

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 303  
PROPOSED COMMITTEE SUBSTITUTE S303-PCS35267-TA-3

Short Title: Protect Safety/Well-Being of NC Citizens.

(Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE SAFETY AND WELL-BEING OF CITIZENS FROM REGULATORY OVERREACH BY: (1) PROHIBITING THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM ISSUING RULES IMPLEMENTING FEDERAL STANDARDS FOR WOOD HEATERS OR ENFORCING SUCH RULES, AND BY FORBIDDING THE COMMISSION AND THE DEPARTMENT FROM ENFORCING AIR EMISSIONS STANDARDS LIMITING FUEL SOURCES PROVIDING HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS; AND (2) REQUIRING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO AFFIRMATIVELY ADOPT AIR QUALITY MANAGEMENT RULES PROMULGATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

The General Assembly of North Carolina enacts:

**PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS**

**SECTION 1.(a)** G.S. 143-215.107 reads as rewritten:

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

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

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

- (1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.
- (2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.



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1       (i) Neither the Commission nor the Department shall enforce any federal air emissions  
2 standard adopted by the United States Environmental Protection Agency after May 1, 2014,  
3 that would jeopardize the health, safety, or economic well-being of a citizen of this State  
4 through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot  
5 water or comfort heating to a residence or (ii) comfort heating to a business."

6       **SECTION 1.(b)** G.S. 143-213 is amended by adding a new subdivision to read:

7       "(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired  
8 hydronic heater, wood-burning forced-air furnace, or masonry wood heater  
9 or other similar appliance designed for heating a residence or business or for  
10 heating water for use by a residence through the combustion of wood or  
11 products substantially composed of wood."

## 13 **AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY** 14 **STANDARDS**

15       **SECTION 2.(a)** 15A NCAC 02D .0524(c) (New Source Performance Standards). –  
16 Until the effective date of the revised permanent rule that the Environmental Management  
17 Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the  
18 Department of Environment and Natural Resources shall implement 15A NCAC 02D .0524(c)  
19 (New Source Performance Standards) as provided in Section 2(b) of this act.

20       **SECTION 2.(b)** Implementation. – Notwithstanding 15A NCAC 02D .0524(c)  
21 (New Source Performance Standards), the Commission shall not adopt a new source  
22 performance standard promulgated in Part 60 of Title 40 of the Code of Federal Regulations  
23 except by a three-fifths vote of the Commission. If the Commission adopts new source  
24 performance standards promulgated in Part 60 of Title 40 of the Code of Federal Regulations as  
25 provided in this section, those rules shall be subject to legislative review as provided in  
26 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by  
27 G.S. 150B-21.3(b2).

28       **SECTION 2.(c)** Additional Rule-Making Authority. – The Environmental  
29 Management Commission shall adopt a rule to amend 15A NCAC 02D .0524(c) (New Source  
30 Performance Standards) consistent with Section 2(b) of this act. Notwithstanding  
31 G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be  
32 substantively identical to the provisions of Section 2(b) of this act. Rules adopted pursuant to  
33 this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes.  
34 Rules adopted pursuant to this section shall become effective as provided in  
35 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by  
36 G.S. 150B-21.3(b2).

37       **SECTION 2.(d)** Sunset. – Section 2(b) of this act expires on the date that the rule  
38 adopted pursuant to Section 2(c) of this act becomes effective.

39       **SECTION 3.(a)** 15A NCAC 02D .1111(c) (Maximum Achievable Control  
40 Technology). – Until the effective date of the revised permanent rule that the Environmental  
41 Management Commission is required to adopt pursuant to Section 3(c) of this act, the  
42 Commission and the Department of Environment and Natural Resources shall implement 15A  
43 NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section 3(b)  
44 of this act.

45       **SECTION 3.(b)** Implementation. – Notwithstanding 15A NCAC 02D .1111(c)  
46 (Maximum Achievable Control Technology), the Commission shall not adopt maximum  
47 achievable control technology standards promulgated in Part 63 of Title 40 of the Code of  
48 Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts  
49 maximum achievable control technology standards promulgated in Part 63 of Title 40 of the  
50 Code of Federal Regulations as provided in this section, those rules shall be subject to

1 legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections  
2 had been received as provided by G.S. 150B-21.3(b2).

3 **SECTION 3.(c)** Additional Rule-Making Authority. – The Environmental  
4 Management Commission shall adopt a rule to amend 15A NCAC 02D .1111(c) (Maximum  
5 Achievable Control Technology) consistent with Section 3(b) of this act. Notwithstanding  
6 G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be  
7 substantively identical to the provisions of Section 3(b) of this act. Rules adopted pursuant to  
8 this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes.  
9 Rules adopted pursuant to this section shall become effective as provided in  
10 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by  
11 G.S. 150B-21.3(b2).

12 **SECTION 3.(d)** Sunset. – Section 3(b) of this act expires on the date that the rule  
13 adopted pursuant to Section 3(c) of this act becomes effective.

14 **SECTION 4.(a)** 15A NCAC 02D .1110(b) (National Emissions Standards for  
15 Hazardous Air Pollutants). – Until the effective date of the revised permanent rule that the  
16 Environmental Management Commission is required to adopt pursuant to Section 4(c) of this  
17 act, the Commission and the Department of Environment and Natural Resources shall  
18 implement 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air  
19 Pollutants) as provided in Section 4(b) of this act.

20 **SECTION 4.(b)** Implementation. – 15A NCAC 02D .1110(b) (National Emissions  
21 Standards for Hazardous Air Pollutants), the Commission shall not adopt national emissions  
22 standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal  
23 Regulations except by a three-fifths vote of the Commission. If the Commission adopts national  
24 emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code  
25 of Federal Regulations as provided in this section, those rules shall be subject to legislative  
26 review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been  
27 received as provided by G.S. 150B-21.3(b2).

28 **SECTION 4.(c)** Additional Rule-Making Authority. – The Environmental  
29 Management Commission shall adopt a rule to amend 15A NCAC 02D .1110(b) (National  
30 Emissions Standards for Hazardous Air Pollutants) consistent with Section 4(b) of this act.  
31 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section  
32 shall be substantively identical to the provisions of Section 4(b) of this act. Rules adopted  
33 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General  
34 Statutes. Rules adopted pursuant to this section shall become effective as provided in  
35 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by  
36 G.S. 150B-21.3(b2).

37 **SECTION 4.(d)** Sunset. – Section 4(b) of this act expires on the date that the rule  
38 adopted pursuant to Section 4(c) of this act becomes effective.

39 **SECTION 5.** As of the effective date of this act, the Environmental Management  
40 Commission shall not enforce any federal standard that was adopted by reference pursuant to  
41 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such  
42 standards are readopted by the Commission as provided in this act.

#### 43 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

44 **SECTION 6.** If any section or provision of this act is declared unconstitutional or  
45 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
46 the part declared to be unconstitutional or invalid.

47 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes  
48 law.  
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