

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE DRH30275-LH-182 (04/05)**

Short Title: Oyster Restoration & Protection Act.

(Public)

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Sponsors: Representatives Culpepper, Justice, and Harrison (Primary Sponsors).

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Referred to:

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A BILL TO BE ENTITLED

1  
2 AN ACT TO ENHANCE THE INFRASTRUCTURE THAT SUPPORTS OYSTER  
3 RESTORATION ACTIVITIES, TO PROTECT AND RESTORE WATER  
4 QUALITY AND HABITAT IN PRIME OYSTER GROWING AREAS, TO  
5 APPROPRIATE FUNDS TO HELP SUPPORT PROJECTS TO REHABILITATE  
6 OYSTER HABITATS AND SANCTUARIES, TO APPROPRIATE FUNDS TO  
7 PLAN FOR THE DEVELOPMENT OF OYSTER HATCHERIES AT EACH OF  
8 THE THREE NORTH CAROLINA AQUARIUMS, AND TO DEVELOP PUBLIC  
9 EDUCATION PROGRAMS REGARDING THOSE OYSTER HATCHERIES.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** There is appropriated from the General Fund to the  
12 Department of Environment and Natural Resources the sum of two hundred thousand  
13 dollars (\$200,000) for the 2005-2006 fiscal year and the sum of two hundred thousand  
14 dollars (\$200,000) for the 2006-2007 fiscal year to be allocated to the Division of  
15 Marine Fisheries for the Shellfish Rehabilitation Program. The funds appropriated  
16 under this section shall be used to plant an additional 160,000 bushels of cultch material  
17 annually, i.e., oyster shell, clamshell, or marl.

18 **SECTION 2.** There is appropriated from the General Fund to the  
19 Department of Environment and Natural Resources the sum of two hundred thousand  
20 dollars (\$200,000) for the 2005-2006 fiscal year and the sum of two hundred thousand  
21 dollars (\$200,000) for the 2006-2007 fiscal year to be allocated to the Division of  
22 Marine Fisheries to create two oyster sanctuaries per year.

23 **SECTION 3.** There is appropriated from the General Fund to the  
24 Department of Environment and Natural Resources the sum of eighty thousand dollars  
25 (\$80,000) for the 2005-2006 fiscal year and the sum of eighty thousand dollars  
26 (\$80,000) for the 2006-2007 fiscal year to be allocated as follows:

1 (1) Of the funds appropriated by this section, the sum of forty-five  
2 thousand dollars (\$45,000) shall be used each fiscal year to support a  
3 position for an oyster shell recycling coordinator.

4 (2) Of the funds appropriated by this section, the sum of thirty-five  
5 thousand dollars (\$35,000) shall be used each fiscal year to provide  
6 recycling infrastructure.

7 **SECTION 4.** Article 21 of Chapter 143 of the General Statutes is amended  
8 by adding a new section to read:

9 **§ 143-214.2C. Prohibited discharges to prime shellfish waters.**

10 (a) Definitions. – The following definitions apply in this section:

11 (1) "Stormwater outfall" means any conduit including, but not limited to,  
12 pipes, ditches, swales, drains, canals, gutters, impoundments, curbs, or  
13 impervious surfaces that directly or indirectly discharge to State  
14 waters.

15 (2) "Prime shellfish growing area" includes any saltwater shellfish  
16 growing area in which all or part of the shellfish growing area is  
17 classified as Outstanding Resource Waters by the Environmental  
18 Management Commission. The term also includes, but is not limited  
19 to, shellfish growing areas A-2, A-3, B-1, B-7, B-9, C-1, C-2, C-3,  
20 D-3, E-4, E-6, F-1, F-2, F-5, F-7, G-3, G-4, and G-7 as delineated by  
21 the North Carolina Division of Environmental Health. Additional  
22 growing areas may be determined to be prime shellfish growing areas  
23 through a proclamation by the Director of the Division of Marine  
24 Fisheries.

25 (b) Notwithstanding any other provision of law, no new or expanded discharge of  
26 stormwater shall be permitted through any stormwater outfall that drains to a prime  
27 shellfish growing area or unnamed freshwater tributaries to a prime shellfish growing  
28 area, except in the case of a storm exceeding the 10-year/24-hour storm."

29 **SECTION 5.** There is appropriated from the General Fund to the  
30 Department of Environment and Natural Resources the sum of two hundred thirty-seven  
31 thousand dollars (\$237,000) for the 2005-2006 fiscal year and the sum of two hundred  
32 thirty-seven thousand dollars (\$237,000) for the 2006-2007 fiscal year to be allocated to  
33 the Division of Environmental Health as follows:

34 (1) Of the funds appropriated by this section, the sum of sixty-nine  
35 thousand dollars (\$69,000) shall be used each fiscal year to support a  
36 position for a GIS staff person.

37 (2) Of the funds appropriated by this section, the sum of one hundred  
38 sixty-eight thousand dollars (\$168,000) shall be used each fiscal year  
39 to support three positions for shoreline surveyors to expand the pilot  
40 program that examines the sources of pollution that affect shellfish  
41 growing areas to all shellfish growing areas in the coastal region.

42 **SECTION 6.(a)** The General Assembly finds that under the State Revolving  
43 Fund (SRF), Congress provides the states with grant funds to establish revolving loan  
44 programs to assist in the funding of wastewater treatment facilities and projects

1 associated with estuary and nonpoint source programs and that in order to receive  
2 funding from the SRF, projects must be included on a priority funding list.

3         **SECTION 6.(b)** The installation of stormwater retrofits that improve water  
4 quality shall be an equal priority with water and sewer projects under the State  
5 Revolving Fund (SRF) and any other grants or loans established under State bond  
6 authority through the Department of Environment and Natural Resources, the North  
7 Carolina Rural Economic Development Center, or any other entity. Stormwater  
8 retrofits that remove outfalls from waters that have been classified as Class SA waters  
9 by the Environmental Management Commission shall be given the highest priority in  
10 the SRF rating system, subject to approval by the United States Environmental  
11 Protection Agency if required. As an incentive, SRF loans that are made to eligible  
12 entities to install stormwater retrofits that remove outfalls that discharge into Class SA  
13 waters shall be free of interest.

14         **SECTION 7.(a)** The Division of North Carolina Aquariums of the  
15 Department of Environment and Natural Resources shall plan for the development of an  
16 oyster hatchery and public education program regarding the hatcheries at each of the  
17 three North Carolina aquariums. The Division shall be the lead agency in planning the  
18 development of the hatcheries and public education programs but shall consult with all  
19 of the following in carrying out this project: Division of Marine Fisheries of the  
20 Department of Environment and Natural Resources, Sea Grant College Program at The  
21 University of North Carolina, The University of North Carolina Coastal Studies  
22 Institute, Institute of Marine Sciences at the University of North Carolina at Chapel Hill,  
23 the University of North Carolina at Wilmington, and any other appropriate institutions  
24 of higher education.

25         **SECTION 7.(b)** There is appropriated from the General Fund to the  
26 Department of Environment and Natural Resources the sum of three hundred thousand  
27 dollars (\$300,000) for the 2005-2006 fiscal year to be allocated to the Division of North  
28 Carolina Aquariums to implement this section.

29         **SECTION 8.** This act becomes effective July 1, 2005.