

Senate Bill 420

By: Senators Pearson of the 51st, Mullis of the 53rd, Williams of the 19th, Rogers of the 21st and Tolleson of the 20th

AS PASSED SENATE

**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 from civil penalties levied for violations; to provide for applicability and an effective date;
4 to repeal conflicting laws; and for other purposes.

5 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

6 **SECTION 1.**

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

10 "12-7-15.

11 (a) Any person who violates any provision of this chapter, the rules and regulations
12 adopted pursuant to this chapter, or any permit condition or limitation established pursuant
13 to this chapter or who negligently or intentionally fails or refuses to comply with any final
14 or emergency order of the director issued as provided in this chapter shall be liable for a
15 civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions
16 of 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.

24 (b) The Department of Transportation shall not be assessed any civil penalties under the
25 provisions of this Code section; provided, however, nothing in this Code section shall

1 diminish the property rights of any landowner adversely affected by construction activity
 2 of the Department of Transportation. Nothing in this Code section shall prevent the
 3 Department of Transportation from enforcing the provisions of its contracts, particularly
 4 with regards to penalties, for noncompliance by contractors."

5 **SECTION 2.**

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

8 "(9) Construction or maintenance projects, or both, undertaken or financed in whole or
 9 in part, or both, by the Department of Transportation, the Georgia Highway Authority,
 10 or the State Road and Tollway Authority; or any road construction or maintenance
 11 project, or both, undertaken by any county or municipality; provided, however, that
 12 construction or maintenance projects of the Department of Transportation or the State
 13 Road and Tollway Authority which disturb one or more contiguous acres of land shall be
 14 subject to the provisions of Code Section 12-7-7.1; except where the Department of
 15 Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority
 16 is a secondary permittee for a project located within a larger common plan of
 17 development or sale under the state general permit, in which case a copy of a notice of
 18 intent under the state general permit shall be submitted to the local issuing authority, the
 19 local issuing authority shall enforce compliance with the minimum requirements set forth
 20 in Code Section 12-7-6 as if a permit had been issued, and violations shall be subject to
 21 the same penalties as violations by permit holders; provided, further, that the Department
 22 of Transportation shall not be assessed civil penalties under Code Section 12-7-15; and
 23 provided, further, that nothing in this Code section shall prevent the Department of
 24 Transportation from enforcing the provisions of its contracts, particularly with regards
 25 to penalties, for noncompliance by contractors."

26 **SECTION 3.**

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

29 **SECTION 4.**

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