

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 133

Short Title: Transfer Marine Fisheries.

(Public)

Sponsors: Representative Smith.

Referred to: Environment, if favorable, Appropriations.

February 13, 1997

A BILL TO BE ENTITLED

1 AN ACT TO TRANSFER THE DIVISION OF MARINE FISHERIES FROM THE
2 DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES
3 TO THE DEPARTMENT OF AGRICULTURE.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. The Division of Marine Fisheries is transferred by a Type I transfer
7 from the Department of Environment, Health, and Natural Resources to the Department
8 of Agriculture. The statutory authority, powers, duties and functions, records, personnel,
9 property, unexpended balances of appropriations, allocations or other funds, including the
10 functions of budgeting and purchasing of the Department of Environment, Health, and
11 Natural Resources for the Division of Marine Fisheries are transferred to the Department
12 of Agriculture.

13 Section 2. G.S. 143B-279.3(a)(8) is repealed.

14 Section 3. G.S. 106-762(b) reads as rewritten:

15 "(b) Release of fish. It shall be unlawful to willfully release domestically raised
16 fish into the waters of the State, other than in private ponds as defined by G.S. 113-129,
17 without written permission of the Wildlife Resources Commission, or the Division of
18 Marine Fisheries of the Department of ~~Environment, Health, and Natural Resources.~~
19 Agriculture."

20 Section 4. G.S. 113-128 reads as rewritten:

1 **"§ 113-128. Definitions relating to agencies and their powers.**

2 The following definitions and their cognates apply to powers and administration of
3 agencies charged with the conservation of marine and estuarine and wildlife resources:

- 4 (1), (2) Repealed by Session Laws 1979, c. 830, s. 1.
5 (3) Department. – The Department of Environment, Health, and Natural
6 Resources.
7 (4) Executive Director. – Executive Director, North Carolina Wildlife
8 Resources Commission.
9 (4a) Fisheries Director. – Director, North Carolina Division of Marine
10 Fisheries of the Department of ~~Environment, Health, and Natural Resources~~
11 Agriculture who shall be qualified for the office by education or
12 experience.
13 (5) Inspector. – Marine fisheries inspector.
14 (5a) Marine Fisheries Commission. – The Marine Fisheries Commission of
15 the Department as established by Part 5A of Article 7 of Chapter 143B
16 of the General Statutes.
17 (5b) Marine Fisheries Inspector. – An employee of the Department, other
18 than a wildlife protector, sworn in as an officer and assigned duties
19 which include exercise of law enforcement powers under this
20 Subchapter. All references in statutes, regulations, contracts, and other
21 legal and official documents to commercial fisheries inspectors and to
22 commercial and sports fisheries inspectors apply to marine fisheries
23 inspectors.
24 (6) Notice; Notify. – Where it is required that notice be given an agency of
25 a situation within a given number of days, this places the burden on the
26 person giving notice to make sure that the information is received in
27 writing by a responsible member of the agency within the time limit.
28 (7) Protector. – Wildlife protector.
29 (8) Secretary. – Secretary of Environment, Health, and Natural Resources.
30 (9) Wildlife Protector. – An employee of the North Carolina Wildlife
31 Resources Commission sworn in as an officer and assigned to duties
32 which include exercise of law-enforcement powers.
33 (10) Wildlife Resources Commission. – The North Carolina Wildlife
34 Resources Commission as established by Article 24 of Chapter 143 of
35 the General Statutes and Part 3 of Article 7 of Chapter 143B of the
36 General Statutes."

37 Section 5. G.S. 120-70.62 reads as rewritten:

38 **"§ 120-70.62. Powers and duties.**

39 The Commission shall have the following powers and duties:

- 40 (1) To monitor and study the current seafood industry in North Carolina
41 including studies of the feasibility of increasing the State's production,
42 processing, and marketing of seafood;

- 1 (2) To study the potential for increasing the role of aquaculture in all
2 regions of the State;
- 3 (3) To evaluate the feasibility of creating a central permitting office for
4 fishing and aquaculture matters;
- 5 (4) To evaluate actions of the Marine Fisheries Division of the Department
6 of ~~Environment, Health, and Natural Resources, Agriculture,~~ the Wildlife
7 Resources Commission of the Department of Environment, Health, and
8 Natural Resources and of any other board, commission, department, or
9 agency of the State or local government as such actions relate to the
10 seafood and aquaculture industries;
- 11 (5) To make recommendations regarding regulatory matters relating to the
12 seafood and aquaculture industries including, but not limited to:
- 13 a. Increasing the State's representation and decision-making ability
14 by dividing the State between the Atlantic and South Atlantic
15 regions of the National Division of Marine Fisheries; and
- 16 b. Evaluating the necessity to substantially increase penalties for
17 trespass and theft of shellfish and other aquaculture products;
- 18 (6) To review and evaluate changes in federal law and regulations, relevant
19 court decisions, and changes in technology affecting the seafood and
20 aquaculture industries;
- 21 (7) To review existing and proposed State law and rules affecting the
22 seafood and aquaculture industries and to determine whether any
23 modification of law or rules is in the public interest;
- 24 (8) To make reports and recommendations, including draft legislation, to
25 the General Assembly from time to time as to any matter relating to the
26 powers and duties set out in this section; and
- 27 (9) To undertake such additional studies as it deems appropriate or as may
28 from time to time be requested by the President of the Senate, the
29 President Pro Tempore of the Senate, the Speaker of the House of
30 Representatives, either house of the General Assembly, the Legislative
31 Research Commission, or the Joint Legislative Commission on
32 Governmental Operations, and to make such reports and
33 recommendations to the General Assembly regarding such studies as it
34 deems appropriate."

35 Section 6. G.S. 143B-289.2(a) reads as rewritten:

36 "(a) As used in this Part:

- 37 (1) 'Commission' means the North Carolina Marine Fisheries Commission.
- 38 (2) 'Department' means the North Carolina Department of Environment,
39 Health, and Natural Resources.
- 40 (3) 'Fisheries Director' means the Director of the North Carolina Division of
41 Marine Fisheries of the Department of ~~Environment, Health, and Natural~~
42 ~~Resources, Agriculture.~~

1 (4) 'Secretary' means the Secretary of Environment, Health, and Natural
2 Resources."

3 Section 7. All rules adopted by the Division of Marine Fisheries as part of the
4 Department of Environment, Health, and Natural Resources that are in effect on the
5 effective date of this act shall remain in effect until amended or repealed by the Division
6 of Marine Fisheries as part of the Department of Agriculture.

7 Section 8. The Revisor of the Statutes shall change any remaining references
8 in the General Statutes to the "Division of Marine Fisheries of the Department of
9 Environment, Health, and Natural Resources" to the "Division of Marine Fisheries of the
10 Department of Agriculture".

11 Section 9. This act becomes effective July 1, 1997.