

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1210

Short Title: Haz. Materials Response Teams.

(Public)

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Sponsors: Representatives Flaherty, Anderson, Stewart; Brubaker, DeVane, Ethridge, Fletcher, Gist, Gottovi, H. Hunter, R. Hunter, and Robinson.

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Referred to: Environment.

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May 10, 1991

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A PROGRAM TO PROVIDE FOR REGIONAL  
2 RESPONSE TEAMS TO RESPOND TO HAZARDOUS MATERIALS  
3 EMERGENCIES IN NORTH CAROLINA, TO ASSESS FEES TO FUND THIS  
4 PROGRAM, AND TO ESTABLISH A LEGISLATIVE STUDY COMMISSION  
5 TO STUDY HAZARDOUS MATERIALS CONTROL AND MANAGEMENT.  
6

7 The General Assembly of North Carolina enacts:

8 Section 1. Chapter 166A of the General Statutes is amended by adding two  
9 new sections to read:

10 **"§ 166A-5.1. Management of hazardous materials emergencies; Regional Response**  
11 **Teams program.**

12 (a) The Secretary of Crime Control and Public Safety shall develop a program of  
13 regionalized response to hazardous materials emergencies, to be administered by the  
14 Division of Emergency Management, Department of Crime Control and Public Safety.  
15 This program shall provide for the establishment of Regional Response Teams that will  
16 respond to hazardous materials emergencies across the State.

17 (b) The Secretary of Crime Control and Public Safety shall enter into an  
18 agreement with:

- 19 (1) The Secretary of Environment, Health, and Natural Resources to  
20 clarify the roles and responsibilities of the Department of Crime  
21 Control and Public Safety and the Department of Environment, Health,  
22 and Natural Resources regarding hazardous materials response; and

1           (2) Each Regional Response Team selected pursuant to G.S. 166A-5.2,  
2 whereby the team agrees to provide hazardous materials emergency  
3 response outside its emergency management area when authorized by  
4 the Division of Emergency Management.

5           (c) In the event the Division of Emergency Management, Department of Crime  
6 Control and Public Safety, responds to a hazardous materials emergency, the Division  
7 shall serve as an advisor to the local fire chief.

8           (d) When the Division of Emergency Management and the responding Regional  
9 Response Team determine that the immediate threat to public safety or the environment  
10 no longer exists, the Department of Environment, Health, and Natural Resources shall  
11 determine whether and to what extent remedial action is needed.

12 **"§ 166A-5.2. Regional Response Teams Task Force.**

13           (a) The Regional Response Teams Task Force is created. The Secretary of  
14 Crime Control and Public Safety shall appoint the members of the Task Force and shall  
15 designate the chair. Members shall include a representative from:

- 16           (1) The Department of Crime Control and Public Safety;
- 17           (2) The Department of Environment, Health, and Natural Resources;
- 18           (3) The Department of Transportation;
- 19           (4) The Department of Agriculture;
- 20           (5) The Department of Human Resources; and
- 21           (6) The Fire and Rescue Commission;

22 and as many additional representatives from private industry and professional  
23 organizations, including the fire service, emergency management, emergency medical  
24 service, and existing hazardous materials teams, as the Secretary determines are needed,  
25 but not to exceed 12 such additional representatives.

26           (b) The Regional Response Team Task Force shall:

- 27           (1) Establish the standards and procedures of Regional Response Teams.
- 28           (2) No later than March 1, 1992, develop criteria for the selection of  
29 Regional Response Teams;
- 30           (3) No later than July 1, 1992, select at least six initial Regional Response  
31 Teams from existing private and public hazardous materials response  
32 units, each to be assigned to one of six emergency management areas.
- 33           (4) Recommend the number of additional Regional Response Teams  
34 needed in the State giving consideration to:
  - 35           a. The frequency of hazardous materials incidents requiring  
36 response;
  - 37           b. The expected operational capability for a hazardous materials  
38 response;
  - 39           c. The desired response time;
  - 40           d. The actual response time to all parts of the State; and
  - 41           e. Any other factors deemed pertinent by the Task Force.
- 42           (5) Establish minimum equipment needs for the effective response of a  
43 Regional Response Team."

1           Sec. 2. Chapter 166A of the General Statutes is amended by adding a new  
2 section to read:

3 **"§ 166A-6.2. Fees for hazardous materials emergency response.**

4       (a) It is the intent of the General Assembly that the fees established by this  
5 section are solely to provide funding in addition to federal and State appropriations and  
6 other fees to support the Regional Response Teams program.

7       (b) Funds collected pursuant to this section shall be used to establish and  
8 maintain the Regional Response Teams program to manage hazardous materials  
9 emergencies.

10       (c) All fees collected by the Department of Crime Control and Public Safety  
11 under this section; collected by Department of Environment, Health, and Natural  
12 Resources under G.S. 130A-294.2 and transferred to the Department; or collected by the  
13 Department of Transportation under G.S. 20-88.03 and transferred to the Department  
14 shall be deposited in a separate nonreverting fund within the Department of Crime  
15 Control and Public Safety to be administered by the Department and used only to pay  
16 the cost of managing hazardous materials emergencies and the Regional Response  
17 Teams program, including the cost to contract with or establish Regional Response  
18 Teams, reimburse emergency response expenses, and enhance emergency response  
19 capabilities within the Division of Emergency Management.

20       (d) Any person who operates a hazardous waste facility currently reporting under  
21 Section 312 of the Superfund Amendments and Reauthorization Act of 1986, Pub. L.  
22 No. 99-499, 100 Stat. 613, as amended (SARA), shall pay an annual fee of one hundred  
23 dollars (\$100.00) for each such facility.

24       (e) Any person who operates a hazardous waste facility currently reporting under  
25 Section 313 of SARA shall pay an annual fee of one hundred dollars (\$100.00) for each  
26 such facility.

27       (f) All fees established under this section are due no later than July 31 for the  
28 fiscal year beginning July 1 in the same year."

29           Sec. 3. G.S. 166A-7 is amended by adding a new subsection to read:

30       "(f) This section does not apply to hazardous materials emergency response,  
31 which is governed by G.S. 166A-5.1 and G.S. 166A-5.2."

32           Sec. 4. G.S. 166A-14(d) reads as rewritten:

33       "(d) As used in this section, the term 'emergency management worker' shall  
34 include any full or part-time paid, volunteer or auxiliary employee of this State or other  
35 states, territories, possessions or the District of Columbia, of the federal government or  
36 any neighboring country or of any political subdivision thereof or of any agency or  
37 organization performing emergency management services at any place in this State,  
38 subject to the order or control of or pursuant to a request of the State government or any  
39 political subdivision thereof—thereof and shall include any member of a Regional  
40 Response Team pursuant to a request of the Division of Emergency Management,  
41 Department of Crime Control and Public Safety."

42           Sec. 5. Chapter 166A of the General Statutes is amended by adding a new  
43 section to read:

1 **"§ 166A-15.1. Action for reimbursement of cost of hazardous materials emergency**  
2 **response.**

3 The Secretary of Crime Control and Public Safety may develop a system of cost  
4 recovery from responsible parties in order to reimburse the Division of Emergency  
5 Management and Regional Response Teams under contract with the Secretary for  
6 documented expenses associated with responding to a hazardous materials emergency at  
7 the request of the Secretary."

8 Sec. 6. Part 2 of Article 9 of Chapter 130A of the General Statutes is  
9 amended by adding a new section to read:

10 **"§ 130A-294.2. Fee for hazardous materials emergency response.**

11 (a) It is the intent of the General Assembly that the fee established by this section  
12 is solely to provide funding in addition to federal and State appropriations and other fees  
13 to support the Regional Response Teams program.

14 (b) Funds collected pursuant to this section shall be used to establish and  
15 maintain the Regional Response Teams program to manage hazardous materials  
16 emergencies.

17 (c) All fees collected by the Department under this section shall be transferred to  
18 the Department of Crime Control and Public Safety and deposited in its account  
19 pursuant to G.S. 166A-6.2.

20 (d) A person who generates either one kilogram or more of any acute hazardous  
21 waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised July 1, 1987, or 1000  
22 kilograms or more of hazardous waste, in any calendar month during the year beginning  
23 July 1 and ending June 30 shall pay an annual fee of thirty-five dollars (\$35.00).

24 (e) A person who generates 100 kilograms or more of hazardous waste in any  
25 calendar month during the year beginning July 1 and ending June 30 but less than 1000  
26 kilograms of hazardous waste in each calendar month during that year shall pay an  
27 annual fee of ten dollars (\$10.00).

28 (f) All fees established under this section are due no later than July 31 for the  
29 fiscal year beginning July 1 in the same year."

30 Sec. 7. Part 7 of Article 3 of Chapter 20 of the General Statutes is amended  
31 by adding a new section to read:

32 **"§ 20-88.03. Fee for hazardous materials emergency response.**

33 (a) It is the intent of the General Assembly that the fee established by this section  
34 is solely to provide funding, in addition to federal and State appropriations and other  
35 fees, to support the Regional Response Teams program.

36 (b) Funds collected pursuant to this section shall be used to establish and  
37 maintain the Regional Response Teams program to manage hazardous materials  
38 emergencies.

39 (c) All fees collected by the Department under this section shall be transferred to  
40 the Department of Crime Control and Public Safety and deposited in its account  
41 pursuant to G.S. 166A-6.2.

42 (d) There shall be paid to the Division with the annual fee for the registration and  
43 licensing of a vehicle under G.S. 20-88 an annual fee of ten dollars (\$10.00)."

1       Sec. 8. (a)       The Hazardous Materials Emergency Response Study Commission  
2 is created. The Commission shall consist of 14 members: seven members appointed by  
3 the President Pro Tempore of the Senate, and seven members appointed by the Speaker  
4 of the House of Representatives. Members of the General Assembly may be appointed.  
5 Only public members who have knowledge of or experience in fire service, emergency  
6 management, hazardous materials, public health, or emergency medical service may be  
7 appointed.

8               (b) The President Pro Tempore of the Senate shall designate one member as  
9 cochairman and the Speaker of the House of Representatives shall designate one  
10 member as cochairman.

11       (c)       The Commission shall study and monitor the implementation and operational  
12 effectiveness of the Regional Response Team program and shall consider ways to  
13 improve hazardous materials control and management.

14       (d) The Commission shall submit a final report of its findings and  
15 recommendations to the General Assembly on or before the first day of the 1993  
16 Session of the General Assembly by filing the report with the President Pro Tempore of  
17 the Senate and the Speaker of the House of Representatives. Upon filing its final report,  
18 the Commission shall terminate.

19       (e)       The Commission, while in the discharge of official duties, may exercise  
20 all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1  
21 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of  
22 the cochairmen. The Commission may meet in the Legislative Building or the  
23 Legislative Office Building.

24       (f) Members of the Commission shall be paid per diem, subsistence, and  
25 travel allowances as follows:

- 26               (1)       Members who are also members of the General Assembly, at the rate  
27                       established in G.S. 120-3.1;
- 28               (2)       Members who are officials or employees of the State or local  
29                       government agencies, at the rate established in G.S. 138-6;
- 30               (3)       All other members, at the rate established in G.S. 138-5.

31       (g)       The Commission may contract for professional, clerical, or consultant  
32 services as provided by G.S. 120-32.02. The Legislative Services Commission, through  
33 the Legislative Administrative Officer, shall assign professional staff to assist in the  
34 work of the Commission. The House of Representatives' and the Senate's Supervisor of  
35 Clerks shall assign clerical staff to the Commission, upon the direction of the  
36 Legislative Services Commission. The expenses relating to clerical employees shall be  
37 borne by the Commission.

38       (h)       When a vacancy occurs in the membership of the Commission the  
39 vacancy shall be filled by the same appointing officer who made the initial appointment.

40       (i)       All State departments and agencies and local governments and their  
41 subdivisions shall furnish the Commission with any information in their possession or  
42 available to them.

1           (j) There is appropriated from the General Fund to the General Assembly the  
2 sum of \$15,000 for the 1991-92 fiscal year and the sum of \$15,000 for the 1992-93  
3 fiscal year for the expenses of the Commission.

4           Sec. 9. The Department of Crime Control and Public Safety shall adopt rules  
5 necessary to implement the provisions of this act.

6           Sec. 10. Section 8 of this act becomes effective July 1, 1991. The remainder  
7 of this act becomes effective October 1, 1991.