

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 1093
HOUSE BILL 1225

AN ACT TO ESTABLISH A NORTH CAROLINA WATER SAFETY COMMITTEE,
TO EMPOWER LOCAL GOVERNMENTS TO CREATE AND SPONSOR
LOCAL WATER SAFETY COMMITTEES, TO GRANT THE WILDLIFE
RESOURCES COMMISSION THE POWER TO MAKE REGULATIONS OVER
MATTERS OF WATER SAFETY, AND TO IMPLEMENT THE UNIFORM
STATE WATERWAY MARKING SYSTEM.

The General Assembly of North Carolina do enact:

Section 1. Chapter 75A of the General Statutes of North Carolina entitled "Motorboats" is hereby redesignated "Boating and Water Safety."

Sec. 2. G.S. 75A-1 to 75A-19 is hereby designated as "Article 1. Boating Safety Act."

Sec. 3. There is hereby added a new Article to Chapter 75A of the General Statutes of North Carolina to read as follows:

Article 2.

North Carolina Water Safety Committee.

G.S. 75A-20. Creation of North Carolina Water Safety Committee. There is hereby created the North Carolina Water Safety Committee to function as a continuing advisory and coordinative body with respect to the activities of the various public and private agencies, organizations, corporations, and individuals with responsibilities or interests relevant to the maintenance of an effective program of water safety in North Carolina.

G.S. 75A-21. Terms and appointment of members. (a) Members of the Committee shall be appointed by the Governor so as to represent various viewpoints and interests respecting water safety that exist within the State. The membership of the Committee shall be not less than twenty-five nor more than fifty.

(b) Regular terms of members other than those designated by the Governor to serve on the executive committee shall be for periods of three years. In making initial appointments, the Governor shall appoint approximately one-third of the members for one-year terms, another third for two-year terms, and the balance for three-year terms so as to achieve an overlapping of terms. In subsequent years as increases or decreases in the number of members of the Committee may occur the Governor shall appoint or reappoint members for such periods of less than three years as may be necessary to preserve the system of overlapping terms. Members representing the agencies listed in subsection (e) of this Section and designated by the Governor to serve

on the executive committee of the Committee shall serve at the pleasure of the Governor.

(c) Except as to representatives of the agencies listed in subsection (e) of this Section, the Governor may decline to fill any vacancy that may occur on the Committee. As used in this subsection, "vacancy" includes termination of membership caused by expiration of a term as well as that caused by resignation, death, inability to serve, or termination of the appointment by the Governor.

(d) The Governor may terminate the appointment of any member serving for a specific term for cause. Cause for termination shall include the members's ceasing to hold the position or to be affiliated with the organization or agency by reason of which he was appointed to the Committee. The Governor in his discretion, however, taking into account the balance of representation of interest on the Committee and factors pertaining to its total size, may permit such member to continue to serve on the Committee by reason of the individual contributions he may make. Where a member of the executive committee serving at the pleasure of the Governor has been retained on the Committee despite his ceasing to represent one of the agencies listed in subsection (e) of this Section, he shall lose his membership on the executive committee.

(e) In making his appointments the Governor shall provide for continuing membership on the Committee by at least one professional representative from each of the following agencies of the State:

- (1) The Department of Conservation and Development.
- (2) The Department of Public Instruction.
- (3) The Department of Water Resources.
- (4) The North Carolina Recreation Commission.
- (5) The North Carolina Wildlife Resources Commission.
- (6) The State Board of Health.

G.S. 75A-22. Executive Committee. (a) Except as indicated in subsection (b) of this Section, the executive committee of the Committee shall have full power to act on behalf of the Committee with regard to external affairs in the interim period between meetings of the Committee. The executive committee shall consist of the professional representatives from the agencies list in G.S. 75A-21(e) plus six other members of the Committee selected by the Governor. Where there is more than one member from any of the listed agencies appointed to the Committee, the Governor shall designate which one is to serve on the executive committee.

(b) The Committee may not restrict the authorization to the executive committee to act on its behalf in any class of external affairs or repudiate any action taken in its behalf except upon the vote of a majority of the full membership of the Committee.

G.S. 75A-23. Chairman. The Governor shall designate one of the agency members of the executive committee to serve both as chairman of the Committee and the executive committee. The Chairman shall serve as such at the pleasure of the Governor.

G.S. 75A-24. Organization and meetings. (a) To the extent not in conflict with specific provisions of this Article, the Committee may organize itself as it sees fit,

specifically including selection and duties of other officers than the chairman, fixing dates and procedures for calling regular meetings, selection and tenure of chairmen and members of subcommittees, and the extent to which authority to act on internal matters may be delegated to the chairman or the executive committee.

(b) Regular meetings of the Committee shall be held at least twice each year. Special meetings may be held upon the call of:

- (1) The chairman,
- (2) Three members of the executive committee, or
- (3) One-third of the full membership of the Committee.

(c) Meetings of the executive committee shall be held upon the call of the chairman or upon the call of three of its members. To constitute a quorum of members attending a meeting of the Committee, there must be present at least eight members of the executive committee and one-third of the balance of the members of the Committee. Eight members shall constitute a quorum for meetings of the executive committee, except that the votes of at least seven members shall be required to carry any matter in which the executive committee is acting on behalf of the Committee in regard to external affairs.

G.S. 75A-25. Administrative and staff support. Administrative and staff support for the Committee shall be provided by such State agency or agencies as may be designated by the Governor.

G.S. 75A-26. Local water safety committees. (a) In order that responsible State and local officials may consult with an advisory body as to the needs and desires of the public in matters of water recreation and safety in various local waters, local authorities may sponsor local water safety committees. When a local government or two or more local governments acting jointly determine that the interests of the public would be served by sponsorship of a local water safety committee, such local government or governments may sponsor a committee. As used in this Section the noun "sponsor" shall include a sponsoring local government or a sponsoring group of local governments acting jointly.

(b) Members of a local committee shall be selected by the sponsor to represent various viewpoints and interests respecting water recreation and safety in the locality concerned. The membership of the Committee shall be not less than fifteen nor more than thirty-five, and members shall serve at the pleasure of the sponsor. Except where the charter granted by the sponsor may make specific provision, the members of a local committee shall select their officers, determine the need for subcommittees (if any), provide for times and places of regular meetings, and otherwise order the internal organization and administration of the committee. Special meetings may be held:

- (1) Upon the call of such officers or members of the local committee as may be specified in the charter from the sponsor or the bylaws enacted by the committee.
- (2) Upon the call of three members of the governing body or bodies of the sponsor.
- (3) Upon the call of the chairman of the North Carolina Water Safety Committee.

(c) Where the sponsor finds that an existing organization or committee is sufficiently broadly based to represent the various community interests, it may sponsor (and at any time withdraw sponsorship of) the activities of such organization or committee relating to water recreation and safety in lieu of creating a separate local committee. In the event an existing organization or committee is sponsored, the membership restrictions of subsection (b) do not apply. The phrase "local committee" as used in this Section shall include such sponsored existing organizations and committees as well as separate committees.

(d) Except as indicated below, members of a local committee shall serve without compensation from the sponsor. Public officers and employees who are acting within the scope and course of their employment, however, may receive such travel and subsistence allowance as authorized by law when attending meetings, whether as members or observers, or otherwise assisting or participating in the affairs of a local committee. Within the bounds set by governing provisions of the law generally, a sponsor may also provide administrative and staff services to a local committee and may underwrite or finance its projects which are carried out to the benefit of water recreation and safety in the area concerned.

(e) At the time of sponsorship, or withdrawal of sponsorship, of a local committee, the sponsor shall notify the following persons of the action taken:

- (1) The Chairman of the North Carolina Water Safety Committee.
- (2) The Executive Director of the North Carolina Wildlife Resources Commission.

(f) All meetings of separately created local committees shall be open to the public. Where an existing organization or committee has received sponsorship, all its meetings devoted to carrying out the advisory functions of a local committee shall be open to the public.

(g) Members of a local committee are under an obligation:

- (1) To keep themselves informed as to problems of water recreation and safety in their area.
- (2) To study such problems concerning water recreation and safety as may be referred to them by their sponsor or by the chairman of the North Carolina Water Safety Committee.
- (3) To make reports from time to time, either on their own motion or in response to a request for a study, on problems of water recreation and safety, and with suggestions for remedies where such are indicated and feasible. Such reports may be made to the sponsor, the Chairman of the North Carolina Water Safety Committee, the Executive Director of the North Carolina Wildlife Resources Commission, or any other public or private person, agency, firm, corporation, or organization with the power to effect improvements in the level of water recreation and safety available to the public.
- (4) To take part in and, where necessary, to help coordinate programs of public education in the field of water safety.

Sec. 4. G.S. 75A-15 is rewritten to read as follows:

G.S. 75A-15. Regulations on water safety; adoption of the Uniform Waterway Marking System. (a) Upon petition to it in accordance with subsection (b) of this Section, the Wildlife Resources Commission is empowered to make special regulations, for the local water in question, as to:

- (1) Operation of vessels, including restrictions concerning speed zones, and type of activity conducted.
- (2) Promotion of boating and water safety generally by occupants of vessels, swimmers, fishermen, and others using the water.
- (3) Placement and maintenance of navigation aids and markers, in conformity with governing provisions of law.

Prior to making any special regulations, the Commission shall investigate the water recreation and safety needs of the local water in question in accordance with any standards that may have been developed by the North Carolina Water Safety Committee. In making such investigation, the Commission in its discretion may hold public hearings on the regulations proposed and the general needs of the local water in question. After such investigation and application of standards, the Commission may in its discretion pass the special regulations requested, pass them in an amended form, or refuse to pass them. After passage, the Commission may amend or repeal the special regulations after first holding a public hearing.

(b) The agencies listed in this subsection may, but only after public notice, make formal application to the Wildlife Resources Commission for special regulations on local waters as to the matters listed in subsection (a) of this Section. The agencies and waters in question are:

- (1) Any subdivision of this State, with reference to waters within its territorial limits.
- (2) The North Carolina Water Safety Committee, with reference to local areas of water defined by it which are found to be heavily used for water recreation purposes by persons from other areas of the State and as to which there is not coordinated local interest in regulation.

(c) The Uniform State Waterway Marking System as approved by the Advisory Panel of State Officials to the Merchant Marine Council, United States Coast Guard, in October 1961 is hereby adopted for use on the waters of North Carolina. The Wildlife Resources Commission is authorized to pass regulations implementing the marking system and may:

- (1) Modify provisions as necessary to meet the special water recreational and safety needs of this State, provided that such modifications do not depart in any essential manner from the uniform standards being adopted in other states.
- (2) Modify provisions as necessary to conform with amendments to the marking system that may be proposed for adoption by the states.
- (3) Enact supplementary standards regarding design, construction, placement, and maintenance of markers.
- (4) Enact clarifying regulations as to matters not covered with precision in the report of the Advisory Panel of State Officials.

- (5) Enact implementing regulations as to matters left to State discretion in the report of the Advisory Panel of State Officials.
- (6) Enact regulations forbidding or restricting the placement of markers either throughout the State or in certain classes or areas of waters without prior permission having been obtained from the Commission or some agency or official designated by the Commission.

It is unlawful to place or maintain any marker of the sort covered by the marking system in the waters of North Carolina that does not conform to or is in violation of the marking system and the implementing regulations of the Commission.

(d) Special regulations enacted under the authority of subsections (a) and (b) of this Section shall supersede all local regulations in conflict or incompatible with such special regulations. As used in this subsection, "Local regulations" shall include provisions relating to boating, water safety, or other recreational use of local waters in special local, or private acts, in ordinances or regulations of local governing bodies, or in ordinances or regulations of local water authorities. Except as may be authorized in subsections (a) and (b) of this Section, no local regulations may be made respecting the Uniform Waterway Marking System and its implementation or respecting supplemental safety equipment on vessels.

Sec. 5. The following local acts, having been superseded in their entirety, are hereby repealed: Session Laws of 1955, Chapters 277 and 1115 (Catawba Lake, now Lake Wylie, in Gaston and Mecklenburg counties); Session Laws of 1955, Chapter 1219 (Catawba River in Catawba, Iredell, Alexander, Caldwell and Burke counties).

Sec. 6. This Act shall take effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1969.