

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

3

HOUSE BILL 1077\*

Committee Substitute Favorable 5/17/96

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/18/96

Short Title: Change Fisheries Laws.

(Public)

Sponsors:

Referred to:

May 13, 1996

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES IN THE MARINE FISHERIES LAWS AND TO CREATE A SCIENTIFIC ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-154(c1) reads as rewritten:

"(c1) A shellfish leaseholder under G.S. 113-202, or a water column leaseholder under G.S. 113-202.1 or ~~G.S. 113-202.2~~ G.S. 113-202.2, or a franchise holder under G.S. 113-206 who purchases an individual shellfish license under this section, may ~~utilize up to two additional persons to take shellfish from the leaseholder's lease without purchasing additional individual shellfish licenses. The leaseholder shall be on the premises supervising the person or persons, and the person or persons shall be restricted to taking shellfish only from the leaseholder's lease~~ employ persons who do not possess individual shellfish licenses, provided that the employees have written proof of employment on hand, if requested for inspection by a Marine Fisheries officer to verify lawful activities on the lease. The written proof of employment shall include: (i) the name and address of the leaseholder or franchise holder; (ii) the lease or franchise number; (iii) the date of issuance and

1 expiration of the lease or franchise; and (iv) the employee's name and address. The proof  
2 of employment shall be signed and dated by the leaseholder or franchise holder."

3 Sec. 2. Article 15 of Chapter 113 of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 113-190. Fishery Resource Grant Program.**

6 (a) Creation. – There is created within the Sea Grant College Program at The  
7 University of North Carolina, the Fishery Resource Grant Program. The purpose of the  
8 program is to work within priorities established by the Marine Fisheries Commission to  
9 protect and enhance the State's coastal fishery resources through individual grants in the  
10 following areas:

11 (1) New fisheries equipment or gear;

12 (2) Environmental pilot studies, including water quality and fisheries  
13 habitat;

14 (3) Aquaculture or mariculture of marine dependent species; or

15 (4) Seafood technology.

16 (b) Annual Establishment of Priorities. – The Commission shall, in cooperation  
17 with fishermen, the Division of Marine Fisheries, and the Sea Grant College Program,  
18 establish priorities effective July 1 of each year for the grant program. The adoption of  
19 priorities by the Commission shall not be considered rule making within the meaning of  
20 the Administrative Procedure Act. The Commission shall provide public notice of its  
21 proposed priorities at least 30 days before the Commission meeting prior to a final  
22 determination of its priorities for the fiscal year.

23 (c) Procedure to Solicit Proposals. – Following the establishment of priorities by  
24 the Commission, Sea Grant shall hold workshops within each of the coastal regions to  
25 solicit applications and to assist persons involved in fishing industries in writing  
26 proposals. For purposes of this act, the term 'fishing industry' includes persons involved  
27 in: (i) commercial or recreational fishing; (ii) aquaculture or mariculture; or (iii) handling  
28 fish products such as seafood dealers or processors. Sea Grant shall encourage  
29 preproposal conferences between individuals in the fisheries industry and those with  
30 technical or research background to work as partners in developing and writing the  
31 proposals and in writing final report results. If the grants approved by the Commission  
32 do not utilize all available funds, Sea Grant may advertise and solicit additional  
33 applications during the applicable fiscal year.

34 (d) Application for Grant Program. – An applicant may apply for grant funds to  
35 the Sea Grant College Program. For purposes of this subsection, every proposal shall  
36 include substantial involvement of active North Carolina persons involved in a fishing  
37 industry. A proposal generated by a person not involved in a fishing industry may be  
38 eligible for funding only if the proposal includes written endorsements supporting the  
39 project from persons or organizations representing fishing industries. An application  
40 shall include, but not be limited to, the following:

41 (1) Name and address of the primary applicant;

42 (2) List of licenses issued to the applicant by the State of North Carolina;

43 (3) A description of the project;

- 1           (4) A detailed statement of the projected costs of the project including the  
2           cost to plan and design the project;  
3           (5) An explanation of how the project will enhance the fishery resource;  
4           (6) List of names and addresses of any other persons who will participate in  
5           the project; and  
6           (7) Any other information necessary to make a recommendation on the  
7           application.

8           (e) Review Process. – Sea Grant shall conduct an anonymous peer review of all  
9           applications for fisheries grants. At least one of the peer reviewers shall be a person  
10           involved in a fishing industry. Applications shall be confidential and shall not be defined  
11           as a public record as defined under G.S. 132-1 until after the closing date for submission  
12           of applications. Following the review of all proposals, Sea Grant shall rank proposals in  
13           order of priority and shall present the recommendations to the Commission. Any  
14           criterion used by Sea Grant in ranking proposals shall not require rule making within the  
15           meaning of the Administrative Procedure Act, but such criteria shall be public records as  
16           defined in G.S. 132-1.

17           (f) Award Process. – The Commission shall review the ranking of proposals, and  
18           if consistent with the priority rankings established under subsection (e) of this section,  
19           shall fund those proposals. Applications that include involvement by fishermen in the  
20           project shall be accorded a priority in funding by the Commission. Following approval  
21           by the Commission, the Sea Grant College Program shall award the grants. To the extent  
22           practicable, the Sea Grant College Program shall distribute grant funding among the  
23           northern, southern, central, and Pamlico coastal regions.

24           (g) Restrictions on Grants. – No member of the Commission may benefit  
25           financially from a grant. If a grant recipient from a prior year has failed to perform a  
26           grant project to the satisfaction of the Sea Grant College Program or the Commission, the  
27           Sea Grant College Program may decline to fund any new application involving the  
28           principal applicant.

29           (h) Grant Reports and Funding. – Grant recipients shall provide quarterly progress  
30           reports to the Sea Grant College Program and shall submit invoices for expenditures for  
31           each quarter. Twenty-five percent (25%) of the total grant award shall be held until the  
32           grant recipient has completed the project and submitted a final written report. The  
33           remainder of the grant award shall be distributed upon approval of each quarterly report  
34           and upon verification of the expenditures.

35           (i) Report on Grant Program. – The Sea Grant College Program shall report on an  
36           annual basis to the Marine Fisheries Commission and the Joint Legislative Commission  
37           on Seafood and Aquaculture."

38           Sec. 3. (a) Article 21 of Chapter 143 of the General Statutes is amended by  
39           adding a new section to read:

40           "§ 143-215.22J. Scientific Advisory Council on Water Resources and Coastal  
41           Fisheries Management established; membership, compensation.

1       (a) The Scientific Advisory Council on Water Resources and Coastal Fisheries  
2 Management (hereinafter 'Council') is created in the Department of Environment, Health,  
3 and Natural Resources.

4       (b) The Council shall have eight members, including the Secretary of the  
5 Department of Environment, Health, and Natural Resources, who shall chair the Council,  
6 and the Dean of the School of Agriculture and Life Sciences of North Carolina State  
7 University. The members of the Council shall elect a vice-chair from among the Council  
8 membership. The Chair of the Council shall solicit three recommendations from the  
9 scientific community including private scientists representing industrial and  
10 environmental concerns, as well as the academic community for each of the six  
11 appointees and shall select members from among those recommendations. Members  
12 shall have the following qualifications:

13           (1) One member with expertise and training in water quality;

14           (2) One member with expertise and training in coastal or marine fisheries;

15           (3) One member with expertise and training in resource economics;

16           (4) One member with expertise and training in physical modeling;

17           (5) One member with expertise and training in wetlands; and

18           (6) One member with expertise and training in the social sciences.

19 The members shall be appointed for staggered two-year terms and may be reappointed  
20 for subsequent terms. Members shall serve at the pleasure of the Secretary.

21       (c) To the extent that funds are made available, members of the Council shall  
22 receive per diem and necessary travel and subsistence expenses in accordance with G.S.  
23 138-5.

24       (d) A majority of the Council shall constitute a quorum for the transaction of its  
25 business.

26       (e) The Council may use funds allocated to it to employ an administrative staff  
27 person to assist the Council in carrying out its duties. The Secretary shall provide clerical  
28 and other support staff services needed by the Council.

29       (f) The Council shall meet quarterly, or more frequently at the request of the Chair  
30 or three members of the Council.

31 **"§ 143-215.22K. Scientific Advisory Council on Water Resources and Coastal**  
32 **Fisheries Management; functions and responsibilities.**

33       (a) The Council shall have the following responsibilities:

34           (1) Review a plan prepared by the Department concerning the statewide  
35 implementation of an interagency comprehensive coordinated water  
36 resources and coastal fisheries management programs.

37           (2) Discuss the limitations and problems associated with existing laws,  
38 regulations, programs, and services related to water resources and  
39 coastal fisheries.

40           (3) Evaluate trends and conditions of the State's water quality resources and  
41 coastal fisheries management.

42           (4) Oversee the development of a comprehensive monitoring program  
43 including:

- 1 a. Participating in the overall design of the plan relating to the  
2 collection and use of data;  
3 b. Evaluating statewide and national water resource and coastal  
4 fisheries programs;  
5 c. Coordinating funding sources for programs;  
6 d. Evaluating and developing research to address water quality and  
7 fisheries issues; and  
8 e. Reviewing procedures for awarding grants to local agencies  
9 providing services.
- 10 (5) Identify research and outreach needs and to commission studies to  
11 respond to those needs.
- 12 (6) Assist in developing and maintaining interagency training and technical  
13 assistance in the provision of water resource and coastal fisheries  
14 programs.
- 15 (b) The Secretary shall seek the advice of the Council on issues involving changes  
16 in water quality and fisheries management.
- 17 (c) The Council shall submit a written annual report not later than October 1 of  
18 each year, to the Secretary, the Governor, the Environmental Review Commission and  
19 the Joint Legislative Commission on Governmental Operations. The report shall address  
20 the progress in implementation of a coordinated water resources and coastal fisheries  
21 management program. The report shall include an accounting of funds expended and  
22 anticipated funding needs for full implementation of recommended programs."
- 23 (b) Effective upon ratification, the Secretary shall appoint three members of the  
24 Council to one-year terms and the remaining three members to two-year terms.
- 25 Sec. 4. The Department of Environment, Health, and Natural Resources shall  
26 coordinate an intradepartmental effort to develop scientific protocols to respond to  
27 significant fish kill events utilizing staff from the Division of Environmental  
28 Management, Division of Marine Fisheries, Division of Epidemiology, Wildlife  
29 Resources Commission, the scientific community, and other agencies, as necessary. In  
30 developing these protocols, the Department shall address the unpredictable nature of fish  
31 kills caused by both natural and man-made factors. The protocols shall contain written  
32 procedures to respond to significant fish kill events including:
- 33 (1) Developing a plan of action to evaluate the impact of fish kills on public  
34 health and the environment.
- 35 (2) Responding to fish kills within 24 hours.
- 36 (3) Investigating and collecting data relating to fish kill events.
- 37 (4) Summarizing and distributing fish kill information to participating  
38 agencies, scientists and other interested parties.
- 39 The Secretary of the Department shall take all necessary and appropriate steps to  
40 effectively carry out the purposes of this act including:
- 41 (1) Providing adequate training for fish kill investigators.
- 42 (2) Taking immediate action to protect public health and the environment.

1           (3) Cooperating with agencies, scientists, and other interested parties, to  
2           help determine the cause of the fish kill.

3           The Department shall report annually to the Environmental Review  
4 Commission and the Senate Agriculture and Environment Committee no later than  
5 December 1 of each year. This report shall include a summary of all fish kill activity  
6 within the last year, an overview of any trend analyses, a discussion of any new or  
7 modified methodologies or reporting protocols, and any other relevant information.

8           Sec. 5. Funds appropriated to the Department of Environment, Health, and  
9 Natural Resources for the Fishery Resource Grant Program under Section 2 of Chapter  
10 324 of the 1994 Session Laws shall be transferred to the Board of Governors of The  
11 University of North Carolina for the Sea Grant College Program to administer the Fishery  
12 Resource Grant Program. The Sea Grant College Program may use up to twenty-five  
13 thousand dollars (\$25,000) for administrative expenses relating to the Fishery Resource  
14 Grant Program.

15           Sec. 6. Notwithstanding subsection (b) of Section 2 of this act, the Marine  
16 Fisheries Commission may establish priorities by September 1, 1996, for the 1996-97  
17 fiscal year.

18           Sec. 7. (a) The Marine Fisheries Commission may adopt temporary rules to  
19 establish recreational bag and size limits for bluefish, striped bass, and weakfish to  
20 comply with conservation equivalencies allowed under fisheries management plans  
21 adopted by the Atlantic States Marine Fisheries Commission. The Marine Fisheries  
22 Commission may adopt temporary rules to correct an omission concerning bag limits for  
23 spotted sea trout.

24           (b) The Marine Fisheries Commission may adopt temporary rules to change the  
25 closure days for shrimping.

26           Sec. 8. This act constitutes a recent act of the General Assembly within the  
27 meaning of G.S. 150B-21.1. The Marine Fisheries Commission may adopt temporary  
28 rules to implement this act.

29           Sec. 9. This act is effective upon ratification.