

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 103
Committee Substitute Favorable 2/28/11

Short Title: Rqmts. for Min'l Oil Spills - 2.

(Public)

Sponsors:

Referred to:

February 16, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY REQUIREMENTS APPLICABLE TO NOTICE, COLLECTION,
3 AND REMOVAL OF MINERAL OIL DISCHARGES FROM ELECTRICAL
4 EQUIPMENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-215.85 reads as rewritten:

7 "§ 143-215.85. Required notice.

8 (a) Except as provided in G.S. 143-215.94E(a1) and ~~subsection~~ ~~subsections (b) and (c)~~
9 of this section, every person owning or having control over oil or other substances discharged
10 in any circumstances other than pursuant to a rule adopted by the Commission, a regulation of
11 the U. S. Environmental Protection Agency, or a permit required by G.S. 143-215.1 or the
12 Federal Water Pollution Control Act, upon notice that such discharge has occurred, shall
13 immediately notify the Department, or any of its agents or employees, of the nature, location
14 and time of the discharge and of the measures which are being taken or are proposed to be
15 taken to contain and remove the discharge. The agent or employee of the Department receiving
16 the notification shall immediately notify the Secretary or such member or members of the
17 permanent staff of the Department as the Secretary may designate. If the discharged substance
18 of which the Department is notified is a pesticide regulated by the North Carolina Pesticide
19 Board, the Department shall immediately inform the Chairman of the Pesticide Board. Removal
20 operations under this Article of substances identified as pesticides defined in G.S. 143-460
21 shall be coordinated in accordance with the Pesticide Emergency Plan adopted by the North
22 Carolina Pesticide Board; provided that, in instances where entry of such hazardous substances
23 into waters of the State is imminent, the Department may take such actions as are necessary to
24 physically contain or divert such substance so as to prevent entry into the surface waters.

25 ...

26 (c) As used in this subsection, "mineral oil" means a light nontoxic liquid petroleum
27 distillate used as a coolant and insulator in electrical equipment owned by a public utility. Any
28 person who owns or has control over mineral oil discharged from electrical equipment owned
29 by a public utility, as defined in G.S. 62-100, including, but not limited to, transformers,
30 regulators, bushings, and capacitors, shall report the discharge to the applicable regional office
31 of the Department within 24 hours of confirmation of a discharge when the discharge (i)
32 exceeds 25 gallons, (ii) is directly to surface waters or causes a sheen on surface waters of the
33 State, or (iii) is at a distance of 100 feet or less from any surface water and contains 50 parts per
34 million or more of polychlorinated biphenyls. The notification shall include the time of
35 discovery, address or location of the release, immediate actions taken, estimated amount of the
36 release, and, if known, the concentration of polychlorinated biphenyls present in the discharge.
37 This information may be submitted by telephone, hand delivery, electronic mail, or fax."



1 **SECTION 2.** G.S. 143-215.84 reads as rewritten:

2 "**§ 143-215.84. Removal of prohibited discharges.**

3 (a) Person Discharging. – ~~Any~~ Except as provided in subsection (a2) of this section,
4 any person having control over oil or other hazardous substances discharged in violation of this
5 Article shall immediately undertake to collect and remove the discharge and to restore the area
6 affected by the discharge as nearly as may be to the condition existing prior to the discharge. If
7 it is not feasible to collect and remove the discharge, the person responsible shall take all
8 practicable actions to contain, treat and disperse the discharge; but no chemicals or other
9 dispersants or treatment materials which will be detrimental to the environment or natural
10 resources shall be used for such purposes unless they shall have been previously approved by
11 the Commission. The owner of an underground storage tank who is the owner of the tank only
12 because he is the owner of the land on which the underground storage tank is located, who did
13 not know or have reason to know that the underground storage tank was located on his
14 property, and who did not become the owner of the land as the result of a transfer or transfers to
15 avoid liability for the underground storage tank shall not be deemed to be responsible for a
16 release or discharge from the underground storage tank.

17 (a1) The Commission shall not require collection or removal of a discharge or restoration
18 of an affected area under subsection (a) of this section if the person having control over oil or
19 other hazardous substances discharged in violation of this Article complies with rules
20 governing the collection and removal of a discharge and the restoration of an affected area
21 adopted by the Commission pursuant to G.S. 143-214.1 or G.S. 143-215.94V. This subsection
22 shall not be construed to affect the rights of any person under this Article or any other provision
23 of law.

24 (a2) Discharges of Mineral Oil From Electrical Equipment. – As used in this subsection,
25 "mineral oil" means a light nontoxic liquid petroleum distillate used as a coolant and insulator
26 in electrical equipment owned by a public utility. Any person having control over mineral oil
27 discharged from electrical equipment owned by a public utility, as defined in G.S. 62-100,
28 including, but not limited to, transformers, regulators, bushings, and capacitors, shall restore the
29 area affected by the discharge as nearly as may be to the condition existing prior to the
30 discharge. A person shall notify the applicable regional office of the Department by telephone,
31 hand delivery, electronic mail, or fax when the restoration has been properly completed for a
32 discharge that (i) exceeds 25 gallons, (ii) is directly to surface waters or causes a sheen on
33 surface waters of the State, or (iii) is at a distance of 100 feet or less from any surface water and
34 contains 50 parts per million or more of polychlorinated biphenyls. Where soil removal is
35 necessary as part of a cleanup, all visible traces of the mineral oil shall be removed. For
36 discharges of mineral oil which contain 50 parts per million or more of polychlorinated
37 biphenyls, cleanup shall be performed in compliance with applicable provisions of the Toxic
38 Substances Control Act, 15 U.S.C. § 2601, et seq., as amended. If it is not feasible to collect
39 and remove the discharge of mineral oil from electrical equipment within 24 hours of
40 confirmation of the release, the person responsible shall take all practicable actions to contain,
41 treat, and disperse the discharge, except that no chemical or other dispersants or treatment
42 materials which will be detrimental to the environment or natural resources shall be used for
43 such purposes unless they shall have been previously approved by the Commission.

44 (b) Removal by Department. – Notwithstanding the requirements of ~~subsection~~
45 subsections (a) and (a2) of this section, the Department is authorized and empowered to utilize
46 any staff, equipment and materials under its control or supplied by other cooperating State or
47 local agencies and to contract with any agent or contractor that it deems appropriate to take
48 such actions as are necessary to collect, investigate, perform surveillance over, remove,
49 contain, treat or disperse oil or other hazardous substances discharged onto the land or into the
50 waters of the State and to perform any necessary restoration. The Secretary shall keep a record
51 of all expenses incurred in carrying out any project or activity authorized under this section,

1 including actual expenses incurred for services performed by the State's personnel and for use
2 of the State's equipment and material. The authority granted by this subsection shall be limited
3 to projects and activities that are designed to protect the public interest or public property, and
4 shall be compatible with the National Contingency Plan established pursuant to the Federal
5 Water Pollution Control Act, as amended, 33 U.S.C. section 1251 et seq.

6"

7 **SECTION 3.** This act is effective when it becomes law.