

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1441

Short Title: Greenhouse Gas Emissions Reduction Act. (Public)

Sponsors: Representatives Harrison, Fisher, K. Alexander (Primary Sponsors); Cotham, Hall, Insko, Luebke, and Mackey.

Referred to: Environment and Natural Resources, if favorable, Public Utilities.

April 13, 2009

A BILL TO BE ENTITLED

AN ACT (1) TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP, MAINTAIN, AND PUBLISH A GREENHOUSE GAS EMISSIONS INVENTORY; (2) TO REQUIRE THE STATE TO REDUCE GREENHOUSE GAS EMISSIONS ACCORDING TO A CERTAIN SCHEDULE; (3) TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A TWO-STEP IMPLEMENTATION PLAN TO REDUCE GREENHOUSE GAS EMISSIONS STATEWIDE; AND (4) TO REQUIRE MONITORING AND REPORTING TO ENSURE IMPLEMENTATION OF THE GREENHOUSE GAS EMISSIONS REDUCTION PLAN ACCORDING TO THE PRESCRIBED SCHEDULE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 21C.

"North Carolina Greenhouse Gas Emissions Reduction Program.

**"§ 143-215.115. Findings.**

The General Assembly finds that:

- (1) Greenhouse gases are air pollutants that threaten to endanger the public health and welfare of the residents of North Carolina.
- (2) Global warming poses a serious threat to the State's future health, well-being, and prosperity.
- (3) With 301 miles of coastline and 3,375 miles of tidal shoreline, North Carolina is vulnerable to the threat posed by global warming and susceptible to rising sea levels and flooding, which would have detrimental and costly effects.
- (4) The State has the ingenuity to reduce the threat of global warming and make greenhouse gas reductions a part of the State's future by achieving a ten percent (10%) reduction in greenhouse gas emissions from 1990 levels by 2020 and by preparing a plan to meet a longer-term goal of reducing greenhouse gas emissions by up to eighty percent (80%) from 1990 levels by 2050 in a manner that promotes new "green" jobs and protects existing jobs and the State's economic well-being.
- (5) Studies have shown that energy efficiency programs and technological initiatives consistent with the goal of reducing greenhouse gas emissions can result in a net economic benefit to the State.



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- 1           (6)   In addition to achieving the reduction established under this Article, it is in  
2           the best interest of the State to act early and aggressively to achieve the  
3           recommendation of the Legislative Commission of Global Climate Change  
4           to establish goals of reducing greenhouse gas emissions.
- 5           (7)   Efforts to reduce harmful greenhouse gas emissions are likely to have the  
6           added benefit of assisting with the development and use of clean energies  
7           that provide greater energy efficiency and conservation, such as renewable  
8           energy from wind, solar, geothermal, and bioenergy sources.
- 9           (8)   It is necessary to protect the public health, economic well-being, and natural  
10          treasures of the State by reducing harmful air pollutants such as greenhouse  
11          gas emissions by using practical solutions that are already at the State's  
12          disposal.
- 13          (9)   Cap and trade regulation of greenhouse gas emissions is most effective when  
14          implemented on a federal level.

15   **"§ 143-215.115A. Definitions.**

16          (a)   The definitions set out in G.S. 143-212 and G.S. 143-213 apply to this Article. In  
17          addition, as used in this Article, the following definitions apply:

- 18          (1)   Alternative compliance mechanism. – An action authorized by rules adopted  
19          by the Department that achieves the equivalent reduction of greenhouse gas  
20          emissions over the same period as a direct emissions reduction.
- 21          (2)   Carbon dioxide equivalent. – The measurement of a given weight of a  
22          greenhouse gas that has the same global warming potential, measured over a  
23          specified period of time, as one metric ton of carbon dioxide.
- 24          (3)   Direct emissions reduction. – A reduction of greenhouse gas emissions from  
25          a greenhouse gas emissions source.
- 26          (4)   Greenhouse gas. – Carbon dioxide, methane, nitrous oxide,  
27          hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
- 28          (5)   Greenhouse gas emissions source. – A source or category of sources of  
29          greenhouse gas emissions that have emissions of greenhouse gases that are  
30          subject to reporting requirements or other provisions of this Article, as  
31          determined by the Department.
- 32          (6)   Indirect emissions. – Emissions associated with the consumption of  
33          purchased electricity, steam, and heating or cooling by an entity or facility.
- 34          (7)   Leakage. – A reduction in greenhouse gas emissions within the State that is  
35          offset by a corresponding increase in greenhouse gas emissions from a  
36          greenhouse gas emissions source located outside the State that is not subject  
37          to a similar state, interstate, or regional greenhouse gas emissions cap or  
38          limitation.
- 39          (8)   Statewide greenhouse gas emissions. – The total annual emissions of  
40          greenhouse gases in the State, measured in metric tons of carbon dioxide  
41          equivalents, including all emissions of greenhouse gases from the generation  
42          of electricity delivered to and consumed in the State, and line losses from the  
43          transmission and distribution of electricity, whether the electricity is  
44          generated in-State or imported.

45   **"§ 143-215.115B. Greenhouse gas emissions reduction schedule.**

46          The State shall reduce statewide greenhouse gas emissions according to the following  
47          schedule:

- 48          (1)   By ten percent (10%) from 1990 levels by 2020.  
49          (2)   By eighty percent (80%) from 1990 levels by 2050.

50   **"§ 143-215.115C. Inventory of greenhouse gas emissions.**

1       (a) The Department shall develop and maintain a statewide greenhouse gas emissions  
2 inventory for greenhouse gas emissions. On or before July 1, 2011, the Department shall  
3 publish:

- 4           (1) An inventory of statewide greenhouse gas emissions for calendar year 1990.  
5           (2) Based on existing greenhouse gas emissions control measures, a projected  
6           "business as usual" inventory for calendar year 2020.

7       (b) The Department shall adopt rules to require the reporting and verification of  
8 statewide greenhouse gas emissions and to monitor and enforce compliance with this reporting  
9 requirement. The rules shall include a de minimis amount of emissions below which reporting  
10 shall not be required for both indirect and direct emissions. The rules shall:

- 11           (1) Require the monitoring and annual reporting of greenhouse gas emissions  
12 from greenhouse gas emission sources beginning with the sources that  
13 contribute the most to statewide emissions.  
14           (2) Account for greenhouse gas emissions from all electricity consumed in the  
15 State, including transmission and distribution line losses from electricity.  
16           (3) Ensure rigorous and consistent accounting of emissions and provide  
17 reporting tools and formats to ensure collection of necessary data.  
18           (4) Ensure that greenhouse gas emission sources maintain comprehensive  
19 records of all reported greenhouse gas emissions.

20       (c) In developing its rules under subsection (b) of this section, the Department shall,  
21 with the assistance of the Department of Transportation, identify a mechanism to report an  
22 aggregate estimate of the annual emissions of greenhouse gases generated from or emitted by  
23 otherwise unreported on-road motor vehicles.

24       (d) The Department shall review and publish an updated statewide greenhouse gas  
25 emissions inventory for calendar year 2011 and for every third calendar year thereafter.

26       (e) Should the federal government adopt rules sufficient to track progress toward the  
27 emissions reductions required by this Article governing the reporting of greenhouse gas  
28 emissions, the Department shall amend its rules, as necessary, to seek consistency with the  
29 federal rules to ensure duplicate reporting is not required. Nothing in this section requires the  
30 Department's rules be identical to the federal rules in scope.

31 **"§ 143-215.115D. Greenhouse gas emissions reduction implementation plan.**

32       (a) The State shall develop a plan, adopt rules, and implement programs that reduce  
33 statewide greenhouse gas emissions in accordance with this Article.

34       (b) On or before January 1, 2012, the Department shall do all of the following:

- 35           (1) Submit a proposed plan to the Governor and General Assembly.  
36           (2) Make the proposed plan available to the public.  
37           (3) Convene a series of public workshops to provide interested parties with an  
38 opportunity to comment on the proposed plan.

39       (c) On or before January 1, 2013, the Department shall adopt a final plan that reduces  
40 statewide greenhouse gas emissions by ten percent (10%) from 1990 levels by 2020. The plan  
41 shall be developed as the initial State action in recognition of the finding by the  
42 intergovernmental panel on climate change that developed countries will need to reduce  
43 greenhouse gas emissions by between eighty percent (80%) and ninety-five percent (95%) from  
44 1990 levels by 2050.

45       (d) The final plan required under subsection (c) of this section shall include all of the  
46 following:

- 47           (1) Rules that implement all plan measures for which State agencies have  
48 existing statutory authority.  
49           (2) A summary of any new legislative authority needed to fully implement the  
50 plan and a time line for seeking legislative authority.

1 (e) In developing and adopting a final plan to reduce statewide greenhouse gas  
2 emissions, the Department shall consult with State and local agencies as appropriate.

3 **"§ 143-215.115E. Duties of the Department; greenhouse gas emissions reduction**  
4 **implementation plan.**

5 In developing and implementing the plan required by G.S. 143-215.115D, the Department  
6 shall:

- 7 (1) Analyze the feasibility of measures to comply with the greenhouse gas  
8 emissions reductions required by this Article.
- 9 (2) Provide that a greenhouse gas emissions source that voluntarily reduces its  
10 greenhouse gas emissions before the implementation of this Article shall  
11 receive appropriate credit for its early voluntary actions.
- 12 (3) Provide for the use of offset credits generated by alternative compliance  
13 mechanisms executed within the State, including carbon sequestration  
14 projects, to achieve compliance with greenhouse gas emissions reductions  
15 required by this Article.
- 16 (4) Ensure that the plan does not decrease the likelihood of reliable and  
17 affordable electrical service and statewide fuel supplies.
- 18 (5) Ensure that the greenhouse gas emissions reduction measures implemented  
19 in accordance with the plan:
- 20 a. Are implemented in an efficient and cost-effective manner.
- 21 b. Do not disproportionately impact low-income, low- to moderate-  
22 income, or minority communities or any other particular class of  
23 electricity ratepayers.
- 24 c. Minimize leakage.
- 25 d. Are quantifiable, verifiable, and enforceable.
- 26 e. Produce a net economic benefit to the State's economy and a net  
27 increase in jobs in the State.
- 28 f. Encourage new employment opportunities in the State related to  
29 energy conservation, renewable energy supply, and greenhouse gas  
30 emissions reduction technologies.

31 **"§ 143-215.115F. Duties of State agencies.**

32 (a) No later than July 1, 2010, each of the following State agencies shall identify  
33 existing programs and activities that could contribute to meeting the greenhouse gas emissions  
34 reduction schedule under G.S. 143-215.115B:

- 35 (1) The Department of Administration.
- 36 (2) The Department of Transportation.
- 37 (3) The Department of Public Instruction.
- 38 (4) The Department of Agriculture and Consumer Services.
- 39 (5) The Department of Commerce.
- 40 (6) The North Carolina Utilities Commission.
- 41 (7) Any other State agency designated by the Secretary.

42 (b) After identifying programs and activities under subsection (a) of this section, each  
43 agency shall submit to the Department a report that sets forth recommendations for changes to  
44 the identified programs and activities that could help the State achieve the greenhouse gas  
45 emissions reduction schedule under G.S. 143-215.115B.

46 (c) The Department of Transportation shall, within available appropriations, investigate  
47 the potential for improvements to the State's transportation system that will reduce greenhouse  
48 gas emissions and coordinate with other states on regional planning, including high-speed rail,  
49 light-rail passenger service, and freight rail service.

50 **"§ 143-215.115G. Progress report on meeting 2020 emissions reduction.**

1 (a) On or before October 1, 2015, the Department shall submit a report to the General  
2 Assembly that includes all of the following:

- 3 (1) A summary of the State's progress toward achieving the 2020 emissions  
4 reduction required by the plan under G.S. 143-215.115B.  
5 (2) An update on emerging technologies to reduce greenhouse gas emissions.  
6 (3) A review of the best available science, including updates by the  
7 intergovernmental panel on climate change, regarding the level and pace of  
8 greenhouse gas emissions reductions and sequestration needed to avoid  
9 dangerous anthropogenic changes to the earth's climate system.  
10 (4) Recommendations on the need for science-based adjustments to the  
11 requirement to reduce statewide greenhouse gas emissions by ten percent  
12 (10%) from 1990 levels by 2020.  
13 (5) A summary of additional or amended rules, control programs, or incentives  
14 that are necessary to achieve the ten percent (10%) reduction in statewide  
15 greenhouse gas emissions required under this Article, or a revised reduction  
16 recommended in accordance with subdivision (4) of this subsection.  
17 (6) The status of any federal program to reduce greenhouse gas emissions or any  
18 federal program that includes a federal cap and trade program.  
19 (7) The status of and any transition by the State to participate in any federal or  
20 regional greenhouse gas emissions reduction initiative.  
21 (8) An analysis of the overall economic costs and benefits to the State's  
22 economy, environment, and public health of a continuation or modification  
23 of the requirement to achieve a reduction of ten percent (10%) in statewide  
24 greenhouse gas emissions by 2020, including reductions in other air  
25 pollutants, diversification of energy sources, the impact on existing jobs, the  
26 creation of new jobs, and expansion of the State's low carbon economy.

27 (b) The report required under subsection (a) of this section shall be subject to a public  
28 comment and hearing process conducted by the Department.

29 **"§ 143-215.115H. Progress report on meeting 2050 emissions reduction.**

30 The Department shall monitor implementation of the plan required under  
31 G.S. 143-215.115D and shall submit a report, on or before October 1, 2020, and every five  
32 years thereafter, to the General Assembly that describes the State's progress toward achieving:

- 33 (1) The reduction in greenhouse gas emissions required under  
34 G.S. 143-215.115B.  
35 (2) The greenhouse gas emissions reductions from levels in 1990 needed by  
36 2050 in order to avoid dangerous anthropogenic changes to the earth's  
37 climate system, based on the predominant view of the scientific community  
38 at the time of the latest report under this section."

39 **SECTION 2.** If any section or provision of this act is declared unconstitutional or  
40 invalid by the courts, the unconstitutional or invalid section or provision does not affect the  
41 validity of this act as a whole or any part of this act other than the part declared to be  
42 unconstitutional or invalid.

43 **SECTION 3.** This act becomes effective October 1, 2009.