

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1384*

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

Sponsors: Senators Dickson; Boseman, Graham, and Kinnaird.

Referred to: Appropriations/Base Budget.

May 26, 2010

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 spill to affect the coastline of North Carolina either by taking place off the



1 North Carolina coast or by taking place elsewhere yet reaching the waters
2 and coastline of North Carolina.

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

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

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

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

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

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

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