

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 821  
PROPOSED COMMITTEE SUBSTITUTE S821-PCS35378-SB-59

Short Title: Study and Amend Fisheries Laws.

(Public)

Sponsors:

Referred to:

May 21, 2012

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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



\* S 8 2 1 - P C S 3 5 3 7 8 - S B - 5 9 \*

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

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

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

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

- 1 (1) Provide for the efficient and effective transfer of all statutory authority,  
2 powers, duties, and functions, including, but not limited to, rule making,  
3 licensing, and the rendering of findings, orders, and adjudications.
- 4 (2) Provide for the efficient and effective transfer and consolidation of all  
5 records, personnel, property, and unexpended balances of appropriations,  
6 allocations, or other funds. This component of the study shall specifically:
  - 7 a. Provide a detailed description of the proposed organization of the  
8 reorganized agencies.
  - 9 b. Identify any areas of overlap between programs or personnel.
  - 10 c. Provide for the consolidation of law enforcement functions.
  - 11 d. Identify a target reduction of five percent (5%) in personnel and  
12 budgetary spending to be achieved by the reorganization.
- 13 (3) Provide for the uninterrupted and unimpaired continuation of all:
  - 14 a. Services provided by the agencies.
  - 15 b. Rules adopted or implemented by the agencies.
  - 16 c. Contracts or other obligations entered into by either agency.
  - 17 d. Proceedings to which either agency is a party.
- 18 (4) Identify all statutory, rule, and policy changes that would be necessary to  
19 reorganize fish and wildlife management in the State.
- 20 (5) Identify and address any other issues necessary to implement subsection (a)  
21 of this section.

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

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

28 **"§ 113-187. Penalties for violations of Subchapter and rules.**

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

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

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

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

- 44 (1) Taking or attempting to take, possess, sell, or offer for sale any oysters,  
45 mussels, or clams taken from areas closed by statute, rule, or proclamation  
46 because of suspected pollution.
- 47 (2) Taking or attempting to take or have in possession aboard a vessel, shrimp  
48 taken by the use of a trawl net, in areas not opened to shrimping, pulled by a  
49 vessel not showing lights required by G.S. 75A-6 after sunset and before  
50 sunrise.

- 1 (3) Using a trawl net in any coastal fishing waters closed by proclamation or  
2 rule to trawl nets.  
3 (4) Violating the provisions of a special permit or gear license issued by the  
4 Department.  
5 (5) Using or attempting to use any trawl net, long haul seine, swipe net,  
6 mechanical methods for oyster or clam harvest or dredge in designated  
7 primary nursery areas.

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

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

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

13 **"§ 143B-289.57. Marine Fisheries Commission Advisory Committees established;**  
14 **members; selection; duties.**

15 ...

16 (b) The Chair of the Commission shall appoint the following standing advisory  
17 committees:

- 18 (1) The Finfish Committee, which shall consider matters concerning finfish.  
19 (2) ~~The Crustacean Committee, which shall consider matters concerning shrimp~~  
20 ~~and crabs.~~  
21 (3) ~~The Shellfish Committee, which shall consider matters concerning oysters,~~  
22 ~~clams, scallops, and other molluscan shellfish.~~  
23 (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters  
24 concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and  
25 crabs.  
26 (4) The Habitat and Water Quality Committee, which shall consider matters  
27 concerning habitat and water quality that may affect coastal fisheries  
28 resources.

29 ...

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

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

40 **"§ 113-200. Fishery Resource Grant Program.**

41 ...

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

- 44 (1) Three employees of the Sea Grant College Program, appointed by the  
45 Director of the Sea Grant College Program.  
46 (2) Two employees of the Division of Marine Fisheries, appointed by the  
47 Fisheries Director.  
48 (3) Two members of the Marine Fisheries Commission, appointed by the Chair  
49 of the Marine Fisheries Commission.

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

13          ...."

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

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

21          "**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

22          ...

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

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