

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**SENATE DRS55182-LH-145 (03/14)**

Short Title: Oyster Restoration & Protection Act.

(Public)

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Sponsors: Senator Clodfelter.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE INFRASTRUCTURE THAT SUPPORTS OYSTER RESTORATION ACTIVITIES, TO PROTECT AND RESTORE WATER QUALITY AND HABITAT IN PRIME OYSTER GROWING AREAS, AND TO APPROPRIATE FUNDS TO HELP SUPPORT PROJECTS TO REHABILITATE OYSTER HABITATS AND SANCTUARIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of two hundred thousand dollars (\$200,000) for the 2005-2006 fiscal year and the sum of two hundred thousand dollars (\$200,000) for the 2006-2007 fiscal year to be allocated to the Division of Marine Fisheries for the Shellfish Rehabilitation Program. The funds appropriated under this section shall be used to plant an additional 160,000 bushels of cultch material annually, i.e., oyster shell, clamshell or marl.

**SECTION 2.** There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of two hundred thousand dollars (\$200,000) for the 2005-2006 fiscal year and the sum of two hundred thousand dollars (\$200,000) for the 2006-2007 fiscal year to be allocated to the Division of Marine Fisheries to create two oyster sanctuaries per year.

**SECTION 3.** There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of eighty thousand dollars (\$80,000) for the 2005-2006 fiscal year and the sum of eighty thousand dollars (\$80,000) for the 2006-2007 fiscal year to be allocated as follows:

- (1) Of the funds appropriated by this section, the sum of forty-five thousand dollars (\$45,000) shall be used each fiscal year to support a position for an oyster shell recycling coordinator.

- 1 (2) Of the funds appropriated by this section, the sum of thirty-five  
2 thousand dollars (\$35,000) shall be used each fiscal year to provide  
3 recycling infrastructure.

4 **SECTION 4.** Article 21 of Chapter 143 of the General Statutes is amended  
5 by adding a new section to read:

6 **§ 143-214.7A. Prohibit new or expanded stormwater discharge into prime**  
7 **shellfish waters.**

8 (a) Definitions. – The following definitions apply in this section:

9 (1) "Stormwater collection system" means any conduit including, but not  
10 limited to, pipes, ditches, swales, drains, canals, gutters, curbs, or  
11 impervious surfaces such as roads.

12 (2) "Prime shellfish growing area" includes any shellfish growing area in  
13 which all or part of the shellfish growing area is classified as  
14 Outstanding Resource Waters by the North Carolina Division of Water  
15 Quality. The term also includes, but is not limited to, shellfish growing  
16 areas A-2, A-3, B-1, B-7, B-9, C-1, C-2, C-3, D-3, E-4, E-6, F-1, F-2,  
17 F-5, F-7, G-3, G-4, and G-7 as delineated by the North Carolina  
18 Division of Environmental Health. Additional growing areas may be  
19 determined to be prime oyster growing areas through a proclamation  
20 by the Director of the Division of Marine Fisheries.

21 (b) Notwithstanding any other provision of law, no new or expanded discharge of  
22 stormwater shall be permitted through any stormwater collection system that drains to a  
23 prime shellfish growing area or unnamed freshwater tributaries to a prime shellfish  
24 growing area, except in the case of a storm exceeding the 10-year/24-hour storm."

25 **SECTION 5.** There is appropriated from the General Fund to the  
26 Department of Environment and Natural Resources the sum of two hundred thirty-seven  
27 thousand dollars (\$237,000) for the 2005-2006 fiscal year and the sum of two hundred  
28 thirty-seven thousand dollars (\$237,000) for the 2006-2007 fiscal year to be allocated to  
29 the Division of Environmental Health as follows:

30 (1) Of the funds appropriated by this section, the sum of sixty-nine  
31 thousand dollars (\$69,000) shall be used each fiscal year to support a  
32 position for a GIS staff person.

33 (2) Of the funds appropriated by this section, the sum of one hundred  
34 sixty-eight thousand dollars (\$168,000) shall be used each fiscal year  
35 to support three positions for shoreline surveyors to expand the pilot  
36 program that examines the sources of pollution that affect shellfish  
37 growing areas to all shellfish growing areas in the coastal region.

38 **SECTION 6.** Under the State Revolving Fund (SRF), Congress provides the  
39 states with grant funds to establish revolving loan programs to assist in the funding of  
40 wastewater treatment facilities and projects associated with estuary and nonpoint source  
41 programs. In order to receive funding from the SRF, projects must be included on a  
42 priority funding list.

43 Notwithstanding any other provision of law, the installation of stormwater  
44 retrofits shall be an equal priority with water and sewer projects under the State

1 Revolving Fund (SRF) and any other grants or loans established under State bond  
2 authority through the North Carolina Rural Economic Development Center or other  
3 entities. Stormwater retrofits that remove outfalls from Class SA waters shall be given  
4 the highest priority in the SRF rating system, subject to approval by the Environmental  
5 Protection Agency. As an incentive, State Revolving Fund loans that are made to  
6 eligible entities to install stormwater retrofits that remove outfalls from shellfish  
7 receiving waters shall also be provided interest free.

8 **SECTION 7.** This act becomes effective July 1, 2005.