

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 312*
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/17/01
House Committee Substitute Favorable 6/5/01

Short Title: Amend Well Contractors Certification-AB.

(Public)

Sponsors:

Referred to:

March 5, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND CERTAIN LAWS RELATING TO THE CERTIFICATION OF
3 WELL CONTRACTORS AND TO INCREASE THE MAXIMUM CIVIL
4 PENALTY THAT MAY BE ASSESSED FOR VIOLATIONS OF THE WELL
5 CONTRACTORS CERTIFICATION ACT OR THE WELL CONSTRUCTION
6 ACT.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 87-98.4(a) reads as rewritten:

9 "(a) Certification Required. – No well contractor shall perform or offer to perform
10 any well contractor activity without being certified under this Article. The Commission
11 may specify the types of general construction activities or geophysical activities that are
12 not directly related to locating, testing, or withdrawing groundwater; evaluating, testing,
13 developing, draining, or recharging any groundwater reservoir or aquifer; or controlling,
14 diverting, or otherwise causing the movement of water from or into any aquifer and are
15 therefore not well construction activities."

16 **SECTION 2.** G.S. 87-98.7 reads as rewritten:

17 "§ **87-98.7. Issuance and renewal of certificates; temporary**
18 **certification-certification; refusal to issue a certificate.**

19 (a) Issuance. – An applicant, upon satisfactorily meeting the appropriate
20 requirements, shall be certified to perform in the capacity of a well contractor and shall
21 be issued a suitable certificate by the Commission designating the level of the person's
22 competency. A certificate shall be valid for one year or until any of the following
23 occurs:

- 24 (1) The certificate holder voluntarily surrenders the certificate to the
25 Commission.
26 (2) The certificate is revoked or suspended by the Commission for cause.

1 (b) Renewal. – A certificate shall be renewed annually by payment of the annual
2 fee. A person who fails to renew a certificate within ~~three months~~30 days of the
3 expiration of the certificate must reapply for certification under this Article.

4 (c) Temporary Certification. – A person may receive temporary certification to
5 construct a well upon submission of an application to the Commission and subsequent
6 approval in accordance with the criteria established by the Commission and upon
7 payment of a temporary certification fee. A temporary certification shall be granted to
8 the same person only once per calendar year and may not be valid for a period in excess
9 of 45 consecutive days. To perform additional well contractor activity during that same
10 calendar year, the person shall apply for certification under this Article.

11 (d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate
12 under any of the following circumstances:

13 (1) The applicant has not paid civil penalties assessed against the applicant
14 under G.S. 87-94 for a violation of this Article, Article 7 of this
15 Chapter, or any rule adopted to implement either of those Articles.

16 (2) The applicant has not conducted all restoration activities ordered by
17 the Department related to a violation by the applicant of Article 7 of
18 this Chapter.

19 (3) As determined by the Commission, the applicant has a history of not
20 complying with this Article, Article 7 of this Chapter, or any rule
21 adopted to implement either of those Articles."

22 **SECTION 3.** G.S. 87-94(a) reads as rewritten:

23 "(a) Any person who violates any provision of this Article, Article 7A of this
24 Chapter, any order issued pursuant thereto, or any rule adopted thereunder, shall be
25 subject to a civil penalty of not more than ~~one hundred dollars (\$100.00)~~one thousand
26 dollars (\$1,000) for each violation, as determined by the Secretary of Environment and
27 Natural Resources. Each day of a continuing violation shall be considered a separate
28 offense. No person shall be subject to a penalty who did not directly commit the
29 violation or cause it to be committed."

30 **SECTION 4.** The Well Contractors Certification Commission may adopt
31 temporary and permanent rules to implement the provisions of this act and to alter the
32 minimum requirements of education, experience, and knowledge for certification of
33 well contractors adopted by the Commission pursuant to G.S. 87-98.6. This act
34 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.
35 Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Well
36 Contractors Certification Commission may adopt temporary rules as provided in this
37 section until 1 April 2002. Prior to the adoption of a temporary rule under this section,
38 the Commission shall publish a notice of intent to adopt a temporary rule in the North
39 Carolina Register. The notice shall set out the text of the proposed temporary rule and
40 include the name and address of the person to whom questions and written comment on
41 the proposed temporary rule may be submitted. The Commission shall accept written
42 comment on the proposed temporary rule for at least 30 days after the notice of intent to
43 adopt a temporary rule is published in the North Carolina Register.

1 **SECTION 5.** This act is effective when it becomes law.