ has the same  
38 meaning as the term "bona fide prospective purchaser" under the Small  
39 Business Liability Relief and Brownfields Revitalization Act (Pub. L. No.  
40 107-118, 115 stat. 2356), 42 U.S. Code § 9601."

41 **SECTION 4.12.(b)** This section becomes effective July 1, 2015, and applies to  
42 notices of Intent to Redevelop a Brownfields Property filed on or after that date.  
43

44 **ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS**

45 **SECTION 4.13.(a)** G.S. 105-102.6 is repealed.

46 **SECTION 4.13.(b)** G.S. 130A-309.17(d) and (i) are repealed.  
47

48 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

49 **SECTION 5.1.** If any section or provision of this act is declared unconstitutional or  
50 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
51 the part declared to be unconstitutional or invalid.

1                   **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes  
2 law.