

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 784

Short Title: Environmental Justice Considerations. (Public)

Sponsors: Representatives Harrison, K. Smith, Graham, and Reives (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

May 4, 2021

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CONSIDERATION OF THE CUMULATIVE IMPACT OF A PROPOSED ENVIRONMENTAL PERMITTING DECISION ON MINORITY OR LOW-INCOME COMMUNITIES AND TO PROVIDE ENHANCED PUBLIC PARTICIPATION OPPORTUNITIES FOR PERMITTING DECISIONS IMPACTING OVERBURDENED COMMUNITIES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 130A-294(a)(4)c. reads as rewritten:

"c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

...

9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a low-income community or a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964. ~~This subdivision shall apply only to the extent required by federal law.~~"

SECTION 1.(b) This section becomes effective July 1, 2021, and applies to any application for a permit for a solid waste management facility that is pending on that date.

SECTION 2.(a) G.S. 113A-4 reads as rewritten:

"§ 113A-4. Cooperation of agencies; reports; availability of information.

The General Assembly authorizes and directs that, to the fullest extent possible:

...

(2) Every State agency shall include in every recommendation or report on any action involving significant expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

...

g. The cumulative impact of the proposed action (including the impact on public health), when considered in relation to other similar impacts of actions taken or proposed in the community, on a low-income community or a minority community protected by Title VI of the federal Civil Rights Act of 1964.



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2 **SECTION 2.(b)** This section becomes effective July 1, 2021, and applies to any
3 environmental documents for proposed actions submitted on or after that date.

4 **SECTION 3.(a)** G.S. 113A-120 reads as rewritten:

5 "**§ 113A-120. Grant or denial of permits.**

6 (a) The responsible official or body shall deny an application for a permit upon finding:

7 ...

8 (9a) In any case, the proposed development, when considered in relation to other
9 similar impacts of developments located or proposed in the community, would
10 have a disproportionate adverse impact on a low-income community or a
11 minority community protected by Title VI of the federal Civil Rights Act of
12 1964. For purposes of this subdivision, "adverse impact" includes impacts on
13 public health.

14"

15 **SECTION 3.(b)** This section becomes effective July 1, 2021, and applies to any
16 application for a permit that is pending on that date.

17 **SECTION 4.(a)** G.S. 130A-310.69 reads as rewritten:

18 "**§ 130A-310.69. Remedial investigation report; remedial action plans.**

19 ...

20 (c) A remedial action plan shall also include an analysis of each of the following factors:

21 ...

22 (4) The cumulative impact of the proposed remediation (including the impact on
23 public health), when considered in relation to other similar impacts of actions
24 taken or proposed in the community on a low-income community or a
25 minority community protected by Title VI of the federal Civil Rights Act of
26 1964.

27"

28 **SECTION 4.(b)** This section becomes effective July 1, 2021, and applies to remedial
29 action plans submitted to the Department of Environmental Quality on or after that date.

30 **SECTION 5.(a)** G.S. 143-215.10C is amended by adding a new subsection to read:

31 "(d1) The Commission shall deny any application for a permit or permit renewal if it finds
32 that the cumulative impact of the proposed permit, when considered in relation to other similar
33 impacts of actions taken or proposed in the community, would have a disproportionate adverse
34 impact on a low-income community or a minority community protected by Title VI of the federal
35 Civil Rights Act of 1964. For purposes of this subsection, "adverse impact" includes impacts on
36 public health."

37 **SECTION 5.(b)** This section becomes effective July 1, 2021, and applies to any
38 application for a permit or permit renewal that is pending on that date.

39 **SECTION 6.(a)** G.S. 143-215.108(c) reads as rewritten:

40 "(c) The Commission shall have the power:

41 ...

42 (9) With respect to permits required by Title V, to deny a permit application or
43 require suitable mitigation if it finds that the cumulative impact of the
44 proposed air contaminant source, when considered in relation to other similar
45 impacts of air contaminant sources permitted or proposed in the community,
46 would have a disproportionate adverse impact on a low-income community or
47 a minority community protected by Title VI of the federal Civil Rights Act of
48 1964. For purposes of this subdivision, "adverse impact" includes impacts on
49 public health."

50 **SECTION 6.(b)** This section becomes effective July 1, 2021, and applies to any
51 application for a permit or permit renewal that is pending on that date.

1 **SECTION 7.(a)** G.S. 143-215.1(b)(4) reads as rewritten:

2 "(4) The Commission shall have the power:

3 ...

4 g. To deny a permit or the renewal of a permit when the Commission
5 finds that the cumulative impact of the proposed action, when
6 considered in relation to other similar impacts of actions taken or
7 proposed in the community, would have a disproportionate adverse
8 impact on a low-income community or a minority community
9 protected by Title VI of the federal Civil Rights Act of 1964. For
10 purposes of this sub-subdivision, "adverse impact" includes impacts
11 on public health."

12 **SECTION 7.(b)** This section becomes effective July 1, 2021, and applies to any
13 application for a permit that is pending on that date.

14 **SECTION 8.** Article 7 of Chapter 143B of the General Statutes is amended by adding
15 a new section to read:

16 "**§ 143B-279.18. Enhanced public participation for overburdened communities.**

17 (a) When the Department of Environmental Quality or any Commission with permitting
18 authority created by this Article considers an application for a permit or approval for a new or
19 expanded facility, source, or project in an overburdened community, the Department or
20 Commission must hold at least one public hearing in the overburdened community, provide 60
21 days' advance notice of the hearing, and include in the hearing officer's report a response to
22 community input received at the hearing or in response to the notice. The hearing required by
23 this section shall be in addition to any other public participation required by applicable law.

24 (b) The following definitions apply in this section:

25 (1) Community of color. – A distinct geographic area in which the share of the
26 population of any of the following categories of individuals is higher than that
27 category's share of the State population as a whole:

28 a. African American.

29 b. Asian and Pacific Islander.

30 c. Hispanic.

31 d. Latino.

32 e. Member of a federally recognized Native American tribe or a Native
33 American tribe recognized under Chapter 71A of the General Statutes.

34 f. Other non-white race.

35 g. Linguistically isolated.

36 (2) Linguistically isolated. – Households in which all members aged 14 years and
37 older speak a language other than English and also have limited proficiency
38 in English.

39 (3) Low-income household. – Households with a household income equal to or
40 less than the greater of (i) eighty percent (80%) of the median income of the
41 area in which the household is located and (ii) two hundred percent (200%) of
42 the federal poverty level.

43 (4) Overburdened community. – A census block, as designated by the most recent
44 census of the U.S. Census Bureau, in which at least thirty percent (30%) of
45 the households qualify as low-income households, or a geographically distinct
46 area that is a community of color."

47 **SECTION 9.** Except as otherwise specified, this act is effective when it becomes
48 law.