

The Senate Transportation Committee offered the following substitute to SB 420:

LOST

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to
2 control of soil erosion and sedimentation, so as to exempt the Department of Transportation
3 and its contractors from civil penalties levied for violations; to provide for applicability and
4 an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

6 Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to control of soil
7 erosion and sedimentation, is amended by revising Code Section 12-7-15, relating to civil
8 penalties for violating provisions regarding soil erosion and sedimentation, as follows:
9

10 "12-7-15.

11 Any person who violates any provision of this chapter, the rules and regulations adopted
12 pursuant to this chapter, or any permit condition or limitation established pursuant to this
13 chapter or who negligently or intentionally fails or refuses to comply with any final or
14 emergency order of the director issued as provided in this chapter shall be liable for a civil
15 penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of
16 this chapter, notwithstanding any provision in any city charter to the contrary, municipal
17 courts shall be authorized to impose a penalty not to exceed \$2,500.00 for each violation.
18 Notwithstanding any limitation of law as to penalties which can be assessed for violations
19 of county ordinances, any magistrate court or any other court of competent jurisdiction
20 trying cases brought as violations of this chapter under county ordinances approved under
21 this chapter shall be authorized to impose penalties for such violations not to exceed
22 \$2,500.00 for each violation. Each day during which the violation or failure or refusal to
23 comply continues shall be a separate violation. The Department of Transportation or any
24 contractor working under a contract for such department shall not be assessed any civil
25 penalties under the provisions of this Code section; provided, however, nothing in this

1 chapter shall diminish the property rights of any landowner adversely affected by
2 construction activity of the Department of Transportation."

3 **SECTION 2.**

4 Said chapter is further amended by revising paragraph (9) of Code Section 12-7-17, relating
5 to exemptions from the provisions governing soil erosion and sedimentation, as follows:

6 "(9) Construction or maintenance projects, or both, undertaken or financed in whole or
7 in part, or both, by the Department of Transportation, the Georgia Highway Authority,
8 or the State Road and Tollway Authority; or any road construction or maintenance
9 project, or both, undertaken by any county or municipality; provided, however, that
10 construction or maintenance projects of the Department of Transportation or the State
11 Road and Tollway Authority which disturb one or more contiguous acres of land shall be
12 subject to the provisions of Code Section 12-7-7.1; except where the Department of
13 Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority
14 is a secondary permittee for a project located within a larger common plan of
15 development or sale under the state general permit, in which case a copy of a notice of
16 intent under the state general permit shall be submitted to the local issuing authority, the
17 local issuing authority shall enforce compliance with the minimum requirements set forth
18 in Code Section 12-7-6 as if a permit had been issued, and violations shall be subject to
19 the same penalties as violations by permit holders; provided, further, that the Department
20 of Transportation or any contractor working under a contract for such department shall
21 not be assessed civil penalties under Code Section 12-7-15;"

22 **SECTION 3.**

23 This Act shall become effective on July 1, 2008, and apply to any proceeding initiated on or
24 after that date.

25 **SECTION 4.**

26 All laws and parts of laws in conflict with this Act are repealed.