

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2009**

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**HOUSE BILL 2014\***

Short Title: Remove Damage Cap/Review Offshore Oil Spills. (Public)

Sponsors: Representatives Harrison, Underhill, Glazier, Luebke (Primary Sponsors); K. Alexander, M. Alexander, Bordsen, Carney, Faison, Fisher, E. Floyd, Goodwin, Insko, Jackson, Jones, Lucas, Mackey, Martin, Mobley, Rapp, Weiss, and Whilden.

Referred to: Environment and Natural Resources, if favorable, Judiciary I, if favorable, Appropriations.

May 26, 2010

A BILL TO BE ENTITLED

1 AN ACT TO (1) REMOVE THE CAP ON THE TOTAL RECOVERY BY THE STATE FOR  
2 DAMAGE TO THE PUBLIC RESOURCES AND FOR THE COST OF ANY OIL OR  
3 OTHER HAZARDOUS SUBSTANCES CLEANUP ARISING FROM A DISCHARGE  
4 AND (2) DIRECT THE COASTAL RESOURCES COMMISSION TO CONDUCT A  
5 REVIEW AND EXAMINATION CONCERNING THE OIL SPILL ASSOCIATED WITH  
6 THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG  
7 AND THE ENVIRONMENTAL AND ECONOMIC EFFECTS OF THAT SPILL ON  
8 THE GULF COAST REGION AS WELL AS THE ENVIRONMENTAL AND  
9 ECONOMIC EFFECTS ON NORTH CAROLINA WERE SUCH AN OIL SPILL TO  
10 AFFECT THE COASTLINE OF NORTH CAROLINA EITHER BY TAKING PLACE  
11 OFF THE NORTH CAROLINA COAST OR BY TAKING PLACE ELSEWHERE YET  
12 REACHING THE WATERS AND COASTLINE OF NORTH CAROLINA.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 143-215.89 reads as rewritten:

15 **"§ 143-215.89. Multiple liability for necessary expenses.**

16 Any person liable for costs of cleanup of oil or other hazardous substances under this Part  
17 shall have a cause of action to recover such costs in part or in whole from any other person  
18 causing or contributing to the discharge of oil or other hazardous substances into the waters of  
19 the State, including any amount recoverable by the State as necessary expenses. ~~The total  
20 recovery by the State for damage to the public resources pursuant to G.S. 143-215.90 and for  
21 the cost of oil or other hazardous substances cleanup, arising from any discharge, shall not  
22 exceed the applicable limits prescribed by federal law with respect to the United States  
23 government on account of such discharge."~~

24 **SECTION 2.(a)** The Coastal Resources Commission shall review and examine all  
25 of the following:

- 26 (1) The state and federal permitting and consistency review process that  
27 approved the leases and granted the permits for the British Petroleum  
28 Deepwater Horizon offshore drilling rig off the Gulf Coast.  
29 (2) The environmental and economic effects on the Gulf Coast region of the  
30 recent oil spill caused by the failure at the British Petroleum Deepwater  
31 Horizon offshore drilling rig.  
32



- 1 (3) The effect of such a spill on North Carolina's environment, public health,  
2 and economy, including fisheries and tourism industries, were such an oil  
3 spill to affect the coastline of North Carolina either by taking place off the  
4 North Carolina coast or by taking place elsewhere yet reaching the waters  
5 and coastline of North Carolina.

6 **SECTION 2.(b)** Upon the review and examination under subsection (a) of this  
7 section, the Commission shall adopt temporary and permanent rules, pursuant to  
8 G.S. 113A-107 and G.S. 113A-124, to require data and information in addition to the data and  
9 information currently required by 15A North Carolina Administrative Code 7M.0403(f)(2) for  
10 State permits and federal consistency reviews for all energy facilities in or affecting any land or  
11 water use or natural resource of the North Carolina coastal area. Notwithstanding  
12 G.S. 150B-21.1(a), the authorization to adopt temporary rules pursuant to this subsection shall  
13 continue in effect until 1 July 2011. This subsection satisfies the requirement for a statement of  
14 finding of need for a temporary rule set out in G.S. 150B-21.1. The additional data and  
15 information required under this section shall include at least all of the following:

- 16 (1) An assessment of the potential for a blowout of any proposed well, including  
17 the estimated flow rate, total volume, and maximum duration of any  
18 blowout. This assessment should address the likelihood of surface  
19 intervention to stop the blowout, the availability of a rig to drill a relief well,  
20 rig package constraints, and the estimated time it would take to drill a relief  
21 well.
- 22 (2) A calculation of the volume of oil of the worst-case discharge scenario based  
23 on the following guidelines:
- 24 a. For production platforms, the calculation of worst-case discharge  
25 scenario shall include all of the following:
- 26 1. The maximum capacity of all oil storage tanks and flow lines  
27 on the facility. Under this sub-subdivision, flow line volume  
28 may be estimated.
- 29 2. The volume of oil calculated to leak from a break in any  
30 pipeline connected to the facility considering shutdown time,  
31 the effect of hydrostatic pressure, gravity, frictional wall  
32 forces, and other factors.
- 33 3. The daily production volume from an uncontrolled blowout  
34 of the highest capacity well associated with the facility. In  
35 determining the daily production volume under this sub  
36 subdivision, reservoir characteristics, casing and production  
37 tubing sizes, and historical production and reservoir pressure  
38 data shall be considered.
- 39 b. For exploratory or development drilling operations, the calculation of  
40 worst-case discharge scenario shall be based upon the daily volume  
41 possible from an uncontrolled blowout.
- 42 (3) A description of a spill response, including all of the following:
- 43 a. A description of the response equipment to be used to contain and  
44 recover the discharge to the maximum extent practicable. This  
45 description shall include the types, location, owner, quantity, and  
46 capabilities of the equipment as well as the effective daily recovery  
47 capacities, where applicable. The applicant shall calculate the  
48 effective daily recovery capacities. For operations at a drilling or  
49 production facility, the description shall include how the applicant is  
50 to address the initial spill volume upon arrival at the scene and the  
51 support operations for a blowout that continues for 30 days.

- 1           b.     A description of the personnel, materials, and support vessels that are  
2           necessary to ensure that the response equipment described under  
3           sub-subdivision a. of this subdivision is deployed and operated  
4           promptly and effectively. This description shall include the location  
5           and owner of these resources as well as the quantities and types of  
6           resources, if applicable.
- 7           c.     A description of oil storage, transfer, and disposal equipment. This  
8           description shall include the types, location, owner, quantity, and  
9           capacities of the equipment.
- 10          d.     An estimate of the amount of time needed to accomplish all of the  
11          following:  
12                1.     To procure the containment, recovery, and storage equipment  
13                described under this subdivision.  
14                2.     To procure the equipment transportation vessels.  
15                3.     To procure personnel to load and operate the containment,  
16                recovery, and storage equipment described under this  
17                subdivision.  
18                4.     To transfer the containment, recovery, and storage equipment  
19                described under this subdivision to all of the equipment  
20                transportation vessels.  
21                5.     To travel to the deployment site and to travel from an  
22                equipment storage area.  
23                6.     To deploy all identified containment, recovery, and storage  
24                equipment described under this subdivision.
- 25          (4)    An assessment of the number of jobs lost in tourism, fishing, and other  
26          affected industries as a result of a worst-case discharge scenario.
- 27          (5)    An assessment of alternatives to the proposed offshore drilling project that  
28          would limit the likelihood of a spill, to include at least an assessment of  
29          energy conservation as alternative.
- 30          (6)    An assessment of the potential damage from a worst-case spill scenario to  
31          coastal resources, including at least an assessment of the potential damage to  
32          the following: offshore reefs; rock outcrops or hard bottoms; sea turtle  
33          nesting beaches; freshwater and saltwater wetlands and primary or  
34          secondary nursery areas; essential fish habitat; submerged aquatic vegetation  
35          beds; shellfish beds; anadromous fish spawning and nursing areas; colonial  
36          bird nesting colonies; shorebird nesting habitats; and artificial reefs,  
37          shipwrecks, and submerged archaeological resources.
- 38          (7)    An explanation of specific measures to be taken to prevent and minimize  
39          damage to all of the coastal resources listed under subdivision (6) of this  
40          subsection.
- 41          (8)    A detailed description of any chemical dispersants that may be used in  
42          response to a spill, including information related to the impact of dispersants  
43          on coastal resources. This description shall include a comparison of toxicity  
44          of available dispersants.
- 45          (9)    An assessment of the potential for a spill to cause temporary or permanent  
46          violations of the federal and State water quality standards, including the  
47          antidegradation policy adopted pursuant to section 303(d) of the federal  
48          Clean Water Act (33 U.S.C. § 1313(d)).

49           **SECTION 3.** Pursuant to G.S. 113A-107 and G.S. 113A-124, the Commission of  
50 Coastal Resources shall adopt temporary and permanent rules to ensure that any impact  
51 assessment, as defined in 15A North Carolina Administrative Code 07M .0402(a), for any

1 proposal for oil or gas exploration activities shall include a full discussion of the items  
2 described in subdivisions (1) through (9) of subsection (a) of 15A North Carolina  
3 Administrative Code 07M .0402(a) for a worst-case discharge scenario associated with the  
4 proposal for oil or gas exploration activities. Notwithstanding G.S. 150B-21.1(a), the  
5 authorization to adopt temporary rules pursuant to this section shall continue in effect until 1  
6 July 2011. This section satisfies the requirement for a statement of finding of need for a  
7 temporary rule set out in G.S. 150B-21.1.

8 **SECTION 4.** There is appropriated from the General Fund to the Coastal  
9 Resources Commission the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal  
10 year to be used to conduct the review and examination under this act.

11 **SECTION 5.** This act is effective when it becomes law and applies to any damage  
12 to public resources and to any oil or hazardous cleanup that occur on or after that date.