

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 363

Short Title: Fisheries Inspection Authority.

(Public)

Sponsors: Senator Block.

Referred to: Agriculture, Marine Resources, and Wildlife.

March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE INSPECTION AUTHORITY OF MARINE FISHERIES INSPECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-136 reads as rewritten:

"§ 113-136. Enforcement authority of inspectors and protectors; inspection authority; refusal to obey or allow inspection by inspectors and protectors.

(a) Inspectors and protectors are granted the powers of peace officers anywhere in this State, and beyond its boundaries to the extent provided by law, in enforcing all matters within their respective subject-matter jurisdiction as set out in this section.

(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the Department set out in this Subchapter, Part 5A of Article 7 of Chapter 143B of the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the Department which it directs inspectors to enforce. In addition, inspectors have jurisdiction over all offenses involving property of or leased to or managed by the Department in connection with the conservation of marine and estuarine resources.

(c) The jurisdiction of protectors extends to all matters within the jurisdiction of the Wildlife Resources Commission, whether set out in this Chapter, Chapter 75A, Chapter 143, Chapter 143B, or elsewhere. The Wildlife Resources Commission is specifically granted jurisdiction over all aspects of:

(1) Boating and water safety;

(2) Hunting and trapping;

- 1 (3) Fishing, exclusive of fishing under the jurisdiction of the Marine  
2 Fisheries Commission; and  
3 (4) Activities in woodlands and on inland waters governed by G.S. 113-  
4 60.1 to G.S. 113-60.3.

5 In addition, protectors have jurisdiction over all offenses involving property of or leased  
6 by the Wildlife Resources Commission or occurring on wildlife refuges, game lands, or  
7 boating and fishing access areas managed by the Wildlife Resources Commission. The  
8 authority of protectors over offenses on public hunting grounds is governed by the  
9 jurisdiction granted the Commission in G.S. 113-264(c).

10 (d) Inspectors and protectors are additionally authorized to arrest without warrant  
11 under the terms of G.S. 15A-401(b) for felonies, for breaches of the peace, for assaults  
12 upon them or in their presence, and for other offenses evincing a flouting of their  
13 authority as enforcement officers or constituting a threat to public peace and order  
14 which would tend to subvert the authority of the State if ignored. In particular, they are  
15 authorized, subject to the direction of the administrative superiors, to arrest for  
16 violations of G.S. 14-223, 14-225, 14-269, and 14-277.

17 (e) Inspectors and protectors may serve arrest warrants, search warrants, orders  
18 for arrest, criminal summonses, subpoenas, and all other process connected with any  
19 cases within their subject-matter jurisdiction. In the exercise of their law enforcement  
20 powers, inspectors are subject to provisions relating to police officers in general set out  
21 in Chapter 15, Chapter 15A, and elsewhere.

22 (f) Inspectors and protectors are authorized to stop or detain temporarily any  
23 persons they reasonably believe to be engaging ~~in~~, or to have recently engaged in, an  
24 activity regulated by their respective agencies, and to inspect without a warrant  
25 fish and wildlife, equipment, nets, weapons, licenses, coolers or other holding  
26 containers, or other regulated items in order to determine whether such activity has been  
27 or is being conducted within the requirements of the law, including license  
28 requirements. If the person stopped or detained is in a motor vehicle being driven at the  
29 time and the inspector or protector in question is also in a motor vehicle, the inspector  
30 or protector is required to sound a siren or activate a special light, bell, horn, or exhaust  
31 whistle approved for law-enforcement vehicles under the provisions of G.S. 20-125(b)  
32 or 20-125(c).

33 (f1) Inspectors are authorized to enter and inspect without a warrant any building  
34 or structure, including refrigerated rooms or coolers used for the storage of fisheries  
35 products, other than a private dwelling, in which activities subject to the licensing  
36 requirements of G.S. 113-156 and G.S. 113-156.1 are conducted, including the storage,  
37 processing, or packing of fish, in order to determine whether regulated activity has been  
38 or is being conducted within the requirements of the law, including licensing  
39 requirements. Such inspections shall be limited to times during which the subject  
40 premises are open for business, or fish are being stored, loaded, unloaded, packed,  
41 processed, or shipped.

42 (g) Protectors may not temporarily stop or inspect vehicles proceeding along  
43 primary highways of the State without clear evidence that someone within the vehicle is  
44 or has recently been engaged in an activity regulated by the Wildlife Resources

1 Commission. Inspectors may temporarily stop vehicles, boats, airplanes, and other  
2 conveyances upon reasonable grounds to believe that they are transporting ~~taxable~~  
3 ~~seafood products; regulated fishery products or fishery equipment;~~ they are authorized to  
4 inspect without a warrant any seafood products fishery product or fishing equipment  
5 being transported to determine whether they were taken or are possessed in accordance  
6 with law and to require exhibition of any applicable license, tax receipts, permits, bills  
7 of lading, or other identification required to accompany such ~~seafood products; fishery~~  
8 products or equipment.

9 (h), (i) Repealed by Session Laws 1979, c. 830, s. 1.

10 (j) The refusal of any person to stop in obedience to the directions of an  
11 inspector or protector acting under the authority of this section is unlawful. A violation  
12 of this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more  
13 than two hundred dollars (\$200.00), imprisonment not to exceed 30 days, or both.

14 (k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or  
15 other law enforcement officer any item required to be carried by any law or rule as to  
16 which inspectors or protectors have enforcement jurisdiction. The items that must be  
17 exhibited include boating safety or other equipment or any license, permit, tax receipt,  
18 certificate, or identification. It is unlawful to refuse to allow inspectors, protectors, or  
19 other law enforcement officers to inspect weapons, equipment, nets, coolers or other  
20 holding containers, fish, or wildlife that the officer reasonably believes to be possessed  
21 incident to an activity regulated by any law or rule as to which inspectors and protectors  
22 have enforcement jurisdiction.

23 (l) Nothing in this section authorizes searches within the curtilage of a dwelling  
24 or of the living quarters of a vessel in contravention of constitutional prohibitions  
25 against unreasonable searches and seizures.”

26 Sec. 2. This act is effective upon ratification.