

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

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SENATE BILL 1638\*

Environment and Natural Resources Committee Substitute Adopted 6/21/94

Short Title: Encourage Voluntary Remediation.

(Public)

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Sponsors:

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Referred to:

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June 1, 1994

A BILL TO BE ENTITLED

1 AN ACT TO ENCOURAGE THE VOLUNTARY REMEDIATION OF  
2 CONTAMINATED SITES, AS RECOMMENDED BY THE ENVIRONMENTAL  
3 REVIEW COMMISSION, AND TO PROVIDE THAT A PERSON WHO  
4 KNOWINGLY MAKES A FALSE STATEMENT IN DOCUMENTS REQUIRED  
5 UNDER THE SOLID WASTE LAWS IS GUILTY OF A MISDEMEANOR.  
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7 Whereas, the General Assembly of North Carolina recognizes the importance  
8 of protecting the environment of this State, as well as the health and safety of its  
9 inhabitants and employees; and

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

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

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

19 Whereas, more contaminated sites could be cleaned up more expeditiously  
20 and effectively by allowing the Department of Environment, Health, and Natural  
21 Resources to use independent outside consultants to oversee such work; Now, therefore,  
22 The General Assembly of North Carolina enacts:

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

1 "**§ 130A-310.9. ~~Maximum financial responsibility; voluntary remedial actions.~~**  
2 **Voluntary remedial actions; maximum financial responsibility;**  
3 **agreements; implementation and oversight by private engineering and**  
4 **consulting firms.**

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

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

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

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

34 "**§ 130A-310.12. Administrative procedure; adoption of rules.**

35 (a) ~~Except as may be otherwise specifically provided the~~ The provisions of Chapter  
36 150B of the General Statutes apply to this Part. The Commission shall ~~adopt, pursuant to~~  
37 ~~Chapter 150B of the General Statutes, administrative adopt~~ adopt rules for the implementation of  
38 this Part not later than six months after enactment. ~~Such rules may be the same as or similar to~~  
39 ~~the federal rules for implementation of CERCLA/SARA. Part.~~

40 (b) The Commission shall adopt rules governing the selection and use of private  
41 environmental engineering and consulting firms to implement and oversee voluntary  
42 remedial actions by owners, operators, or other responsible parties under G.S. 130A-  
43 310.9(c). Rules adopted under this subsection shall specify:

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

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

12 **"§ 130A-26.2. Penalty for false reporting under Article 9.**

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

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

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