



CHAPTER 143

ARTICLE 21 - WATER AND AIR RESOURCES

N.C.G.S. § 143-215.36.

Enforcement procedures.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2012-143, s. 1(f) — twelfth act in the lineage	21 September 2026, 03:45 UTC	634bdbfec455eb14d2a16aae - 89b54f8b466cae9ac3ad625c - 775d910104bbe0ab

§ 143-215.36(a) Criminal Penalties. - Any person who shall be adjudged to have violated this Article shall be guilty of a Class 3 misdemeanor and shall only be liable to a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) for each violation. In addition, if any person is adjudged to have committed such violation willfully, the court may determine that each day during which such violation continued constitutes a separate violation subject to the foregoing penalty.

§ 143-215.36(b) Civil Penalties. -

- (1) The Secretary may assess a civil penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) against any person who violates any provisions of this Part, a rule implementing this Part, or an order issued under this Part.
- (2) If any action or failure to act for which a penalty may be assessed under this Part is willful, the Secretary may assess a penalty not to exceed five hundred dollars (\$500.00) per day for each day of violation.
- (3) In determining the amount of the penalty, the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

- (4) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed in accordance with G.S. 150B-23 within 30 days of receipt of the notice of assessment.
- (5) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and G.S. 143-282.1(d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).
- (6) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subdivision (4) of this subsection. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. A civil action shall be filed within three years of the date the final agency decision was served on the violator.
- (7) The Secretary may delegate his powers and duties under this section to the Director of the Division of Energy, Mineral, and Land Resources of the Department.
- (8) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

§ 143-215.36(c)

Injunctive Relief. - Upon violation of any of the provisions of this Part, a rule implementing this Part, or an order issued under this Part, the Secretary may, either before or after the institution of proceedings for the collection of the penalty imposed by this Part for such violations, request the Attorney General to institute a civil action in the superior court of the county or counties where the violation occurred in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or require corrective action, and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Part for any violation of the same.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
12 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



Nº	YEAR	ACT	CHARACTER
01	1967	c. 1068, s. 14	ENACTED
02	1973	c. 1262, s. 23	AMENDED
03	1975	c. 842, s. 3	AMENDED
04	1977	c. 771, s. 4	AMENDED
05	1987	c. 827, ss. 154, 180	AMENDED
06	1987	1989 (Reg. Sess., 1990), c. 1036, s. 5	AMENDED
07	1991	c. 342, ss. 10, 11	AMENDED
08	1993	c. 394, s. 9	AMENDED
09	1993	c. 539, s. 1021	AMENDED
10	1994	Ex. Sess., c. 24, s. 14(c)	AMENDED
11	1998	S.L. 1998-215, s. 65	AMENDED
12	2012	S.L. 2012-143, s. 1(f)	AMENDED

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 143B-282.1(b)	(b)(3)	"consider the factors set out in"
G.S. 143B-282.1	(b)(3)	"143B-282.1(b). The procedures set out in"
G.S. 1A-1	(b)(4)	"or by any means authorized by"
G.S. 150B-23	(b)(4)	"shall be filed in accordance with"
G.S. 143B-282.1(c)	(b)(5)	"based. Consistent with the limitations in"
G.S. 143-282.1(d)	(b)(5)	"the limitations in G.S. 143B-282.1(c) and"
G.S. 115C-457.2	(b)(8)	"and Forfeiture Fund in accordance with"

Citation

FULL SECTION
N.C. Gen. Stat. § 143-215.36 (2012).

PINPOINT
N.C. Gen. Stat. § 143-215.36(a) (2012).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1967, c. 1068, s. 14; 1973, c. 1262, s. 23; 1975, c. 842, s. 3; 1977, c. 771, s. 4; 1987, c. 827, ss. 154, 180; 1989 (Reg. Sess., 1990), c. 1036, s. 5; 1991, c. 342, ss. 10, 11; 1993, c. 394, s. 9; c. 539, s. 1021; 1994, Ex. Sess., c. 24, s. 14(c); 1998-215, s. 65; 2012-143, s. 1(f).)

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