

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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House Legislative Day 78

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Senate Legislative Day 77

Monday, June 6, 2011

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SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 933. [REGULATORY REFORM ACT OF 2011](#). Filed 6/6/11. *TO INCREASE REGULATORY EFFICIENCY IN ORDER TO BALANCE JOB CREATION AND ENVIRONMENTAL PROTECTION.*

To be summarized in tomorrow's *Daily Bulletin*.

Intro. by Avila, McElraft.	GS 7A, 74, 108A, 113, 113A, 122C, 126, 131D, 131E, 131F, 135, 143, 150B, 153A	APA/Rule Making; Agriculture, Environment, and Natural Resources
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SENATE BILLS

S 781. [REGULATORY REFORM ACT OF 2011](#) (=H 933). Filed 6/6/11. *TO INCREASE REGULATORY EFFICIENCY IN ORDER TO BALANCE JOB CREATION AND ENVIRONMENTAL PROTECTION.* Identical to H 933, filed 6/6/11.

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Intro. by Rouzer, Brown.

GS 7A, 74, 108A, 113, 113A,
122C, 126, 131D, 131E, 131F,
135, 143, 150B, 153AAPA/Rule Making; Agriculture,
Environment, and Natural
Resources*Local Bills*

None

ACTION ON BILLS**June 6, 2011**

- NOTES**
1. Digests appearing under "Summaries of Bills Filed" are for bills stamped with today's filing date.
 2. Amendments and committee substitutes adopted today are summarized following the chamber action.
 3. Subscribers can find the digest of every version of each bill online at www.dailybulletin.unc.edu.
 4. The dates on which previous amendments or committee substitutes were adopted are listed below bill numbers.
 5. The action "Cal Pursuant Rule 36b" indicates that the bill has been reported by committee and is awaiting calendaring.
 6. Enacted bills are indicated by #, failed bills by *. Actions that change a bill are indicated by HA or SA.

PUBLIC BILLS

H0036	Employers/Gov. Contractors Must Use E-Verify. 05-19-11, 06-03-11	H	Placed On Cal For 6/7/2011
H0117	Electric Cities/Uses of Rate Revenue. 06-01-11	S	Passed 1st Reading
		S	Ref To Com On Commerce
H0119	Amend Environmental Laws 2011. 06-02-11	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Agriculture/ Environment/Natural Resources
H0174	Commercial Real Estate Broker Lien Act. 03-17-11, 06-06-11	HA	Reptd Fav Com Sub 2
		H	Cal Pursuant Rule 36(b)
		H	Placed On Cal For 6/7/2011
H0177	Environmental Technical Corrections 2011. 06-02-11	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Agriculture/ Environment/Natural Resources
H0227	Disturbing/Dismembering Human Remains. 06-01-11	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Judiciary II
H0237	Economic Impact/Regulatory Legislation.	H	Assigned To Commerce and Job Development Subcommittee on Business and Labor
H0320	Continue P3 Study.	H	Placed On Cal For 6/7/2011
H0340	Utilities Commission/Criminal Records Check. 03-24-11, 05-19-11	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Judiciary II
H0342	High School Accreditation.	H	Passed 3rd Reading

03-30-11, 06-02-11		
H0374 Eugenics Records/Public Records Exemption.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Judiciary II
H0384 Register of Deeds/Fees.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Finance
06-02-11, 06-03-11		
H0417 Extend Time For Site Of Low/ Mod. Inc. Housing.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Commerce
H0440 Adopt Official Livermush Festivals.	H	Passed 3rd Reading
	H	Ordered Engrossed
06-01-11, 06-03-11		
H0452 Judicial Elections Changes.	H	Placed On Cal For 6/7/2011
06-03-11		
H0462 Study Business Opportunity & Franchise Sales.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Commerce
H0476 Protect Galax & Venus Flytrap/ WRC Rule Fines.	S	Rec From House
	S	Passed 1st Reading
	S	Ref to Agriculture/ Environment/Natural Resources. If fav, re-ref to Finance
04-06-11, 06-01-11, 06-02-11		
H0503 Nutrition Stds./All Foods Sold at School.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Education/ Higher Education
05-18-11, 05-24-11, 06-01-11		
H0538 Remove Restriction/LEO Disability Benefits.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Pensions & Retirement and Aging
H0542 Tort Reform for Citizens and Businesses.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Judiciary I
05-10-11, 06-01-11		
H0556 Volunteer Service as a GAL Retirement	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Rules and Operations of the Senate
06-01-11, 06-02-11		
H0571 Prepaid Wireless/Point of Sale Collection.	H	Passed 3rd Reading
05-18-11, 06-02-11		
H0586 Enhance Water Supply Funding.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Agriculture/ Environment/Natural Resources
05-31-11		
H0595 Reorganization/Legislative Oversight Comms.	S	Withdrawn From Com
	S	Re-ref Com On Program Evaluation
04-14-11		

H0607 Habitual DWI Restoration Clarification.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Judiciary II
06-02-11		
H0609 Promote Water Supply Development.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Agriculture/ Environment/Natural Resources
05-31-11		
H0617 Portable Electronics Insurance Coverage.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Finance
05-18-11		
H0627 Study Efficiency and Cost Savings/State Govt.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On State and Local Government
06-02-11		
H0641 Certificate of Relief Act.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Judiciary II
06-01-11		
H0642 Justice Reinvestment Act.	S	Rec From House
	S	Passed 1st Reading
	S	Ref to Judiciary I. If fav, re-ref to Appropriations/ Base Budget. If fav, re-ref to Finance
04-14-11, 05-31-11, 06-01-11		
H0644 Establish Pharmacy Audit Rights.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Rules and Operations of the Senate
05-31-11, 06-02-11		
H0650 Amend Various Gun Laws/Castle Doctrine.	H	Placed On Cal For 6/7/2011
06-02-11		
H0654 Homeowner/Homebuyer Protection Act.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Commerce
06-02-11		
H0659 Capital Procedure/Severe Mental Disability.	S	Rec From House
	S	Passed 1st Reading
	S	Ref to Judiciary I. If fav, re-ref to Appropriations/ Base Budget
04-20-11, 06-02-11		
H0662 Electronic Monitoring Fee.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Finance
06-01-11, 06-02-11		
H0696 Assault on LEO Inflicting Bodily Injury.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Judiciary II
06-01-11		
H0704 Study State's Future Energy	S	Rec From House

Needs.	S Passed 1st Reading
	S Ref To Com On Commerce
06-01-11	
H0706 Alimony/Postseparation Support Changes.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Judiciary II
06-01-11	
H0707 Deeds of Trust/Modernize Procedures.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Judiciary I
06-03-11	
H0713 Public Contracts/Multiple Award.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Agriculture/ Environment/Natural Resources
06-01-11, 06-02-11	
H0714 Legal Services.	HA Reptd Fav Com Substitute
	H Cal Pursuant Rule 36(b)
06-06-11	
H0741 Statewide Enterprise Fraud/Waste Detection.	H Withdrawn From Com
	H Re-ref Com On Judiciary Subcommittee B
H0749 Modify State Ports Authority.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Commerce
06-03-11	
H0772 Study SORNA Compliance.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Judiciary II
06-02-11	
H0773 Studies Act of 2011.	H Withdrawn From Com
	H Cal Pursuant Rule 36(b)
	H Placed On Cal For 6/7/2011
H0778 Amend Innocence Commission Laws.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Judiciary I
06-02-11, 06-03-11	
H0799 Licensure by Endorsement/Military/Spouses.	HA Amend Adopted 2
	H Passed 3rd Reading
	H Ordered Engrossed
06-03-11, 06-06-11	
H0800 Streamlining NC Economic Dev for Job Creation.	H Withdrawn From Com
	H Re-ref Com On Rules, Calendar, and Operations of the House
H0810 Consumer Finance Act Amendments.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Rules and Operations of the Senate
05-31-11, 06-02-11	
H0813 ESC/Jobs Reform.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Program Evaluation
06-01-11	
H0832 Allow Nonattorney Ownership	H Withdrawn From Cal

of PC Law Firms.	H	Re-ref Com On Judiciary Subcommittee A
H0882 ATV & Motorcycles Off-Road Fund.	H	Serial Referral to Agriculture is Stricken
H0896 Facilitate Electronic Listing.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Finance
06-02-11		
H0914 AEDs in State Buildings.	S	Rec From House
	S	Passed 1st Reading
	S	Ref to Health Care. If fav, re-ref to Appropriations/ Base Budget
H0916 Statewide Expansion of 1915(b)/(c) Waiver.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Mental Health & Youth Services
05-31-11, 06-01-11		
H0933 Regulatory Reform Act of 2011.	H	Filed
S0016 Obtain Blood Sample/Implied-Consent Laws.	S	Rec To Concur H Com Sub
	S	Placed On Cal For 6/7/2011
03-21-11, 06-01-11		
S0031 Clarify Penalty Unauth. Practice of Medicine.	S	Conf Com Reported
	S	Placed On Cal For 6/7/2011
03-03-11, 04-07-11, 06-02-11, 06-06-11		
S0148 General Statutes Comm. Technical Corrections.	S	Passed 2nd & 3rd Reading
S0181 No LUST Cleanup Under Certain Circumstances.	S	Reptd Fav Com Substitute
	SA	Com Substitute Adopted
	S	Re-ref Com On Finance
06-06-11		
S0203 Set Aside Child Supp./Limited Circumstances.	S	Passed 2nd Reading
S0205 No Benefits for Illegal Aliens.	S	Withdrawn From Com
	S	Re-ref Com On Judiciary II
S0252 Devisee/Devise/Statutory Construction.	H	Reptd Fav
	H	Cal Pursuant Rule 36(b)
S0303 REAL ID Act Compliance Border on Licenses.	S	Withdrawn From Com
	S	Re-ref Com On Judiciary II
S0307 Smart Card Biometrics Against Medicaid Fraud.	S	Pres. To Gov. 6/6/2011
04-14-11, 04-21-11		
S0315 Roadside Campaign Signs.	S	Withdrawn From Com
	S	Placed On Cal For 6/7/2011
05-18-11		
S0321 Surplus Lines/Premium Tax.-AB	S	Rec To Concur H Com Sub
	S	Placed On Cal For 6/7/2011
04-14-11, 05-03-11, 05-18-11, 06-01-11		
S0438 Clarify Motor Vehicle Licensing Law.	SA	Amend Adopted 1
	S	Passed 2nd & 3rd Reading
	S	Engrossed
06-02-11, 06-06-11		
S0446 Comm. Coll. Tuition for Members of Military.	S	Passed 2nd & 3rd Reading
06-02-11		
S0484 REPS Credits at Cleanfields	H	Withdrawn From Com

Parks.	H	Re-ref Com On Agriculture
05-10-11		
S0496 PPACA/Required Fraud and Abuse Provisions.	S	Reptd Fav Com Substitute
	SA	Com Substitute Adopted
06-06-11		
S0501 Swine House Renovations/Site Limits.	S	Pres. To Gov. 6/6/2011
04-26-11, 05-25-11		
S0513 Allow Savings Promotion Raffles.	H	Placed On Cal For 6/7/2011
S0552 Regional Public Health Authority Pilot.	S	Reptd Fav Com Substitute
	SA	Com Substitute Adopted
06-06-11		
S0562 Standards for Some Nursery Stock Purchases.	S	Passed 3rd Reading
06-01-11		
S0565 Observe July as Watermelon Month.	S	Withdrawn From Com
	S	Placed On Cal For 6/14/2011
S0578 Facilitate Transfer SPH Beds Com. Facility.	S	Passed 2nd Reading
06-02-11		
S0581 Clarify Motor Vehicle Laws.	H	Withdrawn From Com
	H	Re-ref Com On Transportation
S0617 LRC Study Food Allergy & Anaphylaxis Mgmt.	S	Reptd Fav Com Substitute
	SA	Com Substitute Adopted
06-06-11		
S0635 Littering Offenses/Increase Fines.	S	Withdrawn From Com
	S	Placed On Cal For 6/8/2011
06-02-11		
S0659 WC/Taxi Driver/Independent Contractor.	S	Passed 2nd & 3rd Reading
06-02-11		
S0684 Post-Release Supervision/Sex Offenders.	S	Passed 2nd & 3rd Reading
06-02-11		
S0696 Address Primary Care Shortage.	S	Withdrawn From Com
	S	Re-ref Com On Health Care
S0717 Photo I.D. For SNAP Recipients.	S	Withdrawn From Com
	S	Re-ref Com On Health Care
S0743 Encourage Volunteer Health Care Providers.	S	Passed 2nd Reading
05-24-11		
S0745 Beer Franchise Law Clarifications.	S	Withdrawn From Cal
	S	Placed On Cal For 6/7/2011
06-02-11		
S0778 Confirm Edward Finley to Utilities Commission.	S	Passed 2nd & 3rd Reading
	H	Passed 1st Reading
	H	Placed On Cal For 6/7/2011
S0780 Crossover Rule.	S	Adopted
S0781 Regulatory Reform Act of 2011.	S	Filed
	S	Passed 1st Reading
	S	Ref to Commerce. If fav, re-ref to Agriculture/Environment/Natural Resources

LOCAL BILLS

H0096 Addl. Alleghany/Jackson OT. 06-03-11	H	Passed 2nd Reading
H0134 Modify Carteret County Occupancy Tax.	H	Withdrawn From Com
H0469 Addl. Lumberton & St. Pauls Occup. Tax. 06-03-11	H	Re-ref Com On Education Passed 2nd Reading
H0518 Authorize Add'l Person County Occupancy Tax. 06-01-11	S	Rec From House Passed 1st Reading Ref to State and Local Government. If fav, re-ref to Finance
H0552 Greater Asheville Reg. Airport Authority. 04-21-11, 06-02-11, 06-03-11, 06-06-11	HA	Amend Adopted 2 Passed 3rd Reading Ordered Engrossed
S0155 Local Stormwater Utility Fees. 03-31-11	S	Rec To Concur H Com Sub Placed On Cal For 6/7/2011
S0237 Incorporate Castle Hayne. 06-02-11	S	Passed 2nd Reading

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

HOUSE BILLS

H 36. [EMPLOYERS/GOV. CONTRACTORS MUST USE E-VERIFY \(NEW\)](#). Filed 2/3/11. House committee substitute, reported in on 6/3/11, makes the following changes to 2nd edition.

Amends proposed GS 64-11(d), which sets the penalty for knowingly submitting false certification to a public entity, to make it a Class 1 misdemeanor (was, Class I felony) for contractors to knowingly submit false certification. Makes a conforming change to proposed GS 64-12(c), which sets the penalty for subcontractors. Requires the subcontractor to certify two specified issues to the contractor before commencing performance under a subcontract (was, required certification within seven days of first furnishing construction or repair work, or other products). Makes other clarifying changes.

Enacts new Article 3, *Verification of Work Authorization*, to GS Chapter 64, requiring each employer in the state to register and participate in E-Verify to verify the work authorization of new employees. Includes definitions for terms applicable in the new Article. Directs each employer to retain the work authorization record while the employee is employed and for one year thereafter. Exempts entities that employ seasonal temporary employees for 90 or fewer days during a 12-consecutive-month period. Directs the Attorney General to prepare a complaint form, which must state that completed forms be sent to the Attorney General or the district attorney. States that the complainant is not required to list his or her Social Security number or have the form notarized. Authorizes any person with a good faith belief that an employer is violating the E-Verify requirement to file a complaint, as detailed. Makes a person who knowingly files a false and frivolous complaint guilty of a Class 1 misdemeanor. Sets out the procedure for the Attorney General or district attorney to follow to investigate complaints, including the issuance of subpoenas. Lists four actions for the Attorney General or district attorney to take after determining that a complaint is not false and frivolous. Directs the court to order an employer to file an affidavit stating that the employer requested authorization through E-Verify; requires the employer to pay a civil penalty of \$10,000 upon failure to timely file an affidavit. Sets out the penalties for second and subsequent violations. Requires the Attorney General to maintain copies of specified court orders and maintain a database of the employers and business locations with violations on the Attorney General's website. Directs the Attorney General or district attorney, when investigating a complaint, to verify the work authorization of the alleged unauthorized alien with the

federal government. Directs a court to consider only the federal government's determination when considering whether an employee is unauthorized. Specifies that proof that an employer's work authorization was verified through E-Verify creates a rebuttable presumption that an employer did not violate the E-Verify requirement. Provides that an employer establishing compliance in good faith with specified federal law establishes an affirmative defense. Prohibits proposed Article 3 from being construed to require an employer to take action that the employer believes in good faith would violate federal or state law.

Amends GS 126-7.1(f), requiring each state agency, department, institution, university, community college, and local education agency to register and participate in E-Verify to verify the work authorization of new employees (currently, must verify in accordance with the Basic Pilot Program administered by the U.S. Department of Homeland Security).

Makes other clarifying changes and makes a conforming change to the bill title. Clarifies that the act becomes effective according to the following schedule, and applies to all bids submitted and all contracts entered into on or after that date: (1) January 1, 2012, for contractors, subcontractors, and employers that employ 500 or more employees in the state as of that date; (2) July 1, 2012, for contractors, subcontractors, and employers that employ between 100 and 500 employees; and (3) January 1, 2013, for contractors, subcontractors, and employers that employ between 25 and 100 employees.

State Government; Local
Government; Employment and
Retirement

H 174. COMMERCIAL REAL ESTATE BROKER LIEN ACT. Filed 2/23/11. House committee substitute makes the following changes to 2nd edition. Amends proposed GS 44A-24.3 to clarify under what circumstances a broker will have a lien upon commercial real estate. Provides that a lien under the statute is available only against the commercial real estate which is the subject of the written agreement for broker services. Provides lien process when payment of commission to a broker is due in installments, a portion of which is due only after the conveyance or transfer of the commercial real estate.

Amends proposed GS 44A-24.4 to clarify when a lien attaches to commercial real estate and provides when notice is timely. Requires that filing for the lien occur in the office of the clerk of superior court (previously register of deeds).

Amends proposed GS 44-24.7 to require the lien claimant file proof of service with the clerk of superior court. Makes similar change to proposed GS 44A-24.10. Amends GS 44-24.8 to require a lien claimant to commence proceedings within 18 months after filing the lien, and failure to do so will extinguish the lien. If the claim is based upon an option to purchase the commercial real estate, the lien claimant must commence proceedings within one year of the option to purchase being exercised. Provides that a lender must not be made a party to any suit to enforce a lien unless the lender willfully or intentionally caused the nonpayment of the commission giving rise to the lien. Amends proposed GS 44A-24.11, requiring the claimant to acknowledge satisfaction or release of the lien in writing upon written demand within 30 days (was, within 60 days).

Deletes proposed GS 44A-24.13, concerning the use of escrow accounts. Enacts new 44A-24.13 providing for, and detailing instances for discharge of a lien on commercial real estate.

Enacts new GS 44A-24.14 to provide that any claim of lien on real property or funds, as described in this act, are superior in all respects to other liens filed under new Part 4, regardless of the effective date of the competing liens, and survive any judgment awarding a lien under Part 4. Provides that no claimant filing a lien pursuant to Part 4 will be entitled to participate in any pro rata distributions to claimants proceeding under GS 44A-21.

Enacts new GS 93A-13 requiring that contracts for broker's services be in writing and signed by the party to be charged in order to bring a claim for recovery under a broker services agreement.

Makes other organizational, technical, conforming, and clarifying changes. Clarifies that the act is effective October 1, 2011, and applies to written agreements signed by the owner of commercial real estate or the owner's duly authorized agent on or after that date.

Property, Land Use, and Housing

H 552. GREATER ASHEVILLE REG. AIRPORT AUTHORITY. Filed 3/30/11. House amendment makes the following changes to 3rd edition, as amended.

Specifies that the power of eminent domain may not be used for purposes not necessary for the operation of the airport; specifically, no property may be acquired by eminent domain for use as a hotel, motel, restaurant, or industrial park. States that eminent domain may not be used to acquire any interest in the Ferncliff Industrial Park as it existed on June 1, 2011, except for an aviation need required by a federal agency. Adds that any claim by Henderson County against Asheville or the current airport authority on account of acquisition of property by either

or both in Henderson County is extinguished. Makes clarifying changes to the provision specifying the construction of the Authority's powers created in the act.

Buncombe; Henderson

H 714. LEGAL SERVICES. Filed 4/6/11. House committee substitute makes the following changes to 1st edition. Amends proposed GS 84-5(c) to add nonprofit corporations operating as labor organizations to those entities permitted to provide legal services to members solely by and through attorneys licensed to practice law in North Carolina. Specifies that attorneys providing such legal services are governed by and subject to the Rules of Professional Conduct of the NC State Bar. Requires any association providing legal services to first provide the member of the organization a written policy including specified items. Makes a conforming change to the bill title.

Business and Commerce

H 799. LICENSURE BY ENDORSEMENT/MILITARY/SPOUSES. Filed 4/6/11. House amendment makes the following changes to 1st edition, as amended. Enacts new subsection (j) to proposed GS 93B-15.1, stating that the NC Medical Board is not considered an occupational licensing board for the purposes of the statute. Also directs the Legislative Research Commission to study allowing licensure by the NC Medical Board for individuals with military training and experience, for military spouses by endorsement, and for temporary licenses for military-trained applicants or military-spouse applicants, and to report to the 2012 General Assembly when it convenes.

Employment and Retirement;
Military and Veterans Affairs

SENATE BILLS

S 181. UNDERGROUND STORAGE TANK PRGRM. AMENDS. (NEW). Filed 3/2/11. Senate committee substitute makes the following changes to 1st edition. Amends GS 143-215.3(a), which grants the North Carolina Environmental Review Commission (Commission), in part, the power to adopt rules for the prevention of pollution from underground tanks containing petroleum, petroleum products, or hazardous substances. Directs that the rules adopted under the statute may not incorporate standards and restrictions which exceed or are more comprehensive than comparable federal regulations. Grants the Commission the power to adopt rules pertaining to the discharge or release of petroleum, from any source, which provide for risk-based assessment and cleanup.

Amends GS 143-215.94B(b) to include the cost of a site investigation by the Department of Environment and Natural Resources (DENR) for the purpose of determining whether a release from a tank system occurred, whether or not the investigation confirms that a release has occurred, as a Commercial Fund expense.

Amends GS 143-215.94B(b1) to include additional criteria for use when calculating the multiple discharge amount. Applies to discharges or releases discovered or reported on or after January 1, 2009.

Amends GS 143-215.94B by adding a new subsection providing that in the event a discharge or release of petroleum from an underground storage tank results in contamination in soil or groundwater that becomes commingled with contamination that is the result of a discharge or release of petroleum from another source, the Commercial Fund may be used to reimburse applicable persons for cleanup.

Amends GS 143-215.94B(d) to provide that the Commercial Fund may not be used for costs incurred as a result of a discharge or release from an aboveground tank, aboveground pipe or fitting not connected to an underground storage tank, or vehicle, unless the discharge or release becomes commingled with contamination from an underground storage tank. Makes similar change to GS 143-215.94D(d), which concerns the Noncommercial Fund.

Amends GS 143-215.94B to add new subsection directing DENR to use up to \$1 million of the funds in the Commercial Fund, each fiscal year, to clean up discharges or releases when a responsible party demonstrates it would be a severe financial hardship and for such party to do so. Directs the Commission to adopt rules defining severe financial hardship, establish a process for evaluation and determinations of eligibility with respect to applications for assistance due to severe financial hardships.

Amends GS 143-215.94C by creating a new subsection to provide that payment of a fee is not required for a compartment of a commercial underground storage tank that has not contained a petroleum product at any point during the applicable calendar year. Amends GS 143-215.94C(b) to provide that the annual operating fee is due and payable in equal installments on a quarterly basis on the first day of the month of each quarter in accordance with a staggered schedule established by DENR in order that the total amount of fees collected by DENR is about the same each quarter.

Amends GS 143-215.94T to specify that the statute is not to be construed to limit the right of an owner or operator to repair any existing component of an underground storage tank system. Provides that if an existing tank or piping is replaced, the secondary containment and interstitial monitoring requirements apply only to the replaced tank or piping. Creates new subsection directing DENR to allow non-tank unprotected metallic components that are visible or accessible for visual inspections to have corrosion protection added as an alternative to replacement, if the component does not have visible corrosion and passes a tightness test.

Provides that all UST systems installed after January 1, 1991, are not required to provide secondary containment until January 1, 2020. Directs the Commission to establish a process for the grant of variances from the setbacks required for UST systems from certain public water supply wells if the Commission finds facts to demonstrate that such variance will not endanger human health and welfare or groundwater. Requires that, no later than January 1, 2012, the Environmental Management Commission must adopt rules consistent with the above provisions.

Deletes previous amendments to GS 143-215.94V(b). Amends GS 143-215.94V(b) to direct the Commission to adopt rules to establish a risk-based approach for the assessment, prioritization, and cleanup of discharges and releases of petroleum (previously limited to releases from petroleum underground storage tanks). Adds additional language stating that rules that use the distance between a source area of a confirmed discharge or release to a water supply well or private drinking well, as defined, must include a determination of whether a nearby well is likely to be affected by the discharge or release as a factor in determining levels of risk. Amends GS 143-215.94V(h) to delete the provision prohibiting DENR from paying or reimbursing any costs associated with the assessment or remediation of the portion of contamination that results from a release or discharge of petroleum from a source other than an underground storage tank from either the Commercial Fund or Noncommercial Fund.

Provides that DENR must not prohibit the use of tanks that are constructed of steel and cathodically protected as provided under federal law (40 CFR §280.20(a)(2)) in order to meet external corrosion protection standards of that rule. Directs the Environmental Management Commission to adopt rules to carry out this provision no later than January 1, 2012. Appears to make amendments to GS 143-215.94V applicable to discharges or releases reported on or before January 2, 1998. Unless otherwise indicated, effective when the act becomes law, and applies to assessments initiated on or after that date.

Changes title to *AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS GOVERNING THE STATE'S UNDERGROUND STORAGE TANK PROGRAM AND PETROLEUM DISCHARGES*.

Agriculture, Environment, and
Natural Resources

S 438. CLARIFY MOTOR VEHICLE LICENSING LAW. Filed 3/28/11. Senate amendment makes the following changes to 2nd edition.

Deletes proposed subdivision (43) to GS 20-305, which made it unlawful for any manufacturer, factory branch, distributor, or distributor branch to require, coerce, or attempt to coerce any new motor vehicle dealer to change location of the dealership or to make any substantial alterations, if the dealer changed location of the dealership premises or facilities within the preceding seven years at a cost of over \$500,000 upon the written request of the manufacturer, factory branch, distributor, or distributor branch. Makes conforming changes.

Business and Commerce;
Transportation

S 496. MEDICAID AND HEALTH CHOICE PROVIDER REQ. (NEW). Filed 3/31/11. Senate committee substitute makes the following changes to 1st edition. Rewrites proposed GS 108C-2 to include *adverse determination, managing employee, and owner and/or operator* as defined terms. Removes *Affordable Care Act* and *payment suspension* as defined terms, and makes other clarifying changes. Amends proposed GS 108C-3(c) by removing Transplants and Transplant-related services and vision providers from the list of limited risk provider types. Amends GS 108C-3(e) to remove from the moderate risk category the following providers: 1) revalidating agencies providing behavioral health services and 2) revalidating agencies providing HIV case management. Makes other clarifying and technical changes. Removes proposed provisions GS 108C-3(k)-(n), relating to Department of Health and Human Services' (DHHS) verification and confirmation of provider licensure, revalidation of licensure, and inspection of providers. Directs DHHS to return the provider to the original risk category not later than 12 months after completion of the provider repayment.

Amends proposed GS 108C-4 to remove the definition provisions. Removes several provisions related to criminal history checks, except that DHHS must conduct criminal history record checks of provider applicants and

enrolled providers in accordance with federal law and regulation. Provides that DHHS must honor civil and criminal settlement agreements entered into with a provider or any person with a 5% or greater direct or indirect ownership interest in the provider within 10 years of the effective date of the act.

Amends GS 108C-5 to detail reasons DHHS may suspend payment to providers, suspension procedures, and audit procedures. Effective when the act becomes law, and applies to audits instituted on or after that date and to final overpayments, assessments, or fines due on or after that date.

Deletes all provisions of proposed GS 108C-6 and replaces them with a new GS 108C-6 providing that DHHS may establish a registry of billing agents, clearinghouses, and/or alternate payees that submit claims on behalf of providers and to charge a fee to recover the costs of maintaining the registry in accordance with federal law and implementing regulations. Provides procedure for registration. Effective January 1, 2012.

Enacts new GS 108C-7 providing a provider may be required to undergo prepayment claims review by DHHS. Details the procedure for prepayment claims review.

Enacts new GS 108C-8 providing that, absent specified circumstances, DHHS is not to pursue recovery of Medicaid or Health Choice overpayments owed to the state for any total amount less than \$150.

Enacts new GS 108C-9 detailing the application procedure for provider enrollment in North Carolina Medicaid or North Carolina Health Choice.

Enacts new GS 108C-10 providing that a provider must notify DHHS at least 30 calendar days prior to the effective date of any change of ownership. Details the instances that constitute a change of ownership under the act. Provides that assigned Medicaid administrative participation or enrollment agreements are subject to all applicable statutes, regulations, and the terms and conditions under which they were originally issued. Prohibits DHHS from requiring a provider to accept an assigned Medicaid administrative participation or enrollment agreement upon change in ownership as a condition of enrollment.

Enacts new GS 108C-11 to require a provider cooperate with all activities, announced or unannounced, conducted by DHHS. Directs DHHS to make attempts to examine documentation without interfering with the clinical activities of the provider while conducting activities on the provider's premises.

Enacts new GS 108C-12 detailing the appeals process for a Medicaid provider or applicant to appeal an adverse determination made by DHHS.

Rewrites GS 150B-1(d)(9) to provide that DHHS is exempt from the rule making procedures under the Article when adopting new or amending existing medical coverage policies under the State Medicaid Program pursuant to GS 108A-54.2. Rewrites GS 150B-1(e) to remove the exemption from the contested case provisions of the following: (1) Medicaid providers appealing a denial or reduction in reimbursement for community support services and (2) community support services providers appealing decisions by the LME to deny or withdraw the provider's endorsement.

Makes other clarifying and organizational changes. Deletes provisions authorizing the Division of Medical Assistance and other entities to study the criminal history record and other employment background checks among all providers and health care licensing boards. Unless otherwise noted, act is effective when it becomes law. Changes title to *AN ACT RELATING TO REQUIREMENTS OF MEDICAID AND HEALTH CHOICE PROVIDERS*.

Health, Social Services, and Aging

S 552. INCENTIVE PROGRAM FOR PUBLIC HEALTH IMPROV. (NEW). Filed 4/11/11. Senate committee substitute makes the following changes to 1st edition. Deletes the provisions of the 1st edition and replaces it with *AN ACT TO PROMOTE EFFICIENCY AND EFFECTIVENESS IN THE PUBLIC HEALTH SYSTEM BY ESTABLISHING A PUBLIC HEALTH IMPROVEMENT INCENTIVE PROGRAM, STRENGTHENING LOCAL PUBLIC HEALTH INFRASTRUCTURE, AND ASSURING THE PROVISION OF THE TEN ESSENTIAL PUBLIC HEALTH SERVICES*.

Enacts new GS 130A-34.2, directing the Department of Health and Human Services (DHHS) to establish a Public Health Improvement Incentive Program (Program). Directs the Program to provide monetary incentives for the creation and expansion of multi-county local health departments serving a population of no less than 100,000. Requires the Commission to adopt rules to implement the Program.

Specifies that certain criteria must be met by (1) a local health department and (2) the county or counties comprising the local health department, by July 1, 2014, in order for a local health department to be eligible to receive state and federal public health funding from the Division of Public Health. This required criteria is in addition to any other funding criteria established by state or federal law. Permits the State Health Director to grant exceptions to the population requirements specified in the criteria of proposed GS 130A-34.3(a)(1)b.

Amends GS 130A-1.1(b) to require that a local health department ensure that the identified ten essential public health services are available and accessible to the population in each county served by that local health

department (was, listed essential public health services categories and directed the Commission for Public Health to determine specific services to be provided under each of the categories).

Directs DHHS to allocate \$5 million from appropriated funds to the Division of Public Health to provide incentives to local health departments through the Program. Effective July 1, 2011.

Directs the Program Evaluation Division of the General Assembly to study the feasibility of transferring all functions, powers, duties, and obligations vested in the Division of Public Health in DHHS to the University of North Carolina Healthcare System. Directs the Program Evaluation Division to submit its findings and recommendations from the study to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services no later than February 1, 2012.

Effective when the act becomes law, except as otherwise indicated.

Local Government; Health, Social Services, and Aging

S 617. [LRC STUDY FOOD ALLERGY & ANAPHYLAXIS MGMT.](#) Filed 4/14/11. Senate committee substitute makes the following changes to 1st edition.

Authorizes the Legislative Research Commission (previous edition directed the Commission) to solicit input from interested parties during the study.

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Legislation Enacted

None

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Notes

None

NEXT SESSIONS

June 7, 2011

HOUSE convenes at 2:00 pm

SENATE convenes at 3:00 pm