

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 821

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/11/12

Short Title: Study and Amend Fisheries Laws.

(Public)

Sponsors:

Referred to:

May 21, 2012

A BILL TO BE ENTITLED

1 AN ACT TO (1) DIRECT THE DIRECTOR OF THE DIVISION OF MARINE FISHERIES
2 OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, THE
3 EXECUTIVE DIRECTOR OF THE WILDLIFE RESOURCES COMMISSION, AND
4 THE DEPUTY SECRETARY FOR TRANSIT OF THE DEPARTMENT OF
5 TRANSPORTATION TO JOINTLY STUDY FEES ASSOCIATED WITH THE
6 ISSUANCE OF COASTAL FISHING LICENSES AND THE NUMBERING AND
7 TITLING OF VESSELS; (2) DIRECT THE EXECUTIVE DIRECTOR OF THE
8 WILDLIFE RESOURCES COMMISSION, THE DIRECTOR OF THE DIVISION OF
9 MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL
10 RESOURCES, AND THE COMMISSIONER OF AGRICULTURE TO JOINTLY
11 STUDY THE REORGANIZATION OF FISH AND WILDLIFE MANAGEMENT IN
12 THE STATE; (3) MAKE IT UNLAWFUL TO TAKE MENHADEN OR ATLANTIC
13 THREAD HERRING WITH A PURSE SEINE NET DEPLOYED BY A MOTHER SHIP
14 AND ONE OR MORE RUNNER BOATS IN COASTAL FISHING WATERS; (4)
15 AMEND THE MARINE FISHERIES COMMISSION ADVISORY COMMITTEES; AND
16 (5) PROVIDE THAT A SUPERMAJORITY OF THE MARINE FISHERIES
17 COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE
18 DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR REBUILDING
19 OF FISH STOCKS.
20

21 The General Assembly of North Carolina enacts:

22 **SECTION 1.(a)** It is the intent of the General Assembly to provide funding for the
23 dredging and maintenance of the State's coastal inlets from fees charged to those who make use
24 of the inlets.

25 **SECTION 1.(b)** In order to identify possible sources of funds for the purposes set
26 out in subsection (a) of this section, the Director of the Division of Marine Fisheries of the
27 Department of Environment and Natural Resources, the Executive Director of the Wildlife
28 Resources Commission, and the Deputy Secretary for Transit of the Department of
29 Transportation shall jointly study the fees associated with the issuance of coastal fishing
30 licenses pursuant to Chapter 113 of the General Statutes and the numbering and titling of
31 vessels pursuant to Chapter 75A of the General Statutes.

32 (1) For coastal fishing licenses, the Director and Executive Director shall
33 specifically:

- 34 a. Identify all types of fishing licenses issued for the purpose of taking
35 fish in coastal fishing waters, both recreational and commercial.
36 b. Identify the fees associated with these licenses.



- 1 c. Identify the analogous licenses issued and fees charged by states with
2 fisheries profiles similar to those of North Carolina, including at least
3 South Carolina and Virginia.
- 4 d. Recommend several levels of increases in the license fees and
5 calculate the amount of revenue that would be generated by the
6 different levels of increase.
- 7 e. Identify any limitations under State or federal law on the use of
8 license fees for purposes not related to the management of marine
9 fisheries.
- 10 (2) For the numbering and titling of vessels, the Executive Director shall
11 specifically:
- 12 a. Identify all requirements for the numbering and titling of vessels.
- 13 b. Determine whether there is a method for differentiating between
14 vessels that are used predominantly in coastal fishing waters versus
15 those that are used predominantly in inland fishing waters.
- 16 c. Identify the fees associated with the numbering and titling of vessels.
- 17 d. Identify the analogous vessel numbering and titling requirements and
18 fees charged by states with coastal boating profiles similar to those of
19 North Carolina, including at least South Carolina and Virginia.
- 20 e. Recommend several levels of increases in the fees associated with
21 the numbering and titling of vessels and calculate the amount of
22 revenue that would be generated by the different levels of increase.
- 23 f. Identify any limitations under State or federal law on the use of fees
24 associated with the numbering and titling of vessels.
- 25 (3) The Director and the Executive Director shall examine all other sources of
26 funding, including the gas tax.

27 **SECTION 1.(c)** The Director of the Division of Marine Fisheries of the
28 Department of Environment and Natural Resources, the Executive Director of the Wildlife
29 Resources Commission, and the Deputy Secretary for Transit of the Department of
30 Transportation shall jointly submit a report on the study required by subsection (b) of this
31 section to the Legislative Research Commission's Committee on Marine Fisheries no later than
32 September 1, 2012.

33 **SECTION 2.(a)** It is the intent of the General Assembly to gather information on
34 abolishing the current Marine Fisheries Commission, transferring its powers and duties to the
35 Wildlife Resources Commission, and merging all powers, duties, functions, and personnel of
36 the Division of Marine Fisheries of the Department of Environment and Natural Resources and
37 the Wildlife Resources Commission into a new Fish and Wildlife Resources Commission
38 effective July 1, 2013. Prior to October 1, 2012, the Commissioner of Agriculture is authorized
39 to review and identify positions or duties regarding fisheries resource management currently
40 carried out by the Marine Fisheries Commission or the Division of Marine Fisheries of the
41 Department of Environment and Natural Resources that are within the scope of the overall
42 mission of the Department of Agriculture and Consumer Services.

43 **SECTION 2.(b)** The Executive Director of the Wildlife Resources Commission,
44 the Director of the Division of Marine Fisheries of the Department of Environment and Natural
45 Resources, and, where appropriate, the Commissioner of Agriculture shall, in consultation with
46 various user groups, examine ways to:

- 47 (1) Provide for the efficient and effective transfer of all statutory authority,
48 powers, duties, and functions, including, but not limited to, rule making,
49 licensing, and the rendering of findings, orders, and adjudications.

- 1 (2) Provide for the efficient and effective transfer and consolidation of all
2 records, personnel, property, and unexpended balances of appropriations,
3 allocations, or other funds. This component of the study shall specifically:
4 a. Provide a detailed description of the proposed organization of the
5 reorganized agencies.
6 b. Identify any areas of overlap between programs or personnel.
7 c. Provide for the consolidation of law enforcement functions.
8 d. Identify a target reduction of five percent (5%) in personnel and
9 budgetary spending to be achieved by the reorganization.
- 10 (3) Provide for the uninterrupted and unimpaired continuation of all:
11 a. Services provided by the agencies.
12 b. Rules adopted or implemented by the agencies.
13 c. Contracts or other obligations entered into by either agency.
14 d. Proceedings to which either agency is a party.
- 15 (4) Identify all statutory, rule, and policy changes that would be necessary to
16 reorganize fish and wildlife management in the State.
- 17 (5) Identify and address any other issues necessary to implement subsection (a)
18 of this section.

19 **SECTION 2.(c)** The Executive Director of the Wildlife Resources Commission,
20 the Director of the Division of Marine Fisheries of the Department of Environment and Natural
21 Resources, and, if appropriate, the Commissioner of Agriculture shall jointly report on the
22 study conducted pursuant to subsection (b) of this section to the Legislative Research
23 Commission's Committee on Marine Fisheries no later than October 1, 2012.

24 **SECTION 3.(a)** G.S. 113-187 reads as rewritten:

25 **"§ 113-187. Penalties for violations of Subchapter and rules.**

26 (a) Any person who participates in a commercial fishing operation conducted in
27 violation of any provision of this Subchapter and its implementing rules or in an operation in
28 connection with which any vessel is used in violation of any provision of this Subchapter and
29 its implementing rules is guilty of a Class A1 misdemeanor.

30 (b) Any owner of a vessel who knowingly permits it to be used in violation of any
31 provision of this Subchapter and its implementing rules is guilty of a Class A1 misdemeanor.

32 (c) Any person in charge of a commercial fishing operation conducted in violation of
33 any provision of this Subchapter and its implementing rules or in charge of any vessel used in
34 violation of any provision of this Subchapter and its implementing rules is guilty of a Class A1
35 misdemeanor.

36 (d) Any person in charge of a commercial fishing operation conducted in violation of
37 the following provisions of this Subchapter or the following rules of the Marine Fisheries
38 Commission; and any person in charge of any vessel used in violation of the following
39 provisions of the Subchapter or the following rules, shall be guilty of a Class A1 misdemeanor.
40 The violations of the statute or the rules for which the penalty is mandatory are:

- 41 (1) Taking or attempting to take, possess, sell, or offer for sale any oysters,
42 mussels, or clams taken from areas closed by statute, rule, or proclamation
43 because of suspected pollution.
- 44 (2) Taking or attempting to take or have in possession aboard a vessel, shrimp
45 taken by the use of a trawl net, in areas not opened to shrimping, pulled by a
46 vessel not showing lights required by G.S. 75A-6 after sunset and before
47 sunrise.
- 48 (3) Using a trawl net in any coastal fishing waters closed by proclamation or
49 rule to trawl nets.
- 50 (4) Violating the provisions of a special permit or gear license issued by the
51 Department.

1 (5) Using or attempting to use any trawl net, long haul seine, swipe net,
2 mechanical methods for oyster or clam harvest or dredge in designated
3 primary nursery areas.

4 (e) Any person who takes menhaden or Atlantic thread herring by the use of a purse
5 seine net deployed by a mother ship and one or more runner boats in coastal fishing waters is
6 guilty of a Class A1 misdemeanor."

7 **SECTION 3.(b)** S.L. 2007-320 is repealed.

8 **SECTION 4.(a)** G.S. 143B-289.57 reads as rewritten:

9 **"§ 143B-289.57. Marine Fisheries Commission Advisory Committees established;**
10 **members; selection; duties.**

11 ...

12 (b) The Chair of the Commission shall appoint the following standing advisory
13 committees:

14 (1) The Finfish Committee, which shall consider matters concerning finfish.

15 ~~(2) The Crustacean Committee, which shall consider matters concerning shrimp~~
16 ~~and crabs.~~

17 ~~(3) The Shellfish Committee, which shall consider matters concerning oysters,~~
18 ~~elams, scallops, and other molluscan shellfish.~~

19 (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters
20 concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and
21 crabs.

22 (4) The Habitat and Water Quality Committee, which shall consider matters
23 concerning habitat and water quality that may affect coastal fisheries
24 resources.

25 ...

26 (e) The Chair of the Commission shall appoint a ~~regional advisory committee for each~~
27 ~~of the three coastal regions designated in G.S. 143B-289.54(b) and shall appoint a regional~~
28 ~~advisory committee for that part of the State that is not included in the three coastal regions.~~
29 Northern Regional Advisory Committee, encompassing areas from the Virginia line south
30 through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional
31 Advisory Committee, encompassing areas from Carteret County south to the South Carolina
32 line and any counties to the west. In making appointments to regional advisory committees, the
33 Chair of the Commission shall ensure that both commercial and recreational fishing interests
34 are fairly represented."

35 **SECTION 4.(b)** G.S. 113-200 reads as rewritten:

36 **"§ 113-200. Fishery Resource Grant Program.**

37 ...

38 (e1) Grants Committee. – The Grants Committee shall consist of eleven members as
39 follows:

40 (1) Three employees of the Sea Grant College Program, appointed by the
41 Director of the Sea Grant College Program.

42 (2) Two employees of the Division of Marine Fisheries, appointed by the
43 Fisheries Director.

44 (3) Two members of the Marine Fisheries Commission, appointed by the Chair
45 of the Marine Fisheries Commission.

46 ~~(4) One member~~Two members of the ~~Northeast-Northern~~ Regional Advisory
47 Committee established pursuant to G.S. 143B-289.57(e), appointed by the
48 ~~Northeast-Northern~~ Regional Advisory Committee.

49 ~~(5) One member of the Central Regional Advisory Committee established~~
50 ~~pursuant to G.S. 143B-289.57(e), appointed by the Central Regional~~
51 ~~Advisory Committee.~~

- 1 (6) ~~One member~~Two members of the ~~Southeast-Southern~~ Regional Advisory
2 Committee established pursuant to G.S. 143B-289.57(e), appointed by the
3 ~~Southeast-Southern~~ Regional Advisory Committee.
4 (7) ~~One member of the Inland Regional Advisory Committee established~~
5 ~~pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional~~
6 ~~Advisory Committee.~~

7 "

8 **SECTION 4.(c)** The terms of the members currently serving on the Crustacean,
9 Shellfish, and the four regional advisory committees (Northeast, Southeast, Central, and Inland)
10 shall expire on June 30, 2012. Effective July 1, 2012, the Chair of the Marine Fisheries
11 Advisory Commission shall appoint no more than 11 members to the Northern Regional
12 Advisory Committee and the Southern Regional Advisory Committee, established pursuant to
13 subsection (e) of G.S. 143B-289.57, as amended by this section.

14 **SECTION 5.** G.S. 143B-289.52 reads as rewritten:

15 "**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

16 ...

17 (e1) A supermajority of the Commission shall be six members. A supermajority shall be
18 necessary to override recommendations from the Division of Marine Fisheries regarding
19 measures needed to end overfishing or to rebuild overfished stocks."

20 **SECTION 6.** Sections 4(a) and 4(b) of this act become effective July 1, 2012.
21 Sections 3(a) and 3(b) of this act become effective December 1, 2012, and Section 3(a) applies
22 to offenses committed on or after that date. The remaining sections of this act are effective
23 when this act becomes law.