

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS85352-LD-154A* (05/14)

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

(Public)

Sponsors: Senator Dickson.

Referred to:

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

- (1) The state and federal permitting and consistency review process that approved the leases and granted the permits for the British Petroleum Deepwater Horizon offshore drilling rig off the Gulf Coast.
- (2) The environmental and economic effects on the Gulf Coast region of the recent oil spill caused by the failure at the British Petroleum Deepwater Horizon offshore drilling rig.
- (3) The effect of such a spill on North Carolina's environment, public health, and economy, including fisheries and tourism industries, were such an oil



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1 spill to affect the coastline of North Carolina either by taking place off the
2 North Carolina coast or by taking place elsewhere yet reaching the waters
3 and coastline of North Carolina.

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

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

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

47 **SECTION 3.** Pursuant to G.S. 113A-107 and G.S. 113A-124, the Commission of
48 Coastal Resources shall adopt temporary and permanent rules to ensure that any impact
49 assessment, as defined in 15A North Carolina Administrative Code 07M .0402(a), for any
50 proposal for oil or gas exploration activities shall include a full discussion of the items
51 described in subdivisions (1) through (9) of subsection (a) of 15A North Carolina

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

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

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