

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1378
PROPOSED COMMITTEE SUBSTITUTE H1378-PCS50665-LH-2

Short Title: Clean Marinas/Pumpout Stations.

(Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE OWNER OR OPERATOR OF CERTAIN MARINAS SHALL INSTALL AND MAINTAIN PUMPOUT FACILITIES BY JULY 1, 2010, TO PROHIBIT THE DISCHARGE OF EFFLUENT FROM A VESSEL INTO CERTAIN COASTAL WATERS, TO REQUIRE THE OWNER OR OPERATOR OF ANY MARINA WHO KNOWS THAT A VESSEL DOCKED AT THE MARINA HAS UNLAWFULLY DISCHARGED SEWAGE INTO COASTAL WATERS TO REPORT THE UNLAWFUL DISCHARGE TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, TO REQUIRE VESSEL OWNERS AND OPERATORS TO KEEP A LOG REGARDING THE DATE AND LOCATION OF PUMPOUTS, AND TO PROVIDE THAT A PILOT PROGRAM IN NEW HANOVER COUNTY SHALL BE DESIGNED AND IMPLEMENTED BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO BEGIN PHASING IN THE PUMPOUT STATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"Clean Coastal Water and Vessel Act.

"§ 77-125. Definitions.

The following definitions apply in this Article:

- (1) Department. – Department of Environment and Natural Resources.
- (2) Marina. – A marina that has docking facilities and has more than 10 wet slips for vessels of 25 feet or more that have marine sanitation devices. The term includes privately and publicly owned marinas and anchorages.
- (3) Pumpout facility. – The term includes stations affixed permanently to a dock, mobile stations mounted to a golf cart or hand truck, direct slipside connections, and pumpout vessels.
- (4) Vessel. – As defined in G.S. 75A-2.

"§ 77-126. Marina pumpout facilities and services required in certain areas; marinas and local government may apply for grant funds.

(a) The owner or operator, as appropriate, of any marina that is located on coastal waters designated as a no discharge zone by the Environmental Protection Agency or that is located in a county or municipality that has adopted a resolution to petition the Environmental



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1 Protection Agency for a no discharge zone designation shall either (i) install and maintain an
2 operational pumpout facility at the marina that is available to customers patronizing the marina,
3 or (ii) contract with an outside service provider to provide pumpout services on a regular basis
4 to the marina.

5 (b) The owner or operator, as appropriate, of a marina may apply for any private, State,
6 or federal grant funds that are available for the purpose of assisting with the cost of installing a
7 pumpout facility. A county or municipality may also apply for any private, State, or federal
8 grant funds that are available for the purpose of assisting with the cost of installing a pumpout
9 facility.

10 **"§ 77-127. Department of Environment and Natural Resources establish pumpout facility**
11 **criteria; inspection of pumpout facilities and vessels docked or moored at a**
12 **marina.**

13 The Department of Environment and Natural Resources shall establish appropriate criteria
14 for marina pumpout facilities and pumpout services. The criteria shall include requirements that
15 the facility or services be available to the public, the pumpout facility be open during normal
16 hours, and the pumpout facility be used for its intended purpose. The criteria shall also include
17 a requirement that the marina maintain records regarding the pumpout facility or services. The
18 Department shall also develop guidelines for inspections of marina pumpout facilities and of
19 vessels that are docked or moored at a marina.

20 **"§ 77-128. Vessel owner and operator required to keep log of pumpout dates.**

21 (a) Any owner or operator of a vessel that has a marine sanitation device shall maintain
22 a record of the date of each pumpout of the marine sanitation device and the location of the
23 pumpout facility. Each record shall be maintained for a period of one year from the date of the
24 pumpout.

25 (b) A violation of this section is punishable as a Class 3 misdemeanor. No civil penalty
26 shall be assessed under G.S. 77-130 for a violation of this section.

27 **"§ 77-129. No discharge of treated or untreated sewage in coastal waters; duty of marina**
28 **owner or operator to report unlawful discharge.**

29 (a) The owner or operator of a vessel shall not discharge treated or untreated sewage,
30 including effluent produced or held by any type of marine sanitation device into coastal waters.
31 The owner or operator of a vessel shall keep the overboard waste discharge valves locked at all
32 times, except when lawfully discharging sewage, including effluent produced or held by a
33 marine sanitation device at a pumpout facility.

34 (b) A violation of this section is punishable as a Class 1 misdemeanor and may also be
35 assessed a civil penalty pursuant to G.S. 77-130.

36 (c) If the owner or operator of a marina knows that the owner or operator of any vessel
37 docked or moored at the marina knowingly and unlawfully discharged sewage, including
38 effluent produced or held by a marine sanitation device, in coastal waters in violation of this
39 section, then the marina owner or operator shall report the unlawful discharge to the
40 appropriate law enforcement agency. A marina owner or operator who fails to report an
41 unlawful discharge pursuant to this subsection may be assessed a civil penalty pursuant to
42 G.S. 77-130.

43 **"§ 77-130. Enforcement.**

44 (a) The following officers have authority to enforce this Article and to inspect a marina
45 or vessel subject to this Article:

46 (1) Wildlife protectors.

47 (2) Marine fisheries inspectors.

48 (3) Any sworn local law enforcement officer with jurisdiction to enforce the
49 laws in the county or municipality in which the marina or vessel is located.

50 (b) Unless provided otherwise by this Article, a civil penalty of not more than ten
51 thousand dollars (\$10,000) may be assessed by the Secretary of Environment and Natural

1 Resources against the owner or operator, as appropriate, of any marina that violates this Article.
2 If any action or failure for which a penalty may be assessed under this section is continuous, the
3 Secretary of Environment and Natural Resources may assess a penalty not to exceed ten
4 thousand dollars (\$10,000) per day for so long as the violation continues.

5 (c) Unless provided otherwise by this Article, a civil penalty of not more than ten
6 thousand dollars (\$10,000) may be assessed by the Secretary of Environment and Natural
7 Resources against any owner or operator, as appropriate, of a vessel that violates this Article. If
8 any action or failure for which a penalty may be assessed under this section is continuous, the
9 Secretary of Environment and Natural Resources may assess a penalty not to exceed ten
10 thousand dollars (\$10,000) per day for so long as the violation continues.

11 **"§ 77-131. Application of Article.**

12 The provisions of this Article apply only to the following:

- 13 (1) A marina that is located on coastal waters designated by the Environmental
14 Protection Agency as a no discharge zone or that is located in a county or
15 municipality that has adopted a resolution to petition the Environmental
16 Protection Agency for a no discharge zone designation.
17 (2) A vessel in coastal waters that are either designated as a no discharge zone
18 or are included in a petition to the Environmental Protection Agency to be
19 designated as a no discharge zone unless the petition has been denied by the
20 Environmental Protection Agency.

21 **"§ 77-132. Rule-making authority.**

22 The Department of Environment and Natural Resources shall adopt rules to implement this
23 Article."

24 **SECTION 2.** G.S. 113A-253(c) is amended by adding a new subdivision to read:

25 "(8b) To purchase or install a pumpout facility as defined in G.S. 77-125 for the
26 purpose of protecting the State's water quality by decreasing effluent
27 discharges into the State's waters as defined in G.S. 143-212."

28 **SECTION 3.** The Department of Environment and Natural Resources shall design
29 and implement a pilot program in New Hanover County to begin phasing in the requirements of
30 Section 1 of this act. The Department shall report to the Environmental Review Commission
31 by October 1, 2009, regarding the design of the pilot program and shall implement the pilot
32 program no later than January 1, 2010. The Department of Environment and Natural Resources
33 shall report to the Environmental Review Commission by March 1, 2010, regarding the
34 implementation of the pilot project.

35 **SECTION 4.** Section 1 of this act becomes effective July 1, 2010. The remainder
36 of this act becomes effective July 1, 2009.