

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 453

Short Title: Regulatory Reform Act of 2015. (Public)

Sponsors: Senators Wade, Brock, B. Jackson (Primary Sponsors); Cook, J. Davis, Hise, Sanderson, and Tarte.

Referred to: Rules and Operations of the Senate.

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

REPEAL OBSOLETE STATUTES

SECTION 1.1. The following statues are repealed:

- (1) G.S. 14-197. Using profane or indecent language on public highways; counties exempt.
- (2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency; false statement of emergency.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

SECTION 1.2.(a) Article 3 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"§ 150B-25.1. Burden of proof.

(a) Except as otherwise provided by law or by this section, the petitioner in a contested case has the burden of proving the facts alleged in the petition by a preponderance of the evidence.

(b) In a contested case involving the imposition of civil fines or penalties by a State agency for violation of the law, the burden of showing by a preponderance of the evidence that the person who was fined actually committed the act for which the fine or penalty was imposed rests with the State agency.

(c) The burden of showing by a preponderance of the evidence that a career State employee subject to Chapter 126 of the General Statutes was discharged, suspended, or demoted for just cause rests with the agency employer."

SECTION 1.2.(b) The Joint Legislative Administrative Procedure Oversight Committee shall study whether there are other categories of contested cases in which the burden of proof should be placed with the agency.



1 **SECTION 1.2.(c)** This section is effective when this act becomes law and applies
2 to contested cases commenced on or after that date.

3 4 **LEGISLATIVE APPOINTMENTS**

5 **SECTION 1.3.(a)** G.S. 120-121 is amended by adding two new subsections to
6 read:

7 "(e) The following applies in any case where the Speaker of the House of
8 Representatives or the President Pro Tempore of the Senate is directed by law to make a
9 recommendation for an appointment by the General Assembly, and the legislator is also
10 directed to make the recommendation in consultation with or upon the recommendation of a
11 third party:

12 (1) The recommendation or consultation is discretionary and is not binding upon
13 the legislator.

14 (2) The third party must submit the recommendation or consultation at least 60
15 days prior to the expiration of the term or within 10 business days from the
16 occurrence of a vacancy.

17 (3) Failure by the third party to submit the recommendation or consultation to
18 the legislator within the time periods required under this subsection shall be
19 deemed a waiver by the third party of the opportunity.

20 (f) The following applies in any case where the Speaker of the House of
21 Representatives or the President Pro Tempore of the Senate is directed by law to make a
22 recommendation for an appointment by the General Assembly, and the legislator is also
23 directed to make the recommendation from nominees provided by a third party:

24 (1) The third party must submit the nominees at least 60 days prior to the
25 expiration of the term or within 10 business days from the occurrence of a
26 vacancy.

27 (2) Failure by the third party to submit the nomination to the legislator within
28 the time periods required under this subsection shall be deemed a waiver by
29 the third party of the opportunity."

30 **SECTION 1.3.(b)** Article 16 of Chapter 120 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 120-124. Appointments made by legislators.**

33 (a) In any case where a legislator is called upon by law to appoint a member to a board
34 or commission upon the recommendation of or in consultation with a third party, the
35 recommendation or consultation is discretionary and is not binding upon the legislator. The
36 third party must submit the recommendation or consultation at least 60 days prior to the
37 expiration of the term or within 10 business days from the occurrence of a vacancy.

38 (b) In any case where a legislator is called upon by law to appoint a member to a board
39 or commission from nominees provided by a third party, the third party must submit the
40 nominees at least 60 days prior to the expiration of the term or within 10 business days from the
41 occurrence of a vacancy. This subsection does not apply to nominations made under
42 G.S. 120-99(a) or G.S. 120-100(b).

43 (c) Failure to submit the recommendation, consultation, or nomination within the time
44 periods required under this section shall be deemed a waiver by the third party of the
45 opportunity."

46 **SECTION 1.3.(c)** This section is effective when this act becomes law and applies
47 to recommendations, consultations, and nominations made on or after that date.

48 49 **PART II. BUSINESS REGULATION**

EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED PROPERTY

SECTION 2.1. G.S. 93A-2(c)(1) reads as rewritten:

"(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

(1) Any partnership, corporation, limited liability company, association, or other business entity that, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein. The exemption from licensure under this subsection shall extend to the following persons when those persons are engaged in acts or services for which the corporation, partnership, limited liability company, or other business entity would be exempt hereunder:

- a. The officers and employees of an exempt corporation, the corporation.
- b. The general partners and employees of an exempt partnership, and the partnership.
- c. The managers and employees of an exempt limited liability company when said persons are engaged in acts or services for which the corporation, partnership, or limited liability company would be exempt hereunder. company.
- d. The owners of an exempt closely held business entity. For purposes of this subdivision, a closely held business entity is a limited liability company or a corporation with no more than two legal owners.
- e. The officers, managers, and employees of a closely held business entity owned by a person exempt under sub-subdivision d. of this subdivision."

PART III. STATE AND LOCAL GOVERNMENT REGULATION**REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY**

SECTION 3.1. Subsection 6A.14(a) of S.L. 2011-145 reads as rewritten:

"SECTION 6A.14.(a) Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device

1 procurement, and related phone, data, Internet, and other usage plans for and by their
2 employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State
3 employees and contractors are complying with agency policies and State requirements for their
4 use.

5 Beginning October 1, 2011, each agency shall report ~~quarterly~~annually to the Chairs of the
6 House of Representatives Committee on Appropriations and the House of Representatives
7 Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations
8 and the Senate Appropriations Committee on General Government and Information
9 Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal
10 Research Division, and the Office of State Budget and Management on the following:

- 11 (1) Any changes to agency policies on the use of mobile devices.
- 12 (2) The number and types of new devices issued since the last report.
- 13 (3) The total number of mobile devices issued by the agency.
- 14 (4) The total cost of mobile devices issued by the agency.
- 15 (5) The number of each type of mobile device issued, with the total cost for each
16 type."
- 17

18 INCREASE PENALTIES FOR PARKING IN HANDICAPPED SPACE WITHOUT 19 REQUIRED PLACARD

20 SECTION 3.2.(a) G.S. 20-37.6 reads as rewritten:

21 "§ 20-37.6. Parking privileges for handicapped drivers and passengers.

22 ...
23 (d) Designation of Parking Spaces. – Designation of parking spaces for handicapped
24 persons on streets and public vehicular areas shall comply with G.S. 136-30. A sign designating
25 a parking space for handicapped persons ~~shall~~may state the maximum penalty for parking in the
26 space in violation of the law. A sign designating a parking space for handicapped persons shall
27 not state the incorrect maximum penalty for parking in the space in violation of the law.

28 ...
29 (f) Penalties for Violation. –

- 30 (1) A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a
31 penalty of at least ~~one hundred dollars (\$100.00)~~two hundred fifty dollars
32 (\$250.00) but not more than ~~two hundred fifty dollars (\$250.00)~~five hundred
33 dollars (\$500.00) and whenever evidence shall be presented in any court of
34 the fact that any automobile, truck, or other vehicle was found to be parked
35 in a properly designated handicapped parking space in violation of the
36 provisions of this section, it shall be prima facie evidence in any court in the
37 State of North Carolina that the vehicle was parked and left in the space by
38 the person, firm, or corporation in whose name the vehicle is registered and
39 licensed according to the records of the Division. No evidence tendered or
40 presented under this authorization shall be admissible or competent in any
41 respect in any court or tribunal except in cases concerned solely with a
42 violation of this section.

43"

44 SECTION 3.2.(b) This section becomes effective December 1, 2015, and applies
45 to violations committed on or after that date.

46 GOOD SAMARITAN EXPANSION

47 SECTION 3.3.(a) G.S. 14-56 reads as rewritten:

48 "§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles,
49 trailers, aircraft, boats, or other watercraft.
50

(a) If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more of the following circumstances exist:

- (1) The person acts in good faith to access a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment, or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.
- (2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance.
- (3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person."

SECTION 3.3.(b) This section becomes effective July 1, 2015, and applies to offenses committed on or after that date.

SECTION 3.4.(a) Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 43F.

"Immunity for Damage to Vehicle.

"§ 1-539.27. Immunity from civil liability for damage to railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft necessary for assistance.

Any person who enters or attempts to enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind shall not be liable in civil damages for any damage to the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more of the following circumstances exist:

- (1) The person acts in good faith to access a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment, or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.
- (2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical care, other health care, or other assistance.
- (3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person.

This section shall not apply to any acts of gross negligence, wanton conduct, or intentional wrongdoing."

SECTION 3.4.(b) This section becomes effective July 1, 2015, and applies to causes of action arising on or after that date.

NO DENIAL OF EXPUNCTION SOLELY BASED ON A BOATING VIOLATION

1 **SECTION 3.5.(a)** G.S. 15A-145.5(c) reads as rewritten:

2 "(c) A person may file a petition, in the court where the person was convicted, for
3 expunction of a nonviolent misdemeanor or nonviolent felony conviction from the person's
4 criminal record if the person has no other misdemeanor or felony convictions, other than a
5 traffic or boating violation. The petition shall not be filed earlier than 15 years after the date of
6 the conviction or when any active sentence, period of probation, and post-release supervision
7 has been served, whichever occurs later. The petition shall contain, but not be limited to, the
8 following:

- 9 (1) An affidavit by the petitioner that the petitioner has been of good moral
10 character since the date of conviction for the nonviolent misdemeanor or
11 nonviolent felony and has not been convicted of any other felony or
12 misdemeanor, other than a traffic or boating violation, under the laws of the
13 United States or the laws of this State or any other state.
- 14 (2) Verified affidavits of two persons who are not related to the petitioner or to
15 each other by blood or marriage, that they know the character and reputation
16 of the petitioner in the community in which the petitioner lives and that the
17 petitioner's character and reputation are good.
- 18 (3) A statement that the petition is a motion in the cause in the case wherein the
19 petitioner was convicted.
- 20 (4) An application on a form approved by the Administrative Office of the
21 Courts requesting and authorizing a name-based State and national criminal
22 history record check by the Department of Public Safety using any
23 information required by the Administrative Office of the Courts to identify
24 the individual, a search by the Department of Public Safety for any
25 outstanding warrants on pending criminal cases, and a search of the
26 confidential record of expunctions maintained by the Administrative Office
27 of the Courts. The application shall be forwarded to the Department of
28 Public Safety and to the Administrative Office of the Courts, which shall
29 conduct the searches and report their findings to the court.
- 30 (5) An affidavit by the petitioner that no restitution orders or civil judgments
31 representing amounts ordered for restitution entered against the petitioner
32 are outstanding.

33 Upon filing of the petition, the petition shall be served upon the district attorney of the court
34 wherein the case was tried resulting in conviction. The district attorney shall have 30 days
35 thereafter in which to file any objection thereto and shall be duly notified as to the date of the
36 hearing of the petition. Upon good cause shown, the court may grant the district attorney an
37 additional 30 days to file objection to the petition. The district attorney shall make his or her
38 best efforts to contact the victim, if any, to notify the victim of the request for expunction prior
39 to the date of the hearing.

40 The presiding judge is authorized to call upon a probation officer for any additional
41 investigation or verification of the petitioner's conduct since the conviction. The court shall
42 review any other information the court deems relevant, including, but not limited to, affidavits
43 or other testimony provided by law enforcement officers, district attorneys, and victims of
44 crimes committed by the petitioner.

45 If the court, after hearing, finds that the petitioner has not previously been granted an
46 expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or
47 15A-145.4; the petitioner has remained of good moral character; the petitioner has no
48 outstanding warrants or pending criminal cases; the petitioner has no other felony or
49 misdemeanor convictions other than a traffic or boating violation; the petitioner has no
50 outstanding restitution orders or civil judgments representing amounts ordered for restitution
51 entered against the petitioner; and the petitioner was convicted of an offense eligible for

1 expunction under this section and was convicted of, and completed any sentence received for,
2 the nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the
3 petition, it may order that such person be restored, in the contemplation of the law, to the status
4 the person occupied before such arrest or indictment or information. If the court denies the
5 petition, the order shall include a finding as to the reason for the denial."

6 **SECTION 3.5.(b)** G.S. 15A-145 reads as rewritten:

7 "**§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of**
8 **conviction of misdemeanor; expunction of certain other misdemeanors.**

9 (a) Whenever any person who has not previously been convicted of any felony, or
10 misdemeanor other than a traffic or boating violation, under the laws of the United States, the
11 laws of this State or any other state, (i) pleads guilty to or is guilty of a misdemeanor other than
12 a traffic or boating violation, and the offense was committed before the person attained the age
13 of 18 years, or (ii) pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant
14 to G.S. 18B-302(b)(1), and the offense was committed before the person attained the age of 21
15 years, he may file a petition in the court where he was convicted for expunction of the
16 misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two years
17 after the date of the conviction, or (ii) the completion of any period of probation, whichever
18 occurs later, and the petition shall contain, but not be limited to, the following:

- 19 (1) An affidavit by the petitioner that he has been of good behavior for the
20 two-year period since the date of conviction of the misdemeanor in question
21 and has not been convicted of any felony, or misdemeanor other than a
22 traffic or boating violation, under the laws of the United States or the laws of
23 this State or any other state.
- 24 (2) Verified affidavits of two persons who are not related to the petitioner or to
25 each other by blood or marriage, that they know the character and reputation
26 of the petitioner in the community in which he lives and that his character
27 and reputation are good.
- 28 (3) A statement that the petition is a motion in the cause in the case wherein the
29 petitioner was convicted.
- 30 (4) Repealed by Session Laws 2010-174, s. 2, effective October 1, 2010, and
31 applicable to petitions for expunctions filed on or after that date.
- 32 (4a) An application on a form approved by the Administrative Office of the
33 Courts requesting and authorizing a name-based State and national criminal
34 record check by the Department of Public Safety using any information
35 required by the Administrative Office of the Courts to identify the individual
36 and a search of the confidential record of expunctions maintained by the
37 Administrative Office of the Courts. The application shall be forwarded to
38 the Department of Public Safety and to the Administrative Office of the
39 Courts, which shall conduct the searches and report their findings to the
40 court.
- 41 (5) An affidavit by the petitioner that no restitution orders or civil judgments
42 representing amounts ordered for restitution entered against him are
43 outstanding.

44 The petition shall be served upon the district attorney of the court wherein the case was
45 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file
46 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

47 The judge to whom the petition is presented is authorized to call upon a probation officer
48 for any additional investigation or verification of the petitioner's conduct during the two-year
49 period that he deems desirable.

50 (b) If the court, after hearing, finds that the petitioner had remained of good behavior
51 and been free of conviction of any felony or misdemeanor, other than a traffic or boating

1 violation, for two years from the date of conviction of the misdemeanor in question, the
2 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered
3 for restitution entered against him, and (i) petitioner was not 18 years old at the time of the
4 offense in question, or (ii) petitioner was not 21 years old at the time of the offense of
5 possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be
6 restored, in the contemplation of the law, to the status he occupied before such arrest or
7 indictment or information. No person as to whom such order has been entered shall be held
8 thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false
9 statement by reason of his failure to recite or acknowledge such arrest, or indictment,
10 information, or trial, or response to any inquiry made of him for any purpose.

11"

12 **SECTION 3.5.(c)** G.S. 15A-145.1 reads as rewritten:

13 **"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**
14 **conviction of certain gang offenses.**

15 (a) Whenever any person who has not previously been convicted of any felony or
16 misdemeanor other than a traffic or boating violation under the laws of the United States or the
17 laws of this State or any other state pleads guilty to or is guilty of (i) a Class H felony under
18 Article 13A of Chapter 14 of the General Statutes or (ii) an enhanced offense under
19 G.S. 14-50.22, or has been discharged and had the proceedings against the person dismissed
20 pursuant to G.S. 14-50.29, and the offense was committed before the person attained the age of
21 18 years, the person may file a petition in the court where the person was convicted for
22 expunction of the offense from the person's criminal record. Except as provided in
23 G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two
24 years after the date of the conviction or (ii) the completion of any period of probation,
25 whichever occurs later. The petition shall contain, but not be limited to, the following:

- 26 (1) An affidavit by the petitioner that the petitioner has been of good behavior
27 (i) during the period of probation since the decision to defer further
28 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)
29 during the two-year period since the date of conviction of the offense in
30 question, whichever applies, and has not been convicted of any felony or
31 misdemeanor other than a traffic or boating violation under the laws of the
32 United States or the laws of this State or any other state.
- 33 (2) Verified affidavits of two persons who are not related to the petitioner or to
34 each other by blood or marriage, that they know the character and reputation
35 of the petitioner in the community in which the petitioner lives, and that the
36 petitioner's character and reputation are good.
- 37 (3) If the petition is filed subsequent to conviction of the offense in question, a
38 statement that the petition is a motion in the cause in the case wherein the
39 petitioner was convicted.
- 40 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and
41 applicable to petitions for expunctions filed on or after that date.
- 42 (4a) An application on a form approved by the Administrative Office of the
43 Courts requesting and authorizing a name-based State and national criminal
44 record check by the Department of Public Safety using any information
45 required by the Administrative Office of the Courts to identify the individual
46 and a search of the confidential record of expunctions maintained by the
47 Administrative Office of the Courts. The application shall be forwarded to
48 the Department of Public Safety and to the Administrative Office of the
49 Courts, which shall conduct the searches and report their findings to the
50 court.

- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments
2 representing amounts ordered for restitution entered against the petitioner
3 are outstanding.

4 The petition shall be served upon the district attorney of the court wherein the case was
5 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file
6 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

7 The judge to whom the petition is presented is authorized to call upon a probation officer
8 for any additional investigation or verification of the petitioner's conduct during the
9 probationary period or during the two-year period after conviction.

10 (b) If the court, after hearing, finds that (i) the petitioner was dismissed and the
11 proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had
12 not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of
13 good behavior and been free of conviction of any felony or misdemeanor other than a traffic or
14 boating violation for two years from the date of conviction of the offense in question, the
15 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered
16 for restitution entered against the petitioner, and the petitioner had not attained the age of 18
17 years at the time of the offense in question, it shall order that such person be restored, in the
18 contemplation of the law, to the status occupied by the petitioner before such arrest or
19 indictment or information, and that the record be expunged from the records of the court. No
20 person as to whom such order has been entered shall be held thereafter under any provision of
21 any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's
22 failure to recite or acknowledge such arrest, or indictment or information, or trial, or response
23 to any inquiry made of the person for any purpose. The court shall also direct all law
24 enforcement agencies, the Division of Adult Correction of the Department of Public Safety, the
25 Division of Motor Vehicles, and any other State or local government agencies identified by the
26 petitioner as bearing record of the same to expunge their records of the petitioner's criminal
27 charge and any conviction resulting from the charge. The clerk shall notify State and local
28 agencies of the court's order as provided in G.S. 15A-150.

29"

30 **SECTION 3.5.(d)** G.S. 15A-145.2 reads as rewritten:

31 **"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**
32 **time of the offense of certain drug offenses.**

33 (a) Whenever a person is discharged, and the proceedings against the person dismissed,
34 pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the
35 offense, the person may apply to the court for an order to expunge from all official records,
36 other than the confidential files retained under G.S. 15A-151, all recordation relating to the
37 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge
38 pursuant to this section. The applicant shall attach to the application the following:

- 39 (1) An affidavit by the petitioner that he or she has been of good behavior
40 during the period of probation since the decision to defer further proceedings
41 on the offense in question and has not been convicted of any felony or
42 misdemeanor other than a traffic or boating violation under the laws of the
43 United States or the laws of this State or any other state;
- 44 (2) Verified affidavits by two persons who are not related to the petitioner or to
45 each other by blood or marriage, that they know the character and reputation
46 of the petitioner in the community in which he or she lives, and that the
47 petitioner's character and reputation are good;
- 48 (3) Repealed by Session Laws 2010-174, s. 5, effective October 1, 2010, and
49 applicable to petitions for expunctions filed on or after that date.
- 50 (3a) An application on a form approved by the Administrative Office of the
51 Courts requesting and authorizing a name-based State and national criminal

1 record check by the Department of Public Safety using any information
2 required by the Administrative Office of the Courts to identify the individual
3 and a search of the confidential record of expunctions maintained by the
4 Administrative Office of the Courts. The application shall be forwarded to
5 the Department of Public Safety and to the Administrative Office of the
6 Courts, which shall conduct the searches and report their findings to the
7 court.

8 The judge to whom the petition is presented is authorized to call upon a probation officer
9 for any additional investigation or verification of the petitioner's conduct during the
10 probationary period deemed desirable.

11 If the court determines, after hearing, that such person was discharged and the proceedings
12 against him or her dismissed and that the person was not over 21 years of age at the time of the
13 offense, it shall enter such order. The effect of such order shall be to restore such person in the
14 contemplation of the law to the status the person occupied before such arrest or indictment or
15 information. No person as to whom such order was entered shall be held thereafter under any
16 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
17 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial
18 in response to any inquiry made of him or her for any purpose.

19 The court shall also order that all records of the proceeding be expunged from the records
20 of the court and direct all law enforcement agencies, the Division of Adult Correction, the
21 Division of Motor Vehicles, and any other State and local government agencies identified by
22 the petitioner as bearing records of the same to expunge their records of the proceeding. The
23 clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

24 ...

25 (c) Whenever any person who has not previously been convicted of (i) any felony
26 offense under any state or federal laws; (ii) any offense under Chapter 90 of the General
27 Statutes; or (iii) an offense under any statute of the United States or any state relating to
28 controlled substances included in any schedule of Chapter 90 of the General Statutes or to that
29 paraphernalia included in Article 5B of Chapter 90 of the General Statutes, pleads guilty to or
30 has been found guilty of a misdemeanor under Article 5 of Chapter 90 of the General Statutes
31 by possessing a controlled substance included within Schedules I through VI of Chapter 90, or
32 by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or pleads guilty to or has
33 been found guilty of a felony under G.S. 90-95(a)(3), the court may, upon application of the
34 person not sooner than 12 months after conviction, order cancellation of the judgment of
35 conviction and expunction of the records of the person's arrest, indictment or information, trial,
36 and conviction. A conviction in which the judgment of conviction has been canceled and the
37 records expunged pursuant to this subsection shall not be thereafter deemed a conviction for
38 purposes of this subsection or for purposes of disqualifications or liabilities imposed by law
39 upon conviction of a crime, including the additional penalties imposed for second or
40 subsequent convictions of Article 5 of Chapter 90 of the General Statutes. Cancellation and
41 expunction under this subsection may occur only once with respect to any person. Disposition
42 of a case under this subsection at the district court division of the General Court of Justice shall
43 be final for the purpose of appeal.

44 The granting of an application filed under this subsection shall cause the issue of an order to
45 expunge from all official records, other than the confidential files retained under G.S. 15A-151,
46 all recordation relating to the petitioner's arrest, indictment or information, trial, finding of
47 guilty, judgment of conviction, cancellation of the judgment, and expunction of records
48 pursuant to this subsection.

49 The judge to whom the petition is presented is authorized to call upon a probation officer
50 for additional investigation or verification of the petitioner's conduct since conviction. If the
51 court determines that the petitioner was convicted of (i) a misdemeanor under Article 5 of

1 Chapter 90 of the General Statutes for possessing a controlled substance included within
2 Schedules I through VI of Article 5 of Chapter 90 of the General Statutes or for possessing
3 drug paraphernalia as prohibited in G.S. 90-113.22 or (ii) a felony under G.S. 90-95(a)(3), that
4 the petitioner has no disqualifying previous convictions as set forth in this subsection, that the
5 petitioner was not over 21 years of age at the time of the offense, that the petitioner has been of
6 good behavior since his or her conviction, that the petitioner has successfully completed a drug
7 education program approved for this purpose by the Department of Health and Human
8 Services, and that the petitioner has not been convicted of a felony or misdemeanor other than a
9 traffic or boating violation under the laws of this State at any time prior to or since the
10 conviction for the offense in question, it shall enter an order of expunction of the petitioner's
11 court record. The effect of such order shall be to restore the petitioner in the contemplation of
12 the law to the status the petitioner occupied before arrest or indictment or information or
13 conviction. No person as to whom such order was entered shall be held thereafter under any
14 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
15 the person's failures to recite or acknowledge such arrest, or indictment or information, or
16 conviction, or trial in response to any inquiry made of him or her for any purpose. The judge
17 may waive the condition that the petitioner attend the drug education school if the judge makes
18 a specific finding that there was no drug education school within a reasonable distance of the
19 defendant's residence or that there were specific extenuating circumstances which made it
20 likely that the petitioner would not benefit from the program of instruction.

21 The court shall also order all law enforcement agencies, the Department of Correction, the
22 Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as
23 bearing records of the conviction and records relating thereto to expunge their records of the
24 conviction. The clerk shall notify State and local agencies of the court's order as provided in
25 G.S. 15A-150.

26"

27 **SECTION 3.5.(e)** G.S. 15A-145.3 reads as rewritten:

28 "**§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**
29 **time of the offense of certain toxic vapors offenses.**

30 (a) Whenever a person is discharged and the proceedings against the person dismissed
31 under G.S. 90-113.14(a) or (a1), such person, if he or she was not over 21 years of age at the
32 time of the offense, may apply to the court for an order to expunge from all official records,
33 other than the confidential files retained under G.S. 15A-151, all recordation relating to the
34 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge
35 pursuant to this section. The applicant shall attach to the application the following:

36 (1) An affidavit by the petitioner that the petitioner has been of good behavior
37 during the period of probation since the decision to defer further proceedings
38 on the misdemeanor in question and has not been convicted of any felony or
39 misdemeanor other than a traffic or boating violation under the laws of the
40 United States or the laws of this State or any other state;

41 (2) Verified affidavits by two persons who are not related to the petitioner or to
42 each other by blood or marriage, that they know the character and reputation
43 of the petitioner in the community in which the petitioner lives, and that his
44 or her character and reputation are good;

45 (3) Repealed by Session Laws 2010-174, s. 6, effective October 1, 2010, and
46 applicable to petitions for expunctions filed on or after that date.

47 (3a) An application on a form approved by the Administrative Office of the
48 Courts requesting and authorizing a name-based State and national criminal
49 record check by the Department of Public Safety using any information
50 required by the Administrative Office of the Courts to identify the individual
51 and a search of the confidential record of expunctions maintained by the

1 Administrative Office of the Courts. The application shall be forwarded to
2 the Department of Public Safety and to the Administrative Office of the
3 Courts, which shall conduct the searches and report their findings to the
4 court.

5 The judge to whom the petition is presented is authorized to call upon a probation officer
6 for any additional investigation or verification of the petitioner's conduct during the
7 probationary period deemed desirable.

8 If the court determines, after hearing, that such person was discharged and the proceedings
9 against the person dismissed and that he or she was not over 21 years of age at the time of the
10 offense, it shall enter such order. The effect of such order shall be to restore such person in the
11 contemplation of the law to the status the person occupied before such arrest or indictment or
12 information. No person as to whom such order was entered shall be held thereafter under any
13 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
14 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial
15 in response to any inquiry made of him or her for any purpose.

16 The court shall also order that all records of the proceeding be expunged from the records
17 of the court and direct all law enforcement agencies bearing records of the same to expunge
18 their records of the proceeding. The clerk shall notify State and local agencies of the court's
19 order as provided in G.S. 15A-15.

20 ...

21 (c) Whenever any person who has not previously been convicted of an offense under
22 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States
23 or any state relating to controlled substances included in any schedule of Article 5 of Chapter
24 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the
25 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A
26 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner
27 than 12 months after conviction, order cancellation of the judgment of conviction and
28 expunction of the records of the person's arrest, indictment or information, trial, and conviction.
29 A conviction in which the judgment of conviction has been cancelled and the records expunged
30 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this
31 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of
32 a crime, including the additional penalties imposed for second or subsequent convictions of
33 violation of Article 5A of Chapter 90 of the General Statutes. Cancellation and expunction
34 under this subsection may occur only once with respect to any person. Disposition of a case
35 under this subsection at the district court division of the General Court of Justice shall be final
36 for the purpose of appeal.

37 The granting of an application filed under this subsection shall cause the issue of an order to
38 expunge from all official records, other than the confidential files retained under G.S. 15A-151,
39 all recordation relating to the person's arrest, indictment or information, trial, finding of guilty,
40 judgment of conviction, cancellation of the judgment, and expunction of records pursuant to
41 this subsection.

42 The judge to whom the petition is presented is authorized to call upon a probation officer
43 for additional investigation or verification of the petitioner's conduct since conviction. If the
44 court determines that the petitioner was convicted of a misdemeanor under Article 5A of
45 Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by
46 G.S. 90-113.22, that the petitioner was not over 21 years of age at the time of the offense, that
47 the petitioner has been of good behavior since his or her conviction, that the petitioner has
48 successfully completed a drug education program approved for this purpose by the Department
49 of Health and Human Services, and that the petitioner has not been convicted of a felony or
50 misdemeanor other than a traffic or boating violation under the laws of this State at any time
51 prior to or since the conviction for the misdemeanor in question, it shall enter an order of

1 expunction of the petitioner's court record. The effect of such order shall be to restore the
2 petitioner in the contemplation of the law to the status he occupied before such arrest or
3 indictment or information or conviction. No person as to whom such order was entered shall be
4 held thereafter under any provision of any law to be guilty of perjury or otherwise giving a
5 false statement by reason of the person's failures to recite or acknowledge such arrest, or
6 indictment or information, or conviction, or trial in response to any inquiry made of him or her
7 for any purpose. The judge may waive the condition that the petitioner attend the drug
8 education school if the judge makes a specific finding that there was no drug education school
9 within a reasonable distance of the defendant's residence or that there were specific extenuating
10 circumstances which made it likely that the petitioner would not benefit from the program of
11 instruction.

12 The clerk shall notify State and local agencies of the court's order as provided in
13 G.S. 15A-150.

14"

15 **SECTION 3.5.(f)** G.S. 15A-145.4 reads as rewritten:

16 **"§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**
17 **the time of the commission of a nonviolent felony.**

18 ...

19 (c) Whenever any person who had not yet attained the age of 18 years at the time of the
20 commission of the offense and has not previously been convicted of any felony or
21 misdemeanor other than a traffic or boating violation under the laws of the United States or the
22 laws of this State or any other state pleads guilty to or is guilty of a nonviolent felony, the
23 person may file a petition in the court where the person was convicted for expunction of the
24 nonviolent felony from the person's criminal record. The petition shall not be filed earlier than
25 four years after the date of the conviction or when any active sentence, period of probation, and
26 post-release supervision has been served, whichever occurs later. The person shall also perform
27 at least 100 hours of community service, preferably related to the conviction, before filing a
28 petition for expunction under this section. The petition shall contain the following:

- 29 (1) An affidavit by the petitioner that the petitioner has been of good moral
30 character since the date of conviction of the nonviolent felony in question
31 and has not been convicted of any other felony or any misdemeanor other
32 than a traffic or boating violation under the laws of the United States or the
33 laws of this State or any other state.
- 34 (2) Verified affidavits of two persons who are not related to the petitioner or to
35 each other by blood or marriage, that they know the character and reputation
36 of the petitioner in the community in which the petitioner lives and that the
37 petitioner's character and reputation are good.
- 38 (3) A statement that the petition is a motion in the cause in the case wherein the
39 petitioner was convicted.
- 40 (4) An application on a form approved by the Administrative Office of the
41 Courts requesting and authorizing (i) a State and national criminal history
42 record check by the Department of Public Safety using any information
43 required by the Administrative Office of the Courts to identify the
44 individual; (ii) a search by the Department of Public Safety for any
45 outstanding warrants or pending criminal cases; and (iii) a search of the
46 confidential record of expunctions maintained by the Administrative Office
47 of the Courts. The application shall be forwarded to the Department of
48 Public Safety and to the Administrative Office of the Courts, which shall
49 conduct the searches and report their findings to the court.

- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments
2 representing amounts ordered for restitution entered against the petitioner
3 are outstanding.
- 4 (6) An affidavit by the petitioner that the petitioner has performed at least 100
5 hours of community service since the conviction for the nonviolent felony.
6 The affidavit shall include a list of the community services performed, a list
7 of the recipients of the services, and a detailed description of those services.
- 8 (7) An affidavit by the petitioner that the petitioner possesses a high school
9 diploma, a high school graduation equivalency certificate, or a General
10 Education Development degree.

11 The petition shall be served upon the district attorney of the court wherein the case was
12 tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file
13 any objection thereto and shall be duly notified as to the date of the hearing of the petition. The
14 district attorney shall make his or her best efforts to contact the victim, if any, to notify the
15 victim of the request for expunction prior to the date of the hearing.

16 ...

17 (e) The court may order that the person be restored, in the contemplation of the law, to
18 the status the person occupied before the arrest or indictment or information if the court finds
19 all of the following after a hearing:

- 20 (1) The petitioner has remained of good moral character and has been free of
21 conviction of any felony or misdemeanor, other than a traffic or boating
22 violation, for four years from the date of conviction of the nonviolent felony
23 in question or any active sentence, period of probation, or post-release
24 supervision has been served, whichever is later.
- 25 (2) The petitioner has not previously been convicted of any felony or
26 misdemeanor other than a traffic or boating violation under the laws of the
27 United States or the laws of this State or any other state.
- 28 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 29 (4) The petitioner has no outstanding restitution orders or civil judgments
30 representing amounts ordered for restitution entered against the petitioner.
- 31 (5) The petitioner was less than 18 years old at the time of the commission of
32 the offense in question.
- 33 (6) The petitioner has performed at least 100 hours of community service since
34 the time of the conviction and possesses a high school diploma, a high
35 school graduation equivalency certificate, or a General Education
36 Development degree.
- 37 (7) The search of the confidential records of expunctions conducted by the
38 Administrative Office of the Courts shows that the petitioner has not been
39 previously granted an expunction.

40"

41 **SECTION 3.5.(g)** G.S. 15A-145.6(f) reads as rewritten:

42 "(f) The court shall order that the person be restored, in the contemplation of the law, to
43 the status the person occupied before the arrest or indictment or information if the court finds
44 all of the following after a hearing:

- 45 (1) The criteria set out in subsection (b) of this section are satisfied.
- 46 (2) The petitioner has remained of good moral character and has been free of
47 conviction of any felony or misdemeanor, other than a traffic or boating
48 violation, since the date of conviction of the prostitution offense in question.
- 49 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 50 (4) The petitioner has no outstanding restitution orders or civil judgments
51 representing amounts ordered for restitution entered against the petitioner.

1 (5) The search of the confidential records of expunctions conducted by the
2 Administrative Office of the Courts shows that the petitioner has not been
3 previously granted an expunction, other than an expunction for a prostitution
4 offense."

5 **SECTION 3.5.(h)** This section is effective when this act becomes law.

6
7 **AUTHORIZE DMV TO ISSUE PERMANENT PLATES FOR TRAILERS ATTACHED**
8 **TO MOTORCYCLES**

9 **SECTION 3.6.(a)** G.S. 20-84(b) is amended by adding a new subdivision to read:

10 "(20) A trailer used as an attachment to the rear of a motorcycle."

11 **SECTION 3.6.(b)** This section becomes effective July 1, 2015.

12
13 **INCREASED PENALTY FOR UNSECURED CHILD IN MOTOR VEHICLE**

14 **SECTION 3.7.(a)** G.S. 20-137.1 reads as rewritten:

15 **"§ 20-137.1. Child restraint systems required.**

16 (a) Every driver who is transporting one or more passengers of less than 16 years of age
17 shall have all such passengers properly secured in a child passenger restraint system or seat belt
18 which meets federal standards applicable at the time of its manufacture.

19 (a1) A child less than eight years of age and less than 80 pounds in weight shall be
20 properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped
21 with an active passenger-side front air bag, if the vehicle has a rear seat, a child less than five
22 years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless
23 the child restraint system is designed for use with air bags. If no seating position equipped with
24 a lap and shoulder belt to properly secure the weight-appropriate child passenger restraint
25 system is available, a child less than eight years of age and between 40 and 80 pounds may be
26 restrained by a properly fitted lap belt only.

27 (b) The provisions of this section shall not apply: (i) to ambulances or other emergency
28 vehicles; (ii) if all seating positions equipped with child passenger restraint systems or seat
29 belts are occupied; or (iii) to vehicles which are not required by federal law or regulation to be
30 equipped with seat belts.

31 (c) Any driver found responsible for a violation of this section may be punished by a
32 penalty not to exceed ~~twenty five dollars (\$25.00), one hundred dollars (\$100.00),~~ even when
33 more than one child less than 16 years of age was not properly secured in a restraint system. ~~No~~
34 ~~driver charged under this section for failure to have a child under eight years of age properly~~
35 ~~secured in a restraint system shall be convicted if he produces at the time of his trial proof~~
36 ~~satisfactory to the court that he has subsequently acquired an approved child passenger restraint~~
37 ~~system for a vehicle in which the child is normally transported.~~

38 (d) A violation of this section shall have all of the following consequences:

39 (1) Two drivers license points shall be assessed pursuant to G.S. 20-16.

40 (2) No insurance points shall be assessed.

41 (3) The violation shall not constitute negligence per se or contributory
42 negligence per se.

43 (4) The violation shall not be evidence of negligence or contributory negligence.

44 (e) The failure of an occupant that appears to be a child less than eight years of age and
45 less than 80 pounds in weight to be restrained as required by this section shall be justification
46 for the stop of a vehicle."

47 **SECTION 3.7.(b)** This section becomes effective December 1, 2015, and applies
48 to offenses committed on or after that date.

49
50 **STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY**
51 **ACCREDITED**

1 **SECTION 3.8.** G.S. 122C-81 reads as rewritten:

2 "**§ 122C-81. National accreditation benchmarks.**

3 (a) As used in this section, the term:

4 (1) "National accreditation" applies to accreditation by an entity approved by the
5 Secretary that accredits mental health, developmental disabilities, and
6 substance abuse services.

7 (2) "Provider" applies to only those providers of services, including facilities,
8 requiring national accreditation, which services are designated by the
9 Secretary pursuant to subsection (b) of this section.

10 (b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted
11 by the Secretary, shall designate the mental health, developmental disabilities, and substance
12 abuse services that require national accreditation. In accordance with rules of the Commission,
13 the Secretary may exempt a provider that is accredited under this section and in good standing
14 with the national accrediting agency from undergoing any routine monitoring that is duplicative
15 of the oversight by the national accrediting agency.

16 ...

17 (e) The Commission may adopt rules establishing a procedure by which a provider that
18 is accredited under this section and in good standing with the national accrediting agency may
19 be exempt from undergoing any routine monitoring that is duplicative of the oversight by the
20 national accrediting agency. Any provider shall continue to be subject to inspection by the
21 Secretary, provided the inspection is not duplicative of inspections required by the national
22 accrediting agency. Rules adopted under this subsection may not waive any requirements that
23 may be imposed under federal law."

24
25 **CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED**
26 **FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME**
27 **ESTABLISHMENT IN THAT LOCATION BECOMES VOID**

28 **SECTION 3.9.** G.S. 130A-248(c) reads as rewritten:

29 "(c) If ownership of an establishment is transferred or the establishment is leased, the
30 new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for
31 a transitional permit. A transitional permit may be issued upon the transfer of ownership or
32 lease of an establishment to allow the correction of construction and equipment problems that
33 do not represent an immediate threat to the public health. Upon issuance of a new permit or a
34 transitional permit for ~~an~~the same establishment, any previously issued permit for an
35 establishment in that location becomes void. This subsection does not prohibit issuing more
36 than one owner or lessee a permit for the same location if (i) more than one establishment is
37 operated in the same physical location and (ii) if each establishment satisfies all of the
38 requirements of rules and requirements of subsection (g) of this section."

39
40 **DAYCARE CURRICULUM CHANGE**

41 **SECTION 3.10.(a)** Section 10.7(b) of S.L. 2011-145 reads as rewritten:

42 "**SECTION 10.7.(b)** The Childcare Commission shall adopt rules for programmatic
43 standards for regulation of prekindergarten classrooms. The Commission shall ~~review and~~
44 ~~approve-recommend~~ comprehensive, evidenced-based early childhood curricula with a reading
45 component. ~~These curricula shall be added to the currently approved "More At Four"~~
46 curricula."

47 **SECTION 3.10.(b)** Section 10.7(d) of S.L. 2011-145 reads as rewritten:

48 "**SECTION 10.7.(d)** The additional curricula ~~approved and~~ taught in prekindergarten
49 classrooms shall also be taught in four- and five-star rated facilities in the non-prekindergarten
50 four-year-old classrooms. The Child Care Commission shall increase standards in the four- and
51 five-star-rated facilities for the purpose of placing an emphasis on early reading. The

1 Commission shall require the four- and five-star-rated facilities to teach from the Commission's
2 ~~approved-recommended~~ curricula. The Division of Child Development may use funds from the
3 Child Care Development Fund Block Grant to assist with the purchase of curricula or adjust
4 rates of reimbursements to cover increased costs."

5 **SECTION 3.10.(c)** Section 12B.1(c) of S.L. 2013-360 reads as rewritten:

6 **"SECTION 12B.1.(c)** Programmatic Standards. – All entities operating prekindergarten
7 classrooms shall adhere to all of the policies prescribed by the Division of Child Development
8 and Early Education regarding programmatic standards and classroom requirements. The North
9 Carolina Foundations for Early Learning and Development report (Foundations) produced by
10 the North Carolina Foundations Task Force standards shall be used by four- and five-star
11 facilities for selecting any curriculum and formative assessments that are used by the facilities
12 in each classroom where four-year-old children are enrolled. At least one administrator and one
13 teacher or instructional leader from each facility shall be trained by the Division of Child
14 Development and Early Education in the implementation of Foundations across classrooms.
15 The administer and the teacher or instructional leader that have received direct Foundations
16 training from the Division of Child Development and Early Education shall train other
17 instructional staff in their respective facilities within 90 days of the initial training of the
18 administrator and the teacher or instructional leader receiving the initial training from the
19 Division or within 90 days of the hiring of a new instructional staff person."

21 **PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION**

23 **ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY**

24 **SECTION 4.1.(a)** Chapter 8 of the General Statutes is amended by adding a new
25 Part to read:

26 "Part 7D. Environmental Audit Privilege and Limited Immunity.

27 **"§ 8-58.50. Purpose.**

28 (a) In order to encourage owners and operators of facilities and persons conducting
29 activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or
30 conducting activities regulated under other environmental laws, to conduct voluntary internal
31 environmental audits of their compliance programs and management systems and to assess and
32 improve compliance with statutes, an environmental audit privilege is recognized to protect the
33 confidentiality of communications relating to voluntary internal environmental audits.

34 (b) Notwithstanding any other provisions of law, nothing in this Part shall be construed
35 to protect owners and operators of facilities and regulated persons from a criminal investigation
36 or prosecution carried out by any appropriate governmental entity.

37 (c) Notwithstanding any other provision of law, any privilege granted by this Part shall
38 apply only to those communications, oral or written, pertaining to and made in connection with
39 the environmental audit and shall not apply to the facts relating to the violation itself.

40 **"§ 8-58.51. Definitions.**

41 The following definitions apply in this Part:

- 42 (1) "Department" means the Department of Environment and Natural Resources.
- 43 (2) "Enforcement agencies" means the Department, any other agency of the
44 State, and units of local government responsible for enforcement of
45 environmental laws.
- 46 (3) "Environmental audit" means a voluntary, internal evaluation or review of
47 one or more facilities or an activity at one or more facilities regulated under
48 federal, State, regional, or local environmental law, or of compliance
49 programs, or management systems related to the facility or activity if
50 designed to identify and prevent noncompliance and to improve compliance
51 with these laws. For the purposes of this Part, an environmental audit does

1 not include an environmental site assessment of a facility conducted solely
2 in anticipation of the purchase, sale, or transfer of the business or facility. An
3 environmental audit may be conducted by the owner or operator, the parent
4 corporation of the owner or operator or by their officers or employees, or by
5 independent contractors. An environmental audit must be a discrete activity
6 with a specified beginning date and scheduled ending date reflecting the
7 auditor's bona fide intended completion schedule.

8 (4) "Environmental audit report" means a document marked or identified as
9 such with a completion date existing either individually or as a compilation
10 prepared in connection with an environmental audit. An environmental audit
11 report may include field notes and records of observations, findings,
12 opinions, suggestions, recommendations, conclusions, drafts, memoranda,
13 drawings, photographs, computer-generated or electronically-recorded
14 information, maps, charts, graphs, and surveys, provided the supporting
15 information is collected or developed for the primary purpose and in the
16 course of an environmental audit. An environmental audit report, when
17 completed, may include all of the following components:

18 a. An audit report prepared by an auditor, which may include the scope
19 and date of the audit and the information gained in the audit, together
20 with exhibits and appendices and may include conclusions,
21 recommendations, exhibits, and appendices.

22 b. Memoranda and documents analyzing any portion of the audit report
23 or issues relating to the implementation of an audit report.

24 c. An implementation plan that addresses correcting past
25 noncompliance, improving current compliance, or preventing future
26 noncompliance.

27 (5) "Environmental laws" means all provisions of federal, State, and local laws,
28 rules, and ordinances pertaining to environmental matters.

29 **"§ 8-58.52. Applicability.**

30 This Part applies to activities regulated under environmental laws, including all of the
31 following provisions of the General Statutes, and rules adopted thereunder:

32 (1) Article 7 of Chapter 74.

33 (2) Chapter 104E.

34 (3) Article 25 of Chapter 113.

35 (4) Articles 1, 4, and 7 of Chapter 113A.

36 (5) Article 9 of Chapter 130A.

37 (6) Articles 21, 21A, and 21B of Chapter 143.

38 (7) Part 1 of Article 7 of Chapter 143B.

39 **"§ 8-58.53. Environmental audit report; privilege.**

40 (a) An environmental audit report or any part of an environmental audit report is
41 privileged and, therefore, immune from discovery and is not admissible as evidence in civil or
42 administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided,
43 however, all of the following documents are exempt from the privilege established by this Part:

44 (1) Information obtained by observation of an enforcement agency.

45 (2) Information obtained from a source independent of the environmental audit.

46 (3) Documents, communication, data, reports, or other information required to
47 be collected, maintained, otherwise made available, or reported to a
48 enforcement agency or any other entity by environmental laws, permit,
49 order, consent agreement, or as otherwise provided by law.

1 (4) Documents prepared either prior to the beginning of the environmental audit
2 or subsequent to the completion date of the audit report and, in all cases, any
3 documents prepared independent of the audit or audit report.

4 (5) Documents prepared as a result of multiple or continuous self-auditing
5 conducted in an effort to intentionally avoid liability for violations.

6 (6) Information which is knowingly misrepresented or misstated or which is
7 knowingly deleted or withheld from an environmental audit report, whether
8 or not included in a subsequent environmental audit report.

9 (7) Information in instances where the material shows evidence of
10 noncompliance with environmental laws, permits, orders, consent
11 agreements, and the owner or operator failed to either promptly take
12 corrective action or eliminate any violation of law identified during the
13 environmental audit within a reasonable period of time.

14 (b) If an environmental audit report or any part of an environmental audit report is
15 subject to the privilege provided for in subsection (a) of this section, no person who conducted
16 or participated in the audit or who significantly reviewed the audit report may be compelled to
17 testify regarding the audit report or a privileged part of the audit report except as provided for
18 in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

19 (c) Nothing in this Part shall be construed to restrict a party in a proceeding before the
20 Industrial Commission from obtaining or discovering any evidence necessary or appropriate for
21 the proof of any issue pending in an action before the Commission, regardless of whether
22 evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to
23 prevent the admissibility of evidence which is otherwise relevant and admissible in a
24 proceeding before the Industrial Commission, regardless of whether the evidence is privileged
25 pursuant to this Part. Provided, however, the Commission, upon motion made by a party to the
26 proceeding, may issue appropriate protective orders preventing disclosure of information
27 outside of the Commission's proceeding.

28 (d) Nothing in this Part shall be construed to circumvent the employee protection
29 provisions provided by federal or State law.

30 (e) The privilege created by this Part does not apply to criminal investigations or
31 proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the
32 privilege created by this Part shall continue to apply and is not waived in civil and
33 administrative proceedings and is not discoverable or admissible in civil or administrative
34 proceedings even if disclosed during a criminal proceeding.

35 **"§ 8-58.54. Waiver of privilege.**

36 (a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is
37 expressly waived in writing by the owner or operator of a facility at which an environmental
38 audit was conducted and who prepared or caused to be prepared the audit report as a result of
39 the audit.

40 (b) The audit report and information generated by the audit may be disclosed without
41 waiving the privilege established under G.S. 8-58.53 to all of the following persons:

42 (1) A person employed by the owner or operator or the parent corporation of the
43 audited facility.

44 (2) A legal representative of the owner or operator or parent corporation.

45 (3) An independent contractor retained by the owner or operator or parent
46 corporation to conduct an audit on or to address an issue or issues raised by
47 the audit.

48 (c) Disclosure of an audit report or information generated by the audit under all of the
49 following circumstances shall not constitute a waiver of the privilege established under
50 G.S. 8-58.53:

- 1 (1) Disclosure made under the terms of a confidentiality agreement between the
2 owner or operator of the facility audited and a potential purchaser of the
3 business or facility audited.
- 4 (2) Disclosure made under the terms of a confidentiality agreement between
5 governmental officials and the owner or operator of the facility audited.
- 6 (3) Disclosure made under the terms of a confidentiality agreement between a
7 customer, lending institution, or insurance company with an existing or
8 proposed relationship with the facility.

9 **"§ 8-58.55. Notification of audit.**

10 In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the
11 facility conducting the environmental audit shall, upon inspection of the facility by an
12 enforcement agency, or no later than 10 working days after completion of an agency's
13 inspection, notify the enforcement agency of the existence of any audit relevant to the subject
14 of the agency's inspection, as well as the beginning date and completion date of that audit. Any
15 environmental audit report shall include a signed certification from the owner or operator of the
16 facility that documents the date the audit began and the completion date of the audit.

17 **"§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

18 In a civil or administrative proceeding, an enforcement agency may seek by motion a
19 declaratory ruling on the issue of whether an environmental audit report is privileged. The court
20 shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set
21 forth in this section apply. In a civil proceeding, the court, after an in camera review, shall
22 revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of
23 the environmental audit report was sought after the effective date of this Part and either of the
24 following apply:

- 25 (1) The privilege is asserted for purposes of deception or evasion.
- 26 (2) The material shows evidence of significant noncompliance with applicable
27 environmental laws; the owner or operator of the facility has not promptly
28 initiated and pursued with diligence appropriate action to achieve
29 compliance with these environmental laws or has not made reasonable
30 efforts to complete any necessary permit application; and, as a result, the
31 owner or operator of the facility did not or will not achieve compliance with
32 applicable environmental laws or did not or will not complete the necessary
33 permit application within a reasonable period of time.

34 **"§ 8-58.57. Privilege in criminal proceedings.**

35 The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

36 **"§ 8-58.58. Burden of proof.**

37 A party asserting the privilege established under G.S. 8-58.53 has the burden of proving
38 that (i) the materials claimed as privileged constitute an environmental audit report as defined
39 by this Part and (ii) compliance has been achieved or will be achieved within a reasonable
40 period of time. A party seeking disclosure under G.S. 8-58.56 has the burden of proving the
41 condition for disclosure set forth in that section.

42 **"§ 8-58.59. Stipulations; declaratory rulings.**

43 The parties to a proceeding may at any time stipulate to entry of an order directing that
44 specific information contained in an environmental audit report is or is not subject to the
45 privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an
46 enforcement agency may seek a declaratory ruling from a court on the issue of whether the
47 materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be
48 revoked pursuant to G.S. 8-58.56.

49 **"§ 8-58.60. Construction of Part.**

50 Nothing in this Part limits, waives, or abrogates any of the following:

- 1 (1) The scope or nature of any statutory or common law privilege, including the
2 work-product privilege or the attorney-client privilege.
- 3 (2) Any existing ability or authority under State law to challenge privilege.
- 4 (3) An enforcement agency's ability to obtain or use documents or information
5 that the agency otherwise has the authority to obtain under State law adopted
6 pursuant to federally delegated programs.

7 **"§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative**
8 **penalties and fines.**

9 (a) An owner or operator of a facility is immune from imposition of civil and
10 administrative penalties and fines for a violation of environmental laws voluntarily disclosed
11 subject to the requirements and criteria set forth in this section. Provided, however, that waiver
12 of penalties and fines shall not be granted until the applicable enforcement agency has certified
13 that the violation was corrected within a reasonable period of time. If compliance is not
14 certified by the enforcement agency, the enforcement agency shall retain discretion to assess
15 penalties and fines for the violation.

16 (b) If a person or entity makes a voluntary disclosure of a violation of environmental
17 laws discovered through performance of an environmental audit, that person has the burden of
18 proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection
19 (c) of this section and (ii) that the person is therefore entitled to immunity from any
20 administrative or civil penalties associated with the issues disclosed. Nothing in this section
21 may be construed to provide immunity from criminal penalties.

22 (c) For purposes of this section, disclosure is voluntary if all of the following criteria
23 are met:

- 24 (1) The disclosure is made within 14 days following a reasonable investigation
25 of the violation's discovery through the environmental audit.
- 26 (2) The disclosure is made to an enforcement agency having regulatory
27 authority over the violation disclosed.
- 28 (3) The person or entity making the disclosure initiates an action to resolve the
29 violation identified in the disclosure in a diligent manner.
- 30 (4) The person or entity making the disclosure cooperates with the applicable
31 enforcement agency in connection with investigation of the issues identified
32 in the disclosure.
- 33 (5) The person or entity making the disclosure diligently pursues compliance
34 and promptly corrects the noncompliance within a reasonable period of time.

35 (d) A disclosure is not voluntary for purposes of this section if any of the following
36 factors apply:

- 37 (1) Specific permit conditions require monitoring or sampling records and
38 reports or assessment plans and management plans to be maintained or
39 submitted to the enforcement agency pursuant to an established schedule.
- 40 (2) Environmental laws or specific permit conditions require notification of
41 releases to the environment.
- 42 (3) The violation was committed intentionally, wilfully, or through criminal
43 negligence by the person or entity making the disclosure.
- 44 (4) The violation was not corrected in a diligent manner.
- 45 (5) The violation posed or poses a significant threat to public health, safety, and
46 welfare; the environment; and natural resources.
- 47 (6) The violation occurred within one year of a similar prior violation at the
48 same facility, and immunity from civil and administrative penalties was
49 granted by the applicable enforcement agency for the prior violation.
- 50 (7) The violation has resulted in a substantial economic benefit to the owner or
51 operator of the facility.

1 (8) The violation is a violation of the specific terms of a judicial or
2 administrative order.

3 (e) If a person meets the burden of proving that the disclosure is voluntary, the burden
4 shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the
5 factors set forth in this section. The person claiming immunity from civil or administrative
6 penalties or fines under this section retains the ultimate burden of proving the violations were
7 voluntarily disclosed.

8 (f) A voluntary disclosure made pursuant to this section is subject to disclosure
9 pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the
10 General Statutes.

11 **"§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

12 An owner or operator of a facility who makes a voluntary disclosure of a violation of
13 environmental laws discovered through performance of an environmental audit shall only be
14 entitled to exercise of the privilege or immunity established by this Part once in a two-year
15 period, not more than twice in a five-year period, and not more than three times in a 10-year
16 period.

17 **"§ 8-58.63. Preemption of local laws.**

18 No local law, rule, ordinance, or permit condition may circumvent or limit the privilege
19 established by this Part or the exercise of the privileges or the presumption and immunity
20 established by this Part."

21 **SECTION 4.1.(b)** This section becomes effective July 1, 2015, and applies to
22 environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section,
23 that are conducted on or after that date.

24
25 **REPEAL ENERGY AUDIT REQUIREMENTS**

26 **SECTION 4.2.** G.S. 143-64.12 reads as rewritten:

27 **"§ 143-64.12. Authority and duties of the Department; State agencies and State**
28 **institutions of higher learning.**

29 (a) The Department of Environment and Natural Resources through the State Energy
30 Office shall develop a comprehensive program to manage energy, water, and other utility use
31 for State agencies and State institutions of higher learning and shall update this program
32 annually. Each State agency and State institution of higher learning shall develop and
33 implement a management plan that is consistent with the State's comprehensive program under
34 this subsection to manage energy, water, and other utility use, and that addresses any findings
35 or recommendations resulting from the energy audit required by subsection (b1) of this section.
36 The energy consumption per gross square foot for all State buildings in total shall be reduced
37 by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy
38 consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher
39 learning shall update its management plan biennially and include strategies for supporting the
40 energy consumption reduction requirements under this subsection. Each community college
41 shall submit to the State Energy Office a biennial written report of utility consumption and
42 costs. Management plans submitted biennially by State institutions of higher learning shall
43 include all of the following:

- 44 (1) Estimates of all costs associated with implementing energy conservation
45 measures, including pre-installation and post-installation costs.
- 46 (2) The cost of analyzing the projected energy savings.
- 47 (3) Design costs, engineering costs, pre-installation costs, post-installation costs,
48 debt service, and any costs for converting to an alternative energy source.
- 49 (4) An analysis that identifies projected annual energy savings and estimated
50 payback periods.

1 (a1) State agencies and State institutions of higher learning shall carry out the
2 construction and renovation of facilities in such a manner as to further the policy set forth under
3 this section and to ensure the use of life-cycle cost analyses and practices to conserve energy,
4 water, and other utilities.

5 (b) The Department of Administration shall develop and implement policies,
6 procedures, and standards to ensure that State purchasing practices improve efficiency
7 regarding energy, water, and other utility use and take the cost of the product over the
8 economic life of the product into consideration. The Department of Administration shall adopt
9 and implement Building Energy Design Guidelines. These guidelines shall include energy-use
10 goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on
11 building systems and technologies. The Department of Administration shall modify the design
12 criteria for construction and renovation of facilities of State buildings and State institutions of
13 higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to
14 G.S. 143-64.15.

15 (b1) The Department of Administration, as part of the Facilities Condition and
16 Assessment Program, shall identify and recommend energy conservation maintenance and
17 operating procedures that are designed to reduce energy consumption within the facility of a
18 State agency or a State institution of higher learning and that require no significant expenditure
19 of funds. Every State agency or State institution of higher learning shall implement these
20 recommendations. Where energy management equipment is proposed for any facility of a State
21 agency or of a State institution of higher learning, the maximum interchangeability and
22 compatibility of equipment components shall be required. ~~As part of the Facilities Condition
23 and Assessment Program under this section, the Department of Administration, in consultation
24 with the State Energy Office, shall develop an energy audit and a procedure for conducting
25 energy audits. Every five years the Department shall conduct an energy audit for each State
26 agency or State institution of higher learning, and the energy audits conducted shall serve as a
27 preliminary energy survey. The State Energy Office shall be responsible for system-level
28 detailed surveys.~~

29 ~~(b2) The Department of Administration shall submit a report of the energy audit required
30 by subsection (b1) of this section to the affected State agency or State institution of higher
31 learning and to the State Energy Office. The State Energy Office shall review each audit and, in
32 consultation with the affected State agency or State institution of higher learning, incorporate
33 the audit findings and recommendations into the management plan required by subsection (a)
34 of this section.~~

35 ...

36 (j) The State Energy Office shall submit a report by December 1 of every
37 odd-numbered year to the Joint Legislative Energy Policy Commission describing the
38 comprehensive program to manage energy, water, and other utility use for State agencies and
39 State institutions of higher learning required by subsection (a) of this section. The report shall
40 also contain the following:

- 41 (1) A comprehensive overview of how State agencies and State institutions of
42 higher learning are managing energy, water, and other utility use and
43 achieving efficiency gains.
- 44 (2) Any new measures that could be taken by State agencies and State
45 institutions of higher learning to achieve greater efficiency gains, including
46 any changes in general law that might be needed.
- 47 (3) A summary of the State agency and State institutions of higher learning
48 management plans required by subsection (a) of this section ~~and the energy
49 audits required by subsection (b1) of this section.~~
- 50 (4) A list of the State agencies and State institutions of higher learning that did
51 and did not submit management plans required by subsection (a) of this

1 ~~section and a list of the State agencies and State institutions of higher~~
2 ~~learning that received an energy audit.~~section.

- 3 (5) Any recommendations on how management plans can be better managed
4 and implemented."
5

6 **DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES**
7 **REPORTING REQUIREMENTS**

8 **SECTION 4.3.(a)** G.S. 74-54.1(c) is repealed.

9 **SECTION 4.3.(b)** G.S. 113-175.6 is repealed.

10 **SECTION 4.3.(c)** G.S. 113-182.1(e) reads as rewritten:

11 **"§ 113-182.1. Fishery Management Plans.**

12 ...
13 (e) The Secretary of Environment and Natural Resources shall monitor progress in the
14 development and adoption of Fishery Management Plans in relation to the Schedule for
15 development and adoption of the plans established by the Marine Fisheries Commission. ~~The~~
16 ~~Secretary of Environment and Natural Resources shall report to the Joint Legislative~~
17 ~~Commission on Governmental Operations on progress in developing and implementing the~~
18 ~~Fishery Management Plans on or before 1 September of each year.~~ The Secretary of
19 Environment and Natural Resources shall report to the Joint Legislative Commission on
20 Governmental Operations within 30 days of the completion or substantial revision of each
21 proposed Fishery Management Plan. The Joint Legislative Commission on Governmental
22 Operations shall review each proposed Fishery Management Plan within 30 days of the date the
23 proposed Plan is submitted by the Secretary. The Joint Legislative Commission on
24 Governmental Operations may submit comments and recommendations on the proposed Plan
25 to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

26 **SECTION 4.3.(d)** G.S. 143B-279.15 is repealed.

27 **SECTION 4.3.(e)** G.S. 143B-289.44(d) is repealed.

28 **SECTION 4.3.(f)** G.S. 159I-29 is repealed.

29 **SECTION 4.3.(g)** Section 2.3 of S.L. 2007-485 is repealed.
30

31 **DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND ITS RULES FOR**
32 **TEMPORARY EROSION CONTROL STRUCTURES**

33 **SECTION 4.4.(a)** The Coastal Resources Commission shall amend its rules for the
34 use of temporary erosion control structures to provide for all of the following:

- 35 (1) Allow the placement of temporary erosion control structures on a property
36 that is experiencing coastal erosion even if there are no imminently
37 threatened structures on the property if the property is adjacent to a property
38 where temporary erosion control structures have been placed.
39 (2) Allow the placement of contiguous temporary erosion control structures
40 from one shoreline boundary of a property to the other shoreline boundary,
41 regardless of proximity to an imminently threatened structure.
42 (3) The termination date of all permits for contiguous temporary erosion control
43 structures on the same property shall be the same and shall be the latest
44 termination date for any of the permits.

45 **SECTION 4.4.(b)** The Coastal Resources Commission shall adopt temporary rules
46 to implement this section no later than December 31, 2015. The Commission shall also adopt
47 permanent rules to implement this section.
48

49 **REPEAL SEDIMENTATION CONTROL COMMISSION AND TRANSFER**
50 **RESPONSIBILITIES TO THE ENVIRONMENTAL MANAGEMENT COMMISSION**

1 **SECTION 4.5.(a)** Part 8 of Article 7 of Chapter 143B of the General Statutes is
2 repealed.

3 **SECTION 4.5.(b)** G.S. 113A-52 reads as rewritten:

4 **"§ 113A-52. Definitions.**

5 As used in this Article, unless the context otherwise requires:

- 6 (1) Repealed by Session Laws 1973, c. 1417, s. 1.
- 7 (1a) "Affiliate" has the same meaning as in 17 Code of Federal Regulations §
8 240.12(b)-2 (1 June 1993 Edition), which defines "affiliate" as a person that
9 directly, or indirectly through one or more intermediaries, controls, is
10 controlled by, or is under common control of another person.
- 11 (2) "Commission" means the ~~North—Carolina—Sedimentation~~
12 ~~Control~~Environmental Management Commission.
- 13 (3) "Department" means the North Carolina Department of Environment and
14 Natural Resources.
- 15 (4) "District" means any Soil and Water Conservation District created pursuant
16 to Chapter 139, North Carolina General Statutes.
- 17 (5) "Erosion" means the wearing away of land surface by the action of wind,
18 water, gravity, or any combination thereof.
- 19 (6) "Land-disturbing activity" means any use of the land by any person in
20 residential, industrial, educational, institutional or commercial development,
21 highway and road construction and maintenance that results in a change in
22 the natural cover or topography and that may cause or contribute to
23 sedimentation.
- 24 (7) "Local government" means any county, incorporated village, town, or city,
25 or any combination of counties, incorporated villages, towns, and cities,
26 acting through a joint program pursuant to the provisions of this Article.
- 27 (7a) "Parent" has the same meaning as in 17 Code of Federal Regulations §
28 240.12(b)-2 (1 June 1993 Edition), which defines "parent" as an affiliate that
29 directly, or indirectly through one or more intermediaries, controls another
30 person.
- 31 (8) "Person" means any individual, partnership, firm, association, joint venture,
32 public or private corporation, trust, estate, commission, board, public or
33 private institution, utility, cooperative, interstate body, or other legal entity.
- 34 (9) "Secretary" means the Secretary of Environment and Natural Resources.
- 35 (10) "Sediment" means solid particulate matter, both mineral and organic, that
36 has been or is being transported by water, air, gravity, or ice from its site of
37 origin.
- 38 (10a) "Subsidiary" has the same meaning as in 17 Code of Federal Regulations §
39 240.12(b)-2 (1 June 1993 Edition), which defines "subsidiary" as an affiliate
40 that is directly, or indirectly through one or more intermediaries, controlled
41 by another person.
- 42 (10b) "Tract" means all contiguous land and bodies of water being disturbed or to
43 be disturbed as a unit, regardless of ownership.
- 44 (11) "Working days" means days exclusive of Saturday and Sunday during which
45 weather conditions or soil conditions permit land-disturbing activity to be
46 undertaken."

47 **SECTION 4.5.(c)** G.S. 113A-54.1(c) reads as rewritten:

48 **"§ 113A-54.1. Approval of erosion control plans.**

49 ...

50 (c) The Commission shall disapprove an erosion and sedimentation control plan if
51 implementation of the plan would result in a violation of rules adopted by the ~~Environmental~~

1 ~~Management~~ Commission to protect riparian buffers along surface waters. The Director of the
2 Division of Energy, Mineral, and Land Resources may disapprove an erosion and
3 sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this
4 section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- 5 (1) Is conducting or has conducted land-disturbing activity without an approved
6 plan, or has received notice of violation of a plan previously approved by the
7 Commission or a local government pursuant to this Article and has not
8 complied with the notice within the time specified in the notice;
- 9 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local
10 ordinance adopted pursuant to this Article by the time the payment is due;
- 11 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any
12 criminal provision of a local ordinance adopted pursuant to this Article; or
- 13 (4) Has failed to substantially comply with State rules or local ordinances and
14 regulations adopted pursuant to this Article."

15 **SECTION 4.5.(d)** G.S. 113A-57(1) reads as rewritten:

16 **"§ 113A-57. Mandatory standards for land-disturbing activity.**

17 No land-disturbing activity subject to this Article shall be undertaken except in accordance
18 with the following mandatory requirements:

- 19 (1) No land-disturbing activity during periods of construction or improvement to
20 land shall be permitted in proximity to a lake or natural watercourse unless a
21 buffer zone is provided along the margin of the watercourse of sufficient
22 width to confine visible siltation within the twenty-five percent (25%) of the
23 buffer zone nearest the land-disturbing activity. Waters that have been
24 classified as trout waters by the ~~Environmental Management~~ Commission
25 shall have an undisturbed buffer zone 25 feet wide or of sufficient width to
26 confine visible siltation within the twenty-five percent (25%) of the buffer
27 zone nearest the land-disturbing activity, whichever is greater. Provided,
28 however, that the ~~Sedimentation Control~~ Commission may approve plans
29 which include land-disturbing activity along trout waters when the duration
30 of said disturbance would be temporary and the extent of said disturbance
31 would be minimal. This subdivision shall not apply to a land-disturbing
32 activity in connection with the construction of facilities to be located on,
33 over, or under a lake or natural watercourse."

34 **SECTION 4.5.(e)** G.S. 113A-61 reads as rewritten:

35 **"§ 113A-61. Local approval of erosion and sedimentation control plans.**

36 (a) For those land-disturbing activities for which prior approval of an erosion and
37 sedimentation control plan is required, the Commission may require that a local government
38 that administers an erosion and sedimentation control program approved under G.S. 113A-60
39 require the applicant to submit a copy of the erosion and sedimentation control plan to the
40 appropriate soil and water conservation district or districts at the same time the applicant
41 submits the erosion and sedimentation control plan to the local government for approval. The
42 soil and water conservation district or districts shall review the plan and submit any comments
43 and recommendations to the local government within 20 days after the soil and water
44 conservation district received the erosion and sedimentation control plan or within any shorter
45 period of time as may be agreed upon by the soil and water conservation district and the local
46 government. Failure of a soil and water conservation district to submit comments and
47 recommendations within 20 days or within agreed upon shorter period of time shall not delay
48 final action on the proposed plan by the local government.

49 (b) Local governments shall review each erosion and sedimentation control plan
50 submitted to them and within 30 days of receipt thereof shall notify the person submitting the
51 plan that it has been approved, approved with modifications, or disapproved. A local

1 government shall only approve a plan upon determining that it complies with all applicable
2 State and local regulations for erosion and sedimentation control.

3 (b1) A local government shall condition approval of a draft erosion and sedimentation
4 control plan upon the applicant's compliance with federal and State water quality laws,
5 regulations, and rules. A local government shall disapprove an erosion and sedimentation
6 control plan if implementation of the plan would result in a violation of rules adopted by the
7 ~~Environmental Management Commission~~ to protect riparian buffers along surface waters. A
8 local government may disapprove an erosion and sedimentation control plan or disapprove a
9 transfer of a plan under subsection (b3) of this section upon finding that an applicant or a
10 parent, subsidiary, or other affiliate of the applicant:

- 11 (1) Is conducting or has conducted land-disturbing activity without an approved
12 plan, or has received notice of violation of a plan previously approved by the
13 Commission or a local government pursuant to this Article and has not
14 complied with the notice within the time specified in the notice.
- 15 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local
16 ordinance adopted pursuant to this Article by the time the payment is due.
- 17 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any
18 criminal provision of a local ordinance adopted pursuant to this Article.
- 19 (4) Has failed to substantially comply with State rules or local ordinances and
20 regulations adopted pursuant to this Article.

21"

22 **SECTION 4.5.(f)** G.S. 113A-125 reads as rewritten:

23 **"§ 113A-125. Transitional provisions.**

24 (a) Existing regulatory permits shall continue to be administered within the coastal area
25 by the agencies presently responsible for their administration until a date (not later than 44
26 months after July 1, 1974), to be designated by the Secretary of Natural and Economic
27 Resources as the permit changeover date. Said designation shall be effective from and after its
28 filing with the Secretary of State.

29 (b) From and after the "permit changeover date," all existing regulatory permits within
30 the coastal area shall be administered in coordination and consultation with (but not subject to
31 the veto of) the Commission. No such existing permit within the coastal area shall be issued,
32 modified, renewed or terminated except after consultation with the Commission. The
33 provisions of this subsection concerning consultation and coordination shall not be interpreted
34 to authorize or require the extension of any deadline established by this Article or any other law
35 for completion of any permit, licensing, certification or other regulatory proceedings.

36 (c) Within the meaning of this section, "existing regulatory permits" include dredge and
37 fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4;
38 air pollution control and water pollution control permits, special orders or certificates issued
39 pursuant to G.S. 143-215.1 and 143-215.2, or any other permits, licenses, authorizations,
40 approvals or certificates issued by the Board of Water and Air Resources pursuant to Chapter
41 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams
42 pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water
43 diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued
44 pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51;
45 permissions for construction of wells issued pursuant to G.S. 87-88; and rules concerning
46 pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the
47 Department of Health and Human Services of plans for water supply, drainage or sewerage,
48 pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid waste disposal
49 sites and facilities, adopted by the Department of Health and Human Services pursuant to
50 Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued
51 pursuant to Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and rules

1 issued by the Department of Health and Human Services pursuant to Articles 23 or 24 of
2 Chapter 130 with reference to mosquito control programs or districts; any permits, licenses,
3 authorizations, rules, approvals or certificates issued by the Department of Health and Human
4 Services relating to septic tanks or water wells; oil or gas well rules and orders issued for the
5 protection of environmental values or resources pursuant to G.S. 113-391; a certificate of
6 public convenience and necessity issued by the State Utilities Commission pursuant to Chapter
7 62 for any public utility plant or system, other than a carrier of persons or property; permits,
8 licenses, leases, options, authorization or approvals relating to the use of State forestlands, State
9 parks or other state-owned land issued by the State Department of Administration, the State
10 Department of Natural and Economic Resources or any other State department, agency or
11 institution; any approvals of erosion and sedimentation control plans that may be issued by the
12 ~~North Carolina Sedimentation Control~~ Environmental Management Commission pursuant to
13 G.S. 113A-60 or 113A-61; and any permits, licenses, authorizations, rules, approvals or
14 certificates issued by any State agency pursuant to any environmental protection legislation not
15 specified in this subsection that may be enacted prior to the permit changeover date.

16 (d) The Commission shall conduct continuing studies addressed to developing a better
17 coordinated and more unified system of environmental and land-use permits in the coastal area,
18 and shall report its recommendations thereon from time to time to the General Assembly."

19 **SECTION 4.5.(g)** G.S. 143B-279.3(b) reads as rewritten:

20 "**§ 143B-279.3. (Effective until August 1, 2015) Department of Environment and Natural**
21 **Resources – structure.**

22 ...

23 (b) All functions, powers, duties, and obligations previously vested in the following
24 commissions, boards, councils, and committees of the following departments are transferred to
25 and vested in the Department of Environment and Natural Resources by a Type II transfer, as
26 defined in G.S. 143A-6:

- 27 (1) Repealed by Session Laws 1993, c. 501, s. 27.
- 28 (2) Radiation Protection Commission, Department of Health and Human
29 Services.
- 30 (3) Repealed by Session Laws 1997-443, s. 11A.6.
- 31 (4) Water Treatment Facility Operators Board of Certification, Department of
32 Health and Human Services.
- 33 (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.
- 34 (9) Coastal Resources Commission, Department of Natural Resources and
35 Community Development.
- 36 (10) Environmental Management Commission, Department of Natural Resources
37 and Community Development.
- 38 (11) Air Quality Council, Department of Natural Resources and Community
39 Development.
- 40 (12) Wastewater Treatment Plant Operators Certification Commission,
41 Department of Natural Resources and Community Development.
- 42 (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
- 43 (14) North Carolina Mining and Energy Commission, Department of Natural
44 Resources and Community Development.
- 45 (15) Advisory Committee on Land Records, Department of Natural Resources
46 and Community Development.
- 47 (16) Marine Fisheries Commission, Department of Natural Resources and
48 Community Development.
- 49 (17) Parks and Recreation Council, Department of Natural Resources and
50 Community Development.
- 51 (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.

- 1 (19) North Carolina Trails Committee, Department of Natural Resources and
2 Community Development.
3 ~~(20) Sedimentation Control Commission, Department of Natural Resources and~~
4 ~~Community Development.~~
5 (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
6 (22) North Carolina Zoological Park Council, Department of Natural Resources
7 and Community Development.
8 (23) Repealed by Session Laws 1997-286, s. 6.

9 **"§ 143B-279.3. (Effective August 1, 2015) Department of Environment and Natural**
10 **Resources – structure.**

11 ...
12 (b) All functions, powers, duties, and obligations previously vested in the following
13 commissions, boards, councils, and committees of the following departments are transferred to
14 and vested in the Department of Environment and Natural Resources by a Type II transfer, as
15 defined in G.S. 143A-6:

- 16 (1) Repealed by Session Laws 1993, c. 501, s. 27.
17 (2) Radiation Protection Commission, Department of Health and Human
18 Services.
19 (3) Repealed by Session Laws 1997-443, s. 11A.6.
20 (4) Water Treatment Facility Operators Board of Certification, Department of
21 Health and Human Services.
22 (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.
23 (9) Coastal Resources Commission, Department of Natural Resources and
24 Community Development.
25 (10) Environmental Management Commission, Department of Natural Resources
26 and Community Development.
27 (11) Air Quality Council, Department of Natural Resources and Community
28 Development.
29 (12) Wastewater Treatment Plant Operators Certification Commission,
30 Department of Natural Resources and Community Development.
31 (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
32 (14) North Carolina Mining Commission, Department of Natural Resources and
33 Community Development.
34 (15) Advisory Committee on Land Records, Department of Natural Resources
35 and Community Development.
36 (16) Marine Fisheries Commission, Department of Natural Resources and
37 Community Development.
38 (17) Parks and Recreation Council, Department of Natural Resources and
39 Community Development.
40 (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.
41 (19) North Carolina Trails Committee, Department of Natural Resources and
42 Community Development.
43 ~~(20) Sedimentation Control Commission, Department of Natural Resources and~~
44 ~~Community Development.~~
45 (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
46 (22) North Carolina Zoological Park Council, Department of Natural Resources
47 and Community Development.
48 (23) Repealed by Session Laws 1997-286, s. 6."

49 **SECTION 4.5.(h) G.S. 150B-19.3 reads as rewritten:**

50 **"§ 150B-19.3. Limitation on certain environmental rules.**

1 (a) An agency authorized to implement and enforce State and federal environmental
2 laws may not adopt a rule for the protection of the environment or natural resources that
3 imposes a more restrictive standard, limitation, or requirement than those imposed by federal
4 law or rule, if a federal law or rule pertaining to the same subject matter has been adopted,
5 unless adoption of the rule is required by one of the subdivisions of this subsection. A rule
6 required by one of the following subdivisions of this subsection shall be subject to the
7 provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more
8 persons under G.S. 150B-21.3(b2):

9 (1) A serious and unforeseen threat to the public health, safety, or welfare.

10 (2) An act of the General Assembly or United States Congress that expressly
11 requires the agency to adopt rules.

12 (3) A change in federal or State budgetary policy.

13 (4) A federal regulation required by an act of the United States Congress to be
14 adopted or administered by the State.

15 (5) A court order.

16 (b) For purposes of this section, "an agency authorized to implement and enforce State
17 and federal environmental laws" means any of the following:

18 (1) The Department of Environment and Natural Resources created pursuant to
19 G.S. 143B-279.1.

20 (2) The Environmental Management Commission created pursuant to
21 G.S. 143B-282.

22 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.

23 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.

24 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.

25 (6) The Commission for Public Health created pursuant to G.S. 130A-29.

26 ~~(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.~~

27 (8) **(Effective until August 1, 2015)** The North Carolina Mining and Energy
28 Commission created pursuant to G.S. 143B-293.1.

29 (8) **(Effective August 1, 2015)** The North Carolina Oil and Gas Commission
30 created pursuant to G.S. 143B-293.1.

31 (9) The Pesticide Board created pursuant to G.S. 143-436."

32 **SECTION 4.5.(i)** G.S. 143B-282 reads as rewritten:

33 **"§ 143B-282. Environmental Management Commission – creation; powers and duties.**

34 (a) There is hereby created the Environmental Management Commission of the
35 Department of Environment and Natural Resources with the power and duty to promulgate
36 rules to be followed in the protection, preservation, and enhancement of the water and air
37 resources of the State.

38 (1) Within the limitations of G.S. 143-215.9 concerning industrial health and
39 safety, the Environmental Management Commission shall have all of the
40 following powers and duties:

41 a. To grant a permit or temporary permit, to modify or revoke a permit,
42 and to refuse to grant permits pursuant to G.S. 143-215.1 and
43 G.S. 143-215.108 with regard to controlling sources of air and water
44 pollution.

45 b. To issue a special order pursuant to G.S. 143-215.2(b) and
46 G.S. 143-215.110 to any person whom the Commission finds
47 responsible for causing or contributing to any pollution of water
48 within such watershed or pollution of the air within the area for
49 which standards have been established.

50 c. To conduct and direct that investigations be conducted pursuant to
51 G.S. 143-215.3 and G.S. 143-215.108(c)(5).

- 1 d. To conduct public hearings, institute actions in superior court, and
2 agree upon or enter into settlements, all pursuant to G.S. 143-215.3.
- 3 e. To direct the investigation of any killing of fish and wildlife pursuant
4 to G.S. 143-215.3.
- 5 f. To consult with any person proposing to construct, install, or acquire
6 an air or water pollution source pursuant to G.S. 143-215.3 and
7 G.S. 143-215.111.
- 8 g. To encourage local government units to handle air pollution
9 problems and to provide technical and consultative assistance
10 pursuant to G.S. 143-215.3 and G.S. 143-215.112.
- 11 h. To review and have general oversight and supervision over local air
12 pollution control programs pursuant to G.S. 143-215.3 and
13 G.S. 143-215.112.
- 14 i. To declare an emergency when it finds a generalized dangerous
15 condition of water or air pollution pursuant to G.S. 143-215.3.
- 16 j. To render advice and assistance to local government regarding
17 floodways pursuant to G.S. 143-215.56.
- 18 k. To declare and delineate and modify capacity use areas pursuant to
19 G.S. 143-215.13.
- 20 l. To grant permits for water use within capacity use areas pursuant to
21 G.S. 143-215.15.
- 22 m. To direct that investigations be conducted when necessary to carry
23 out duties regarding capacity use areas pursuant to G.S. 143-215.19.
- 24 n. To approve, disapprove and approve subject to conditions all
25 applications for dam construction pursuant to G.S. 143-215.28; to
26 require construction progress reports pursuant to G.S. 143-215.29.
- 27 o. To halt dam construction pursuant to G.S. 143-215.29.
- 28 p. To grant final approval of dam construction work pursuant to
29 G.S. 143-215.30.
- 30 q. To have jurisdiction and supervision over the maintenance and
31 operation of dams pursuant to G.S. 143-215.31.
- 32 r. To direct the inspection of dams pursuant to G.S. 143-215.32.
- 33 s. To modify or revoke any final action previously taken by the
34 Commission pursuant to G.S. 143-214.1 and G.S. 143-215.107.
- 35 t. To have jurisdiction and supervision over oil pollution and
36 dry-cleaning solvent use, contamination, and remediation pursuant to
37 Article 21A of Chapter 143 of the General Statutes.
- 38 u. To administer the State's authority under 33 U.S.C. § 1341 of the
39 federal Clean Water Act.
- 40 v. To approve Coastal Habitat Protection Plans as provided in
41 G.S. 143B-279.8.
- 42 w. To, in cooperation with the Secretary of Transportation and Highway
43 Safety and other appropriate State and federal agencies, develop,
44 promulgate, publicize, and administer a comprehensive State erosion
45 and sedimentation control program pursuant to Article 4 of Chapter
46 113A of the General Statutes.
- 47 x. To assist local governments in the development of erosion and
48 sedimentation programs pursuant to G.S. 113A-60.
- 49 y. To assist and encourage other State agencies in the development of
50 erosion and sedimentation control programs pursuant to
51 G.S. 113A-56.

1 z. To develop recommended methods of control of sedimentation and
 2 prepare and make available for distribution publications and other
 3 materials dealing with sedimentation control techniques pursuant to
 4 G.S. 113A-54.

5 (2) The Environmental Management Commission shall adopt rules:

- 6 a. For air quality standards, emission control standards and
 7 classifications for air contaminant sources pursuant to
 8 G.S. 143-215.107.
 9 b. For water quality standards and classifications pursuant to
 10 G.S. 143-214.1 and G.S. 143-215.
 11 c. To implement water and air quality reporting pursuant to Part 7 of
 12 Article 21 of Chapter 143 of the General Statutes.
 13 d. To be applied in capacity use areas pursuant to G.S. 143-215.14.
 14 e. To implement the issuance of permits for water use within capacity
 15 use areas pursuant to G.S. 143-215.15 and G.S. 143-215.16.
 16 f. Repealed by Session Laws 1983, c. 222, s. 3.
 17 g. For the protection of the land and the waters over which this State
 18 has jurisdiction from pollution by oil, oil products and oil
 19 by-products pursuant to Article 21A of Chapter 143.
 20 h. Governing underground tanks used for the storage of oil or hazardous
 21 substances pursuant to Articles 21, 21A, or 21B of Chapter 143 of
 22 the General Statutes, including inspection and testing of these tanks
 23 and certification of persons who inspect and test tanks.
 24 i. To implement the provisions of Part 2A of Article 21 of Chapter 143
 25 of the General Statutes.
 26 j. To implement the provisions of Part 6 of Article 21A of Chapter 143
 27 of the General Statutes.
 28 k. To implement basinwide water quality management plans developed
 29 pursuant to G.S. 143-215.8B.
 30 l. For matters within its jurisdiction that allow for and regulate
 31 horizontal drilling and hydraulic fracturing for the purpose of oil and
 32 gas exploration and development.
 33 m. For the control of erosion and sedimentation pursuant to
 34 G.S. 113A-54.

35 "

36 **SECTION 4.5.(j)** Notwithstanding G.S. 113A-54(b), the Environmental
 37 Management Commission shall review the rules adopted by the Sedimentation Control
 38 Commission and amend or repeal any such rules that the Environmental Management
 39 Commission determines to be outdated, unnecessary, duplicative, or confusing. The
 40 Environmental Management Commission shall report its findings and any actions taken
 41 pursuant to this section to the Environmental Review Commission on or before January 1,
 42 2016.

43 **SECTION 4.5.(k)** This section becomes effective June 30, 2015.

44
 45 **REPEAL ANNUAL REPORTING REQUIREMENT FOR COMPUTER EQUIPMENT**
 46 **MANUFACTURERS CONCERNING THE TOTAL WEIGHT OF DISCARDED**
 47 **EQUIPMENT RECYCLED AND ASSOCIATED COMPLIANCE ACTIVITIES**

48 **SECTION 4.6.** G.S. 130A-309.134(h) is repealed.
 49

1 **REPEAL ANNUAL REPORTING REQUIREMENT FOR EACH TELEVISION**
2 **MANUFACTURER CONCERNING ITS MARKET SHARE OF DISCARDED**
3 **TELEVISIONS RECYCLED**

4 **SECTION 4.7.** G.S. 130A-309.135(g) is repealed.
5

6 **REPEAL ANNUAL REPORTING REQUIREMENT FROM THE DEPARTMENT OF**
7 **ENVIRONMENT AND NATURAL RESOURCES TO THE ENVIRONMENTAL**
8 **REVIEW COMMISSION ON THE RECYCLING OF DISCARDED COMPUTER**
9 **EQUIPMENT AND TELEVISIONS IN THE STATE**

10 **SECTION 4.8.** G.S. 130A-309.140 is repealed.
11

12 **STUDY RECYCLING REQUIREMENTS FOR COMPUTER EQUIPMENT AND**
13 **TELEVISIONS**

14 **SECTION 4.9.** The Department of Environment and Natural Resources shall study
15 ways to optimize North Carolina's recycling requirements for discarded computer equipment
16 and televisions. In conducting this study, the Commission shall consider (i) the changing waste
17 stream, including the transition from televisions containing cathode ray tubes to flat screen
18 televisions; (ii) the current status of North Carolina's recycling system, including cost and
19 financing issues, and options that may be available to reduce costs; (iii) opportunities for more
20 efficient and effective recycling systems; and (iv) any other issue the Department deems
21 relevant. The Department shall report its findings, including specific recommendations for
22 legislative action, to the Environmental Review Commission on or before December 1, 2015.
23

24 **AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO**
25 **EXTEND ELIGIBILITY UNDER THE PROGRAM TO BONA FIDE PROSPECTIVE**
26 **PURCHASERS, IN ACCORDANCE WITH FEDERAL LAW**

27 **SECTION 4.12.(a)** G.S. 130A-310.31(b)(10) reads as rewritten:

28 **"§ 130A-310.31. Definitions.**

29 (a) Unless a different meaning is required by the context or unless a different meaning
30 is set out in subsection (b) of this section, the definitions in G.S. 130A-2 and G.S. 130A-310
31 apply throughout this Part.

32 (b) Unless a different meaning is required by the context:

33 ...

34 (10) "~~Prospective developer" means any person with a bona fide, demonstrable~~
35 ~~desire to either buy or sell a brownfields property for the purpose of~~
36 ~~developing or redeveloping that brownfields property and who did not cause~~
37 ~~or contribute to the contamination at the brownfields property.~~ has the same
38 meaning as the term "bona fide prospective purchaser" under the Small
39 Business Liability Relief and Brownfields Revitalization Act (Pub. L. No.
40 107-118, 115 stat. 2356), 42 U.S. Code § 9601."

41 **SECTION 4.12.(b)** This section becomes effective July 1, 2015, and applies to
42 notices of Intent to Redevelop a Brownfields Property filed on or after that date.
43

44 **ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS**

45 **SECTION 4.13.(a)** G.S. 105-102.6 is repealed.

46 **SECTION 4.13.(b)** G.S. 130A-309.17(d) and (i) are repealed.
47

48 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

49 **SECTION 5.1.** If any section or provision of this act is declared unconstitutional or
50 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
51 the part declared to be unconstitutional or invalid.

1 **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes
2 law.