

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1252

Short Title: Water Pollution Tax.

(Public)

Sponsors: Senators Barker; Guy, Richardson, and Shaw.

Referred to: Finance.

May 10, 1989

A BILL TO BE ENTITLED

AN ACT TO LEVY A WATER POLLUTION TAX ON THE DISCHARGE OF WASTE FROM POINT SOURCES TO THE SURFACE WATERS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.9A. Water pollution tax.

(a) Definitions. In addition to the definitions in G.S. 143-212 and G.S. 143-213 applicable to water pollution, the following definitions apply in this section:

(1) Actual discharge. The total amount, measured in pounds, of a taxable compound actually discharged to the surface waters of the State by a permit holder.

(2) Permit. A water quality permit for the discharge of waste from a point source to the surface waters of the State issued pursuant to G.S. 143-215.1. The term 'permit' includes a new permit, a modified permit, and a renewed permit.

(3) Person. A person, as defined in G.S. 143-212, other than a State or federal agency.

(4) Taxable compound. A compound listed in subdivision (b)(1) through (5).

(b) Tax Levied. Every person required to obtain a permit for the discharge of waste from a point source to the surface waters of the State under G.S. 143-215.1 shall pay an excise tax, in addition to all other fees and taxes imposed by law, on the actual

1 discharge of taxable compounds under the permit. The tax shall be at the following
2 rates per pound of actual discharge:

3 (1) Category One. Discharge of total suspended solids (TSS) – seventeen
4 cents (17¢) per pound.

5 (2) Category Two. Discharge of biochemical oxygen demand (BOD)
6 compounds – twenty-two cents (22¢) per pound.

7 (3) Category Three. Discharge of ammonia nitrogen (NH₃) – twenty-
8 seven cents (27¢) per pound.

9 (4) Category Four. Discharge of total metals – thirty-two cents (32¢) per
10 pound.

11 (5) Category Five. Discharge of total organic compounds – thirty-seven
12 cents (37¢) per pound.

13 (c) Exemptions. This section does not apply to a person required to obtain a
14 permit solely for the discharge of waste from a single family dwelling.

15 (d) Administration. When the Commission issues a permit, it shall notify the
16 permit holder of the rates of tax that will apply to the actual discharge under the permit.
17 The Department of Natural Resources and Community Development shall design, print,
18 and furnish to each permit holder forms for filing returns and instructions to ensure the
19 full collection of the tax.

20 (e) When Tax Due and Payable. The tax levied by this section is due and
21 payable by the permit holder to the Department of Revenue in quarterly installments
22 within 15 days after the end of each calendar quarter in which the tax accrues. Every
23 person liable for the tax shall, on or before the date the tax is due, prepare and render a
24 return on the form furnished by the Department of Natural Resources and Community
25 Development. The return shall state the total actual discharge of each taxable
26 compound during the preceding quarter.

27 (f) Enforcement. The Department of Revenue shall collect and enforce the tax
28 levied by this section. All of the administrative provisions, penalties, and remedies of
29 Article 9 of Chapter 105 shall apply to the tax levied by this section to the extent they
30 are not inconsistent with this section. The Department of Natural Resources and
31 Community Development shall provide the Secretary of Revenue such information
32 regarding permit holders, amounts and types of permitted taxable compounds under
33 each permit, and such other matters as the Secretary of Revenue may request.

34 (g) Additional Penalty. In addition to the penalties and remedies provided in
35 Article 9 of Chapter 105, there shall be an additional penalty for the following
36 violations: (i) failure to obtain a permit required for the discharge of waste from a point
37 source to the surface waters of the State under G.S. 143-215.1 and (ii) failure to report
38 the actual discharge of a taxable compound. The additional penalty is one hundred
39 percent (100%) of the excess of the tax that would have been due during the period of
40 the violation if the taxpayer had obtained the required permit for the discharge and had
41 reported the amount and type of the total actual discharge of all taxable compounds over
42 the tax that was paid for that period by the taxpayer. The Department of Natural
43 Resources and Community Development shall, within 10 days after it determines that a
44 violation subject to the additional penalty has occurred, notify the Department of

1 Revenue of the taxpayer who committed the violation, the amount of tax due for the
2 period of the violation, and the amount of the additional penalty for the violation.

3 (h) Use of Proceeds. The Secretary of Revenue shall deposit fifty percent (50%)
4 of the proceeds of the tax levied by this section with the State Treasurer in a special
5 fund to be known as the Local Conservation/Pollution Control Fund. The Secretary of
6 Revenue shall deposit the remaining fifty percent (50%) of the proceeds of the tax
7 levied by this section with the State Treasurer in a special fund to be known as the State
8 Conservation/Pollution Control Fund. These Funds shall be placed in interest bearing
9 accounts and any interest or other income derived from each Fund shall be credited to
10 that Fund. The Funds shall be subject to the provisions of the Executive Budget Act
11 except that no unexpended surplus in either Fund shall revert to the General Fund.

12 The State Treasurer shall distribute the funds in the Local Conservation/Pollution
13 Control Fund to the counties of the State on a quarterly basis as follows. The State
14 Treasurer shall distribute the proceeds attributable to each point source discharge permit
15 on a pro rata basis among the county in which the discharge occurred and every county
16 into which the waters receiving the discharge flow directly or indirectly. The
17 Department of Natural Resources and Community Development shall provide the State
18 Treasurer such information regarding the location of point sources and the flow of
19 waters throughout the State as the State Treasurer may require to make this distribution.
20 A county that receives a distribution from the Local Conservation/Pollution Control
21 Fund may use the amount received only for (i) wastewater treatment, (ii) parks and
22 recreation, (iii) beach and water public access, (iv) boat ramps, (v) wetlands protection,
23 (vi) conservation easements, (vii) water resources development, and (viii) water
24 pollution mitigation.

25 All funds credited to the State Conservation/Pollution Control Fund may be used
26 only for (i) the Recreation and Natural Heritage Trust Fund created in Article 5A of
27 Chapter 113, (ii) the Clean Water Revolving Loan and Grant Fund created in Chapter
28 159G, (iii) the Pollution Prevention Pays Program in the Department of Natural
29 Resources and Community Development, (iv) the Agricultural Cost Share Program
30 created in Part 9 of Article 21 of this Chapter, (v) the Coastal and Estuarine Water
31 Beach Access Program created in Article 7A of Chapter 113A, (vi) the Wetlands
32 Mitigation and Restoration Fund, (vii) the North Carolina Coastal Reserve System,
33 (viii) the Wildlife Conservation Fund created in G.S. 143-247.2, (ix) the Marine
34 Fisheries Conservation Fund created in G.S. 143B-289.8, and (x) other statewide
35 programs for conservation, protection of areas of environmental concern, and water
36 pollution prevention and mitigation. The funds in the State Conservation/Pollution
37 Control Fund shall be appropriated, reserved, set aside, and made available annually by
38 the General Assembly for these purposes.

39 (i) Rules. The Department of Revenue and the Office of State Treasurer may
40 adopt appropriate rules to implement the provisions of this section."

41 Sec. 2. The Department of Natural Resources and Community Development
42 shall, before January 1, 1990, furnish to every person who holds a water quality permit
43 for the discharge of waste from a point source to the surface waters of the State issued

1 pursuant to G.S. 143-215.1 forms for filing returns and instructions as provided in G.S.
2 143-215.9A(d), enacted by Section 1 of this act.
3 Sec. 3. Section 1 of this act shall become effective January 1, 1990, and
4 applies to actual discharges made on or after that date. The remainder of this act is
5 effective upon ratification.