

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1708
Senate Agriculture/Environment and Natural Resources Committee Substitute Adopted
7/1/10
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Short Title: Clean Marinas Amendments.

(Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO DELAY THE EFFECTIVE DATE OF THE CLEAN COASTAL WATER AND VESSEL ACT FROM JULY 1, 2010, TO APRIL 1, 2011, AND TO LIMIT THE ACT'S APPLICATION TO ONLY THOSE AREAS THAT ARE DESIGNATED AS NO DISCHARGE ZONES BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND TO PROVIDE THAT THE COASTAL RESOURCES COMMISSION MAY AUTHORIZE THE CONSTRUCTION OF A TERMINAL GROIN BY VARIANCE IF CERTAIN CRITERIA ARE MET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 77-131 reads as rewritten:

"§ 77-131. Application of Article.

The provisions of this Article apply only to the following:

- (1) A large vessel marina that is located on coastal waters designated by the Environmental Protection Agency as a no discharge zone or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation.
- (2) A vessel in coastal waters that ~~are either is~~ designated as a no discharge zone ~~or are included in a petition to the Environmental Protection Agency to be designated as a no discharge zone unless the petition has been denied by the~~ Environmental Protection Agency."

SECTION 2. Section 3 of S.L. 2009-345 reads as rewritten:

"SECTION 3. Section 1 of this act becomes effective ~~July 1, 2010, April 1, 2011,~~ and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law."

SECTION 3. G.S. 113A-115.1 reads as rewritten:

"§ 113A-115.1. Limitations on erosion control structures.

(a) As used in this section:

- (1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty, revetment, seawall, or any similar structure.
- (2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands adjacent to an ocean inlet but does not include that portion of any inlet and lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.



1 (3) "Terminal groin" means a groin that is constructed on the side of an inlet to
2 limit or control sediment passage into the inlet channel.

3 (b) No person shall construct a permanent erosion control structure in an ocean
4 shoreline. The Commission shall not permit the construction of a temporary erosion control
5 structure that consists of anything other than sandbags in an ocean shoreline. This section shall
6 not apply to (i) any permanent erosion control structure that is approved pursuant to an
7 exception set out in a rule adopted by the Commission prior to 1 July 2003 or (ii) any
8 permanent erosion control structure that was originally constructed prior to 1 July 1974 and that
9 has since been in continuous use to protect an inlet that is maintained for navigation. This
10 section shall not be construed to limit the authority of the Commission to adopt rules to
11 designate or protect areas of environmental concern, to govern the use of sandbags, or to
12 govern the use of erosion control structures in estuarine shorelines.

13 (c) The Commission may renew a permit for an erosion control structure issued
14 pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may
15 authorize the replacement of a permanent erosion control structure that was permitted by the
16 Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the
17 Commission finds that: (i) the structure will not be enlarged beyond the dimensions set out in
18 the original permit; (ii) there is no practical alternative to replacing the structure that will
19 provide the same or similar benefits; and (iii) the replacement structure will comply with all
20 applicable laws and with all rules, other than the rule or rules with respect to which the
21 Commission granted the variance, that are in effect at the time the structure is replaced.

22 (d) In addition to the exceptions set out in subsection (b) of this section, the
23 Commission may approve a permit for construction of a terminal groin as a sediment
24 management device pursuant to a variance under G.S. 113A-120.1. A permit may be issued
25 under this section notwithstanding Commission rules or policies that would otherwise prohibit
26 such construction. Every application for a permit to construct a terminal groin under this
27 section shall be accompanied by an environmental impact statement that meets the
28 requirements of G.S. 113A-4. A permit issued for a terminal groin pursuant to this section shall
29 require any permittee to provide financial assurance, in the form of a bond, insurance policy,
30 escrow account, or other financial instrument, that is adequate to cover the cost of removal of
31 the terminal groin if the Commission determines through monitoring results that the terminal
32 groin project has an adverse impact on the environment or on other properties that cannot be
33 sufficiently mitigated."

34 **SECTION 4.** This act is effective when it becomes law.