

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 303
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/15
Third Edition Engrossed 4/23/15

Short Title: Protect Safety/Well-Being of NC Citizens. (Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE SAFETY AND WELL-BEING OF CITIZENS FROM REGULATORY OVERREACH BY: (1) PROHIBITING THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM ISSUING RULES IMPLEMENTING FEDERAL STANDARDS FOR WOOD HEATERS OR ENFORCING SUCH RULES, AND BY FORBIDDING THE COMMISSION AND THE DEPARTMENT FROM ENFORCING AIR EMISSIONS STANDARDS LIMITING FUEL SOURCES PROVIDING HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS; AND (2) REQUIRING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO AFFIRMATIVELY ADOPT AIR QUALITY MANAGEMENT RULES PROMULGATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

The General Assembly of North Carolina enacts:

PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

SECTION 1.(a) G.S. 143-215.107 reads as rewritten:

"§ 143-215.107. Air quality standards and classifications.

(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.



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1 (i) Neither the Commission nor the Department shall enforce any federal air emissions
2 standard adopted by the United States Environmental Protection Agency after May 1, 2014,
3 that would jeopardize the health, safety, or economic well-being of a citizen of this State
4 through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot
5 water or comfort heating to a residence or (ii) comfort heating to a business."

6 **SECTION 1.(b)** G.S. 143-213 is amended by adding a new subdivision to read:

7 "(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired
8 hydronic heater, wood-burning forced-air furnace, or masonry wood heater
9 or other similar appliance designed for heating a residence or business or for
10 heating water for use by a residence through the combustion of wood or
11 products substantially composed of wood."

13 **AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY** 14 **STANDARDS**

15 **SECTION 2.(a)** 15A NCAC 02D .0524(c) (New Source Performance Standards). –
16 Until the effective date of the revised permanent rule that the Environmental Management
17 Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the
18 Department of Environment and Natural Resources shall implement 15A NCAC 02D .0524(c)
19 (New Source Performance Standards) as provided in Section 2(b) of this act.

20 **SECTION 2.(b)** Implementation. – Notwithstanding 15A NCAC 02D .0524(c)
21 (New Source Performance Standards), the Commission shall not adopt a new source
22 performance standard promulgated in Part 60 of Title 40 of the Code of Federal Regulations
23 except by a three-fifths vote of the Commission. If the Commission adopts new source
24 performance standards promulgated in Part 60 of Title 40 of the Code of Federal Regulations as
25 provided in this section, those rules shall be subject to legislative review as provided in
26 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
27 G.S. 150B-21.3(b2).

28 **SECTION 2.(c)** Additional Rule-Making Authority. – The Environmental
29 Management Commission shall adopt a rule to amend 15A NCAC 02D .0524(c) (New Source
30 Performance Standards) consistent with Section 2(b) of this act. Notwithstanding
31 G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be
32 substantively identical to the provisions of Section 2(b) of this act. Rules adopted pursuant to
33 this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes.
34 Rules adopted pursuant to this section shall become effective as provided in
35 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
36 G.S. 150B-21.3(b2).

37 **SECTION 2.(d)** Sunset. – Section 2(b) of this act expires on the date that the rule
38 adopted pursuant to Section 2(c) of this act becomes effective.

39 **SECTION 3.(a)** 15A NCAC 02D .1111(c) (Maximum Achievable Control
40 Technology). – Until the effective date of the revised permanent rule that the Environmental
41 Management Commission is required to adopt pursuant to Section 3(c) of this act, the
42 Commission and the Department of Environment and Natural Resources shall implement 15A
43 NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section 3(b)
44 of this act.

45 **SECTION 3.(b)** Implementation. – Notwithstanding 15A NCAC 02D .1111(c)
46 (Maximum Achievable Control Technology), the Commission shall not adopt maximum
47 achievable control technology standards promulgated in Part 63 of Title 40 of the Code of
48 Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts
49 maximum achievable control technology standards promulgated in Part 63 of Title 40 of the
50 Code of Federal Regulations as provided in this section, those rules shall be subject to

1 legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
2 had been received as provided by G.S. 150B-21.3(b2).

3 **SECTION 3.(c)** Additional Rule-Making Authority. – The Environmental
4 Management Commission shall adopt a rule to amend 15A NCAC 02D .1111(c) (Maximum
5 Achievable Control Technology) consistent with Section 3(b) of this act. Notwithstanding
6 G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be
7 substantively identical to the provisions of Section 3(b) of this act. Rules adopted pursuant to
8 this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes.
9 Rules adopted pursuant to this section shall become effective as provided in
10 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
11 G.S. 150B-21.3(b2).

12 **SECTION 3.(d)** Sunset. – Section 3(b) of this act expires on the date that the rule
13 adopted pursuant to Section 3(c) of this act becomes effective.

14 **SECTION 4.(a)** 15A NCAC 02D .1110(b) (National Emissions Standards for
15 Hazardous Air Pollutants). – Until the effective date of the revised permanent rule that the
16 Environmental Management Commission is required to adopt pursuant to Section 4(c) of this
17 act, the Commission and the Department of Environment and Natural Resources shall
18 implement 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air
19 Pollutants) as provided in Section 4(b) of this act.

20 **SECTION 4.(b)** Implementation. – 15A NCAC 02D .1110(b) (National Emissions
21 Standards for Hazardous Air Pollutants), the Commission shall not adopt national emissions
22 standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal
23 Regulations except by a three-fifths vote of the Commission. If the Commission adopts national
24 emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code
25 of Federal Regulations as provided in this section, those rules shall be subject to legislative
26 review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
27 received as provided by G.S. 150B-21.3(b2).

28 **SECTION 4.(c)** Additional Rule-Making Authority. – The Environmental
29 Management Commission shall adopt a rule to amend 15A NCAC 02D .1110(b) (National
30 Emissions Standards for Hazardous Air Pollutants) consistent with Section 4(b) of this act.
31 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section
32 shall be substantively identical to the provisions of Section 4(b) of this act. Rules adopted
33 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General
34 Statutes. Rules adopted pursuant to this section shall become effective as provided in
35 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
36 G.S. 150B-21.3(b2).

37 **SECTION 4.(d)** Sunset. – Section 4(b) of this act expires on the date that the rule
38 adopted pursuant to Section 4(c) of this act becomes effective.

39 **SECTION 5.** Effective January 1, 2016, the Environmental Management
40 Commission shall not enforce any federal standard that was adopted by reference pursuant to
41 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such
42 standards are readopted by the Commission as provided in this act.

43 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

44 **SECTION 6.** If any section or provision of this act is declared unconstitutional or
45 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
46 the part declared to be unconstitutional or invalid.

47 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes
48 law.
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