

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2162*

Short Title: Land-Disturbing Activities Near Trout Waters.

(Public)

Sponsors: Representative Gibson.

Referred to: Environment and Natural Resources.

May 18, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS GOVERNING LAND-DISTURBING
3 ACTIVITIES NEAR TROUT WATERS, AS RECOMMENDED BY THE
4 ENVIRONMENTAL REVIEW COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 113A-57(1) reads as rewritten:

7 "(1) No land-disturbing activity during periods of construction or
8 improvement to land shall be permitted in proximity to a lake or
9 natural ~~watereourse~~ watercourse, ~~unless a buffer zone is provided along~~
10 ~~the margin of the watereourse~~

11 a. Waters other than those classified as trout waters by the
12 Environmental Management Commission shall have a buffer
13 zone of sufficient width to confine visible siltation within the
14 twenty-five percent (25%) of the buffer zone nearest the
15 land-disturbing activity.

16 b. Waters that have been classified as trout waters by the
17 Environmental Management Commission shall have an
18 undisturbed buffer zone 25 feet wide or of sufficient width to
19 maintain the ecological functions provided by the buffer zone
20 and confine visible siltation within the twenty-five percent
21 (25%) of the buffer zone nearest the land-disturbing activity,
22 whichever is greater. ~~Provided, however, that the~~

23 c. The Sedimentation Control Commission may ~~approve~~ approve,
24 or approve with modifications, plans which ~~that~~ include
25 land-disturbing activity within the buffer zone along trout
26 waters when the duration of said disturbance would be
27 temporary and the extent of said disturbance would be
28 minimal. if any of the following criteria are met:

- 1 1. The land-disturbing activity is planned so as to result in
2 temporary and minimal impacts from erosion and
3 sedimentation. A plan meets this criterion if the applicant
4 demonstrates that the land-disturbing activity disturbs
5 less than ten percent (10%) of the total length of the
6 buffer zone within the tract to be disturbed, disturbs no
7 more than 100 linear feet in each 1,000 linear feet of
8 buffer zone, meets all other provisions of this Article and
9 rules adopted pursuant to this Article, and provides
10 temporary ground cover that controls erosion and
11 sedimentation to at least the same extent as
12 predisturbance conditions as soon as practicable, but no
13 more than 21 days after completing the disturbance.
- 14 2. The land-disturbing activity exceeds the level of
15 disturbance described in sub-sub-subdivision 1. of this
16 sub-subdivision and is associated with a road that will be
17 a part of the State highway system; a waterline;
18 wastewater or other utility infrastructure; a stormwater
19 control structure; or a temporary erosion and
20 sedimentation control device. Impacts to the buffer shall
21 be approved under this sub-sub-subdivision only if the
22 Department finds that the impacts to the buffer cannot
23 reasonably be avoided, impacts have been minimized to
24 the extent practicable, and the area affected by
25 construction activity is restored. An erosion and
26 sedimentation control plan meets the avoidance,
27 minimization, and restoration criteria in this
28 sub-sub-subdivision if the erosion and sedimentation
29 control plan meets all other provisions of this Article and
30 rules adopted pursuant to this Article and demonstrates
31 all of the following:
- 32 I. The basic project purpose cannot be practically
33 accomplished in a manner that would better avoid
34 erosion and sedimentation impacts to the trout
35 buffer or stream.
- 36 II. The land-disturbing activity cannot be practically
37 reduced in size or density, reconfigured, or
38 redesigned to minimize the temporary and
39 permanent erosion and sedimentation impacts to
40 the trout buffer or stream.
- 41 III. The plan incorporates all reasonable means and
42 measures to restore the trout buffer or stream
43 upon completion of construction.

1 3. The land-disturbing activity is part of a stream
2 restoration activity that is designed to improve water
3 quality, aquatic habitat, or habitat along the bank. Stream
4 restoration activities include mitigation projects
5 approved through a State or federal water quality permit
6 or funded by a State or federal program in an effort to
7 improve water quality.

8 d. ~~This subdivision~~Sub-subdivision c. of this subdivision shall not
9 apply to a land-disturbing activity in connection with the
10 construction of facilities to be located on, over, or under a lake
11 or natural watercourse."

12 **SECTION 2.** This act is effective when it becomes law and applies to land-
13 disturbing activities that commence on or after this date.