

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 867

Short Title: Coastal Fisheries Conservation/Econ. Dev. (Public)

Sponsors: Representatives Yarborough, J. Bell, Davis, and Adams (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Wildlife Resources, if favorable, Appropriations

April 21, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE THE ECONOMIC DEVELOPMENT OF COASTAL NORTH
3 CAROLINA THROUGH THE RESTORATION AND LONG-TERM CONSERVATION
4 OF NORTH CAROLINA'S PUBLIC, COASTAL FISHERIES RESOURCES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** This act shall be known as the "Coastal Fisheries Conservation and
7 Economic Development Act of 2017."
8

9 **CONSERVATION POLICY**

10 **SECTION 2.1.** G.S. 143B-279.2 reads as rewritten:

11 **"§ 143B-279.2. Department of Environmental Quality – duties.**

12 It shall be the duty of the Department:

- 13 (1) To provide for the protection of the environment;
14 (1a) To administer the State Outer Continental Shelf (OCS) Task Force and
15 coordinate State participation activities in the federal outer continental shelf
16 resource recovery programs as provided under the OCS Lands Act
17 Amendments of 1978 (43 USC §§ 1801 et seq.) and the OCS Lands Act
18 Amendments of 1986 (43 USC §§ 1331 et seq.).
19 (1b) To provide for the protection of the environment and public health through
20 the regulation of solid waste and hazardous waste management and the
21 administration of environmental health programs.
22 (2) Repealed by Session Laws 1997-443, s. 11A.5, effective August 28, 1997.
23 (2a) Repealed by Session Laws 2015-241, s. 14.30(kkk), effective July 1, 2015.
24 (3) To provide for the conservation and management of the State's natural
25 resources.
26 (4) Repealed by Session Laws 2011-145, s. 13.11, effective July 1, 2011."

27 **SECTION 2.2.** G.S. 113-181(a) is recodified as G.S. 113-181(a1).

28 **SECTION 2.3.** G.S. 113-181, as amended by Section 2.2 of this act, reads as
29 rewritten:

30 **"§ 113-181. ~~Duties~~ Declaration of policy; duties and powers of Department.**

31 (a) North Carolina's marine and estuarine resources are a public trust resource
32 belonging to all citizens of the State. It is declared to be in the interest of the public welfare of
33 North Carolina that these resources be managed to ensure their long-term conservation. Coastal
34 fisheries resources shall be conserved, protected, and enhanced for the benefit, use, and
35 enjoyment of all current and future citizens and visitors to the State.



1 (a1) It is the duty of the Department to administer and enforce the provisions of this
2 Subchapter pertaining to the conservation of marine and estuarine resources. In execution of
3 this duty, the Department shall fully implement the policy set out in subsection (a) of this
4 section and may collect such statistics, market information, and research data as is necessary or
5 useful to the promotion of sports and commercial fisheries in North Carolina and the
6 conservation of marine and estuarine resources generally; conduct or contract for research
7 programs or research and development programs applicable to resources generally and to
8 methods of cultivating, harvesting, marketing, or processing fish as may be beneficial in
9 achieving the objectives of this Subchapter; enter into reciprocal agreements with other
10 jurisdictions with regard to the conservation of marine and estuarine resources; and regulate
11 placement of nets and other sports or commercial fishing apparatus in coastal fishing waters
12 with regard to navigational and recreational safety as well as from a conservation standpoint.

13 (b) The Department is directed to make every reasonable effort to carry out the duties
14 imposed in this Subchapter."

15 **SECTION 2.4.** G.S. 143B-289.51 reads as rewritten:

16 "**§ 143B-289.51. Marine Fisheries Commission – creation; purposes.**

17 (a) There is hereby created the Marine Fisheries Commission in the Department of
18 Environmental Quality.

19 (a1) The legislative policy for the Department set out in G.S. 113-181(a) shall apply to
20 the Marine Fisheries Commission in carrying out the functions, purposes, and duties set forth in
21 subsection (b) of this section and in exercising the powers and duties set forth in
22 G.S. 143B-289.52.

23 (a2) In exercising each of its various powers and duties, the Marine Fisheries
24 Commission shall apply the following coastal fisheries policies and standards to its actions:

25 (1) The paramount concern of conservation and management measures shall be
26 the continuing health and abundance of the marine and estuarine resources
27 of North Carolina.

28 (2) Conservation and management measures shall be based upon the best
29 available biological information; allocation decisions shall be based upon the
30 best available sociological, economic, and other information deemed
31 relevant by the Commission.

32 (3) Conservation and management measures shall permit reasonable means and
33 quantities of annual harvest, consistent with maintaining a viable residual
34 stock biomass to ensure stock replenishment on a continuing basis.

35 (4) When possible and practicable, stocks of fish shall be managed as a
36 biological unit.

37 (5) State coastal fishery management plans shall be developed as set out in
38 G.S. 113-182.1 to implement conservation and management measures for all
39 marine fishery resources of commercial, recreational, or ecological
40 importance.

41 (6) Conservation and management decisions shall be fair and equitable to all the
42 people of the State and carried out in such a manner that no individual,
43 corporation, or entity acquires an excessive share of any privileges extended
44 by the State regarding the use of marine and estuarine resources.

45 (7) Federal fishery management plans and fishery management plans of other
46 states or interstate commissions shall be considered when developing State
47 coastal fishery management plans. Inconsistencies should be avoided unless
48 the Commission determines that the conflicting plan is not in the best
49 interest of North Carolina fisheries.

50 (b) The functions, purposes, and duties of the Marine Fisheries Commission are to:

- 1 (1) Manage, ~~restore, regulate,~~ develop, ~~and cultivate, conserve, protect, and~~
2 ~~regulate~~cultivate the marine and estuarine resources within its jurisdiction, as
3 described in ~~G.S. 113-132~~G.S. 113-132, in a manner intended to conserve,
4 protect, restore, and enhance those resources for the benefit of current and
5 future generations of State citizens.

6"

7 **SECTION 2.5.** G.S. 143B-289.52(a) is recodified as G.S. 143B-289.52(a1).

8 **SECTION 2.6.** G.S. 143B-289.52, as amended by section 2.5 of this act, reads as
9 rewritten:

10 **"§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

11 (a) In adopting rules and exercising its other powers and duties under subsections (a1)
12 through (i) of this section, the Commission shall implement the legislative policies set out in
13 subsections (a1) and (a2) of G.S. 143B-289.51.

14 (a1) The Marine Fisheries Commission shall adopt rules to be followed in the
15 management, protection, preservation, and enhancement of the marine and estuarine resources
16 within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries
17 resources. The Marine Fisheries Commission shall have the power and duty:

- 18 (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of
19 marine and estuarine resources in coastal fishing waters with respect to:
20 a. Time, place, character, or dimensions of any methods or equipment
21 that may be employed in taking fish.
22 b. Seasons for taking fish.
23 c. Size limits on and maximum quantities of fish that may be taken,
24 possessed, bailed to another, transported, bought, sold, or given
25 away.
- 26 (2) To provide fair regulation of commercial and recreational fishing groups in
27 the interest of the public.
- 28 (3) To adopt rules and take all steps necessary to develop and improve
29 mariculture, including the cultivation, harvesting, and marketing of shellfish
30 and other marine resources in the State, involving the use of public grounds
31 and private beds as provided in G.S. 113-201.
- 32 (4) To close areas of public bottoms under coastal fishing waters for such time
33 as may be necessary in any program of propagation of shellfish as provided
34 in G.S. 113-204.
- 35 (5) In the interest of conservation of the marine and estuarine resources of the
36 State, to institute an action in the superior court to contest the claim of title
37 or claimed right of fishery in any navigable waters of the State registered
38 with the Department as provided in G.S. 113-206(d).

39 (5a) In the interest of conservation of the marine and estuarine resources of the
40 State and in keeping with the public trust resource conservation policies set
41 out in subsections (a1) and (a2) of G.S. 143B-289.51, to enact rules
42 applicable to each State commercial or recreational fishery that eliminate
43 bycatch mortality of nontargeted species. Where bycatch mortality cannot be
44 eliminated entirely from a fishery, the Commission shall enact rules that
45 minimize bycatch mortality of nontargeted species to the maximum
46 practicable extent.

47"

48 **SECTION 2.7.** G.S. 113-129(1f) is recodified as G.S. 113-129(1g).

49 **SECTION 2.8.** G.S. 113-129, as amended by Section 2.7 of this act, reads as
50 rewritten:

51 **"§ 113-129. Definitions relating to resources.**

1 The following definitions and their cognates apply in the description of the various marine
2 and estuarine and wildlife resources:

3 (1) Repealed by Session Laws 1979, c. 830, s. 1.

4 (1a) Animals. – Wild animals, except when the context clearly indicates a
5 contrary interpretation.

6 (1b) Big Game. – Bear, wild turkey, and white-tailed deer.

7 (1c) Birds. – Wild birds, except when the context clearly indicates a contrary
8 interpretation.

9 (1d) Boating and Fishing Access Area. – An area of land providing access to
10 public waters and which is owned, leased, controlled, or managed by the
11 Wildlife Resources Commission.

12 (1e) Bushel. – A dry measure containing 2,150.42 cubic inches.

13 (1f) Bycatch. – Marine and estuarine resources which are harvested in a fishery
14 but which are not sold or kept for personal use or may not legally be sold or
15 kept for personal use. The term includes economic discards, regulatory
16 discards, and retained fish harvested incidental to a targeted species.

17 (1g) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer).

18 (2) Coastal Fisheries. – Any and every aspect of cultivating, taking, possessing,
19 transporting, processing, selling, utilizing, and disposing of fish taken in
20 coastal fishing waters, whatever the manner or purpose of taking, except for
21 the regulation of inland game fish in coastal fishing waters which is vested
22 in the Wildlife Resources Commission; and all such dealings with fish,
23 wherever taken or found, by a person primarily concerned with fish taken in
24 coastal fishing waters so as to be placed under the administrative supervision
25 of the Department. Provided, that the Department is given no authority over
26 the taking of fish in inland fishing waters. Except as provisions in this
27 Subchapter or in regulations of the Marine Fisheries Commission authorized
28 under this Subchapter may make such reference inapplicable, all references
29 in statutes, regulations, contracts, and other legal or official documents to
30 commercial fisheries apply to coastal fisheries.

31 (3) Coastal Fishing. – All fishing in coastal fishing waters. Except as provisions
32 in this Subchapter or in regulations of the Marine Fisheries Commission
33 authorized under this Subchapter may make such references inapplicable, all
34 references in statutes, regulations, contracts, and other legal or official
35 documents to commercial fishing apply to coastal fishing.

36 (4) Coastal Fishing Waters. – The Atlantic Ocean; the various coastal sounds;
37 and estuarine waters up to the dividing line between coastal fishing waters
38 and inland fishing waters agreed upon by the Marine Fisheries Commission
39 and the Wildlife Resources Commission. Except as provisions in this
40 Subchapter or changes in the agreement between the Marine Fisheries
41 Commission and the Wildlife Resources Commission may make such
42 reference inapplicable, all references in statutes, regulations, contracts, and
43 other legal or official documents to commercial fishing waters apply to
44 coastal fishing waters.

45 (4a) Conservation. – The protection, preservation, restoration, and rational use of
46 natural resources in a manner that promotes continuing and long-term
47 quantity, quality, and ecosystem function of those resources, thereby
48 protecting the resource's capacity for self-renewal as well as ensuring
49 resource availability for use by future generations.

50 ...

- 1 (12c) Overfished. – The condition of a fishery that occurs when the spawning
2 stock biomass of the fishery is below the level that is adequate for the
3 recruitment class of a fishery to replace the spawning class of the fishery.
- 4 (12d) Overfishing. – Fishing that causes a level of mortality that ~~prevents a fishery~~
5 ~~from producing a sustainable harvest.~~ may prevent conservation of a fishery
6 or fish stock by reducing the spawning stock biomass of the fishery to a level
7 that causes the fishery to be overfished.
- 8 (13) Private Pond. – A body of water arising within and lying wholly upon a
9 single tract of privately owned land, from which fish cannot escape and into
10 which fish cannot enter from public fishing waters at any time, except that
11 all publicly owned ponds and lakes are classified as public fishing waters. In
12 addition, the private owners of abutting tracts of land on which a pond not
13 exceeding 10 acres is or has been established may by written agreement
14 cooperate to maintain that pond as a private pond if it otherwise meets the
15 requirements of this definition. If a copy of the agreement has been filed
16 with the Wildlife Resources Commission and the pond in fact meets the
17 requirements of this definition, it attains the status of private pond either 60
18 days after the agreement has been filed or upon the Commission's approving
19 it as private, whichever occurs first.
- 20 (13a) Public Fishing Waters; Public Waters. – Coastal fishing waters, inland
21 fishing waters, or both.
- 22 (13b) Public Hunting Grounds. – Privately owned lands open to the public for
23 hunting under the terms of a cooperative agreement between the owner and
24 the Wildlife Resources Commission.
- 25 (13c) Raptor. – A migratory bird of prey authorized under federal law and
26 regulations for the taking of quarry by falconry.
- 27 (14) Shellfish. – Mollusca, specifically including oysters, clams, mussels, and
28 scallops.
- 29 (14a) ~~Sustainable harvest. — The amount of fish that can be taken from a fishery on~~
30 ~~a continuing basis without reducing the stock biomass of the fishery or~~
31 ~~causing the fishery to become overfished.~~

32"

33 **SECTION 2.9.** G.S. 113-224(b) reads as rewritten:

34 "(b) The Fisheries Director or a designee of the Fisheries Director ~~shall not~~may enter
35 into an agreement with the National Marine Fisheries Service of the United States Department
36 of Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law
37 enforcement powers over matters within the jurisdiction of the National Marine Fisheries
38 Service."

39
40 **FISHERY MANAGEMENT PLANS**

41 **SECTION 3.** G.S. 113-182.1 reads as rewritten:

42 **"§ 113-182.1. Fishery Management Plans.**

43 (a) The Department shall prepare proposed Fishery Management Plans for adoption by
44 the Marine Fisheries Commission for all commercially or recreationally significant species or
45 fisheries that comprise State marine or estuarine resources. Proposed Fishery Management
46 Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria
47 established by the Marine Fisheries Commission under G.S. 143B-289.52.

48 (b) The goal of the plans shall be to ensure the long-term viability of the State's
49 commercially and recreationally significant species or fisheries. Each plan shall be designed to
50 reflect fishing practices so that one plan may apply to a specific fishery, while other plans may
51 be based on gear or geographic areas. Nevertheless, in accordance with the policy standards set

1 out in G.S. 143B-289.51(a2), stocks of fish, when possible and practicable, shall be managed as
2 a biological unit. Each plan shall:

- 3 (1) Contain necessary information pertaining to the fishery or fisheries,
4 including management goals and objectives, all biological and ecological
5 data necessary for the conservation of the fishery, status of relevant fish
6 stocks, stock assessments for multiyear species, fishery habitat and water
7 quality considerations consistent with Coastal Habitat Protection Plans
8 adopted pursuant to G.S. 143B-279.8, social and economic impact of the
9 fishery to the State, and user conflicts.
- 10 (2) ~~Recommend those management actions pertaining to the fishery or fisheries.~~
- 11 (3) ~~Include conservation and management measures that will~~ measures that
12 would provide the greatest overall benefit to the State, particularly with
13 respect to food production, recreational opportunities, and the protection of
14 marine ecosystems, and that will produce a sustainable harvest, ensuring the
15 conservation of marine and estuarine resources and ecosystems and
16 protecting those resources from overexploitation. In order to achieve coastal
17 fisheries conservation and restoration, plan management measures shall
18 include all of the following:
- 19 a. Biological benchmarks for a species based on precautionary
20 principles of fisheries management, in order to measure progress in
21 conservation of the fishery.
- 22 b. Threshold biomass levels consistent with conservation of a
23 proportion of the unfished adult stock biomass sufficient to prevent
24 overfishing.
- 25 c. Target biomass levels that exceed the threshold biomass level
26 sufficiently to provide a conservation buffer between the threshold
27 and target biomass levels.
- 28 d. An ecosystem buffer, set as a percentage of the stock biomass based
29 on the species life, history, characteristics, and contribution to
30 ecosystem stability that is added to the target biomass level to ensure
31 stock conservation by accounting for forage species, species
32 diversity, and other critical ecosystem functions.
- 33 e. Minimum size limits that would allow at least seventy-five percent
34 (75%) of juvenile fishes to survive harvest mortality and reach
35 spawning age.
- 36 f. An assessment of stock status and target biomass levels, as it relates
37 to overfishing, and management measures to end overfishing and
38 restore stock conservation within two years from plan adoption.
- 39 g. Allowable catch limits for commercial and recreational fisheries with
40 accountability measures in the event catch limits are exceeded.
- 41 h. Management measures to minimize bycatch mortality of nontargeted
42 species in the fishery under consideration.
- 43 i. Management measures related to the annual collection and analysis
44 of stock size and age structure data as a measure of stock health and
45 conservation status.
- 46 (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.
- 47 (5) Specify a time period, not to exceed two years from the date of the adoption
48 of the plan, to end overfishing. ~~This subdivision shall not apply if the~~
49 ~~Fisheries Director determines that the biology of the fish, environmental~~
50 ~~conditions, or lack of sufficient data make implementing the requirements of~~

~~this subdivision incompatible with professional standards for fisheries management.~~

(a) At the Commission's first regular meeting following the end of the two-year period, the Division shall report to the Commission whether overfishing has ended under plan management rules. Where the Commission determines that management measures under a plan have been insufficient to end overfishing within two years, the Commission shall utilize its supplemental authority under subdivision (e1) of this section to implement those measures necessary to end overfishing immediately. The Commission shall concurrently begin the process of adopting those permanent rules necessary to end overfishing. While the Commission is developing and implementing supplemental rules, the Fisheries Director shall exercise the Director's delegated proclamation authority under G.S. 143B-289.52(a)(8) to close the fishery to further harvest until the supplemental rules are in effect.

(b) Where the Commission determines that overfishing is occurring in a fishery at any time following the initial two-year overfishing assessment period under a plan, the management requirements for an overfished stock under sub-subdivision a. of this subdivision shall apply.

(6) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for achieving a sustainable harvest-conservation in a fishery. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management. In the event that the Commission is unable to achieve conservation in a fishery within 10 years despite closing the fishery to further harvest, the Commission shall recommend to the Joint Legislative Commission on Governmental Operations those actions of other state agencies or proposed legislation the Commission finds necessary to restore the fishery.

(7) ~~Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.~~

(8) Recommend appropriate management actions pertaining to the fishery or fisheries as directed in this subsection. In doing so, the plan shall contain scientific data or other objective information that reasonably demonstrates that the time periods and standards specified in subdivisions (5) and (6) of this subsection will be achieved by the actions recommended in the plan. If such data are not available, then the plan shall recommend those management measures most likely to conserve and protect the fishery resource under consideration, thereby ensuring that the stock remains biologically viable.

(c) ~~To assist the Commission in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint a fishery management plan advisory committee. Each fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery~~

1 ~~for which the Fishery Management Plan is being developed~~ there is hereby established a
2 council to be known as the Marine Fisheries Resources Advisory Council.

3 (1) Membership and terms. – The Marine Fisheries Resources Advisory Council
4 shall consist of not more than 20 members appointed by the Marine Fisheries
5 Commission. The Council shall be composed of persons with appropriate
6 expertise in coastal fishery resources. Counties and cities in the coastal area
7 may nominate candidates for consideration by the Commission. The terms of
8 all Council members serving on the Council on January 1, 2018, shall expire
9 on July 31, 2018. A new Council shall be appointed in the manner provided
10 by this subsection with terms beginning on August 1, 2018, and expiring on
11 June 30, 2020. Thereafter, members shall be appointed to two-year terms
12 beginning on July 1 of even-numbered years and expiring on June 30 of the
13 next even-numbered year. Members may be reappointed at the discretion of
14 the Commission, provided that one-half of the membership at the beginning
15 of any two-year term is a resident of counties in the coastal area.

16 (2) Functions and duties. – The Advisory Council shall assist the Division and
17 Commission in an advisory capacity in Fishery Management Plan
18 development regarding all of the following:

19 a. On matters which may be submitted to it by either of them, including
20 technical questions relating to the development of rules.

21 b. On such other matters pertaining to Plan development as the Council
22 considers appropriate.

23 (c1) The Department shall consult with the regional advisory committees established
24 pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan.
25 ~~Before submission of a plan for review by the Joint Legislative Commission on Governmental~~
26 ~~Operations, the Department shall review any comment or recommendation regarding the plan~~
27 ~~that a regional advisory committee submits to the Department within the time limits established~~
28 ~~in the Schedule for the development and adoption of Fishery Management Plans established by~~
29 ~~G.S. 143B-289.52. Before the Commission adopts a management measure to implement a plan,~~
30 ~~the Commission shall review any comment or recommendation regarding the management~~
31 ~~measure that a regional advisory committee submits to the Commission.~~ Plan and shall inform
32 the Commission of any comment or recommendation regarding plan management measures
33 submitted to it by a regional advisory committee.

34 (d) Each Fishery Management Plan shall be reviewed at least once every five years. The
35 Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it
36 determines that a revision of the Priority List or guidance criteria will facilitate or improve the
37 development of Fishery Management Plans or is necessary to restore, conserve, or protect the
38 marine and estuarine resources of the State. The Marine Fisheries Commission may not revise
39 the Schedule for the development of a Fishery Management Plan, once adopted, without the
40 approval of the Secretary of Environmental Quality.

41 (e) The Secretary of Environmental Quality shall monitor progress in the development
42 and adoption of Fishery Management Plans in relation to the Schedule for development and
43 adoption of the plans established by the Marine Fisheries Commission. The Secretary of
44 Environmental Quality shall report to the Joint Legislative Commission on Governmental
45 Operations within 30 days of the completion or substantial revision of each proposed Fishery
46 Management Plan. The Joint Legislative Commission on Governmental Operations shall
47 review each proposed Fishery Management Plan within 30 days of the date the proposed Plan
48 is submitted by the Secretary. The Joint Legislative Commission on Governmental Operations
49 may submit comments and recommendations on the proposed Plan to the Secretary within 30
50 days of the date the proposed Plan is submitted by the Secretary.

1 (e1) ~~If the Secretary determines that it is in the interest of the long-term viability of a~~
2 ~~fishery, the Secretary may authorize the Commission to~~ The Commission may develop
3 temporary management measures to supplement an existing Fishery Management Plan pursuant
4 to this subsection if it determines that it is necessary to the long-term viability of a species or
5 fishery; alternatively, if the Secretary makes a similar determination and requests action by the
6 Commission, the Commission shall develop temporary management measures to supplement
7 an existing Fishery Management Plan pursuant to this subsection. Development of temporary
8 management measures pursuant to this subsection is exempt from subsections (c), (c1), and (e)
9 of this section and the Priority List, Schedule, and guidance criteria established by the Marine
10 Fisheries Commission under G.S. 143B-289.52. However, the Commission shall consult with
11 the regional advisory committees regarding the development of any temporary management
12 measures and review any comment or recommendation regarding the management measure that
13 a regional advisory committee submits to the Commission. During the next review period for a
14 Fishery Management Plan supplemented pursuant to this subsection, the Commission shall
15 either incorporate the temporary management measures into the revised Fishery Management
16 Plan or the temporary management measures shall expire on the date the revised Fishery
17 Management Plan is adopted.

18 (f) The Marine Fisheries Commission shall adopt rules to implement Fishery
19 Management Plans in accordance with Chapter 150B of the General Statutes.

20 (g) To achieve ~~sustainable harvest~~ conservation of a fishery or fish stock under a Fishery
21 Management Plan, the Marine Fisheries Commission may include in the Plan a
22 recommendation that the General Assembly (i) limit the number of fishermen authorized to
23 participate in the fishery and (ii) appropriate program funding to reduce economic
24 burdens to commercial license holders due to changes in fishery participation prohibitions. The
25 Commission may recommend that the General Assembly limit participation in a fishery only if
26 the Commission determines that ~~sustainable harvest~~ fishery conservation cannot otherwise be
27 achieved. In determining whether to recommend that the General Assembly limit participation
28 in a fishery, the Commission shall consider all of the following factors:

- 29 (1) Current participation in and dependence on the fishery.
- 30 (2) Past fishing practices in the fishery.
- 31 (3) Economics of the fishery.
- 32 (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- 33 (5) Cultural and social factors relevant to the fishery and any affected fishing
34 communities.
- 35 (6) Capacity of the fishery to support biological parameters.
- 36 (7) Equitable resolution of competing social and economic interests.
- 37 (8) Any other relevant considerations."

38 39 **TEMPORARY RULES**

40 **SECTION 4.** G.S. 150B-21.1(a) is amended by adding a new subdivision to read:

41 "(7a) The need for the Marine Fisheries Commission to establish any of the
42 following in order to comply with subdivisions (5) and (6) of
43 G.S. 113-182.1(b) or G.S. 113-182.1(e1):

- 44 a. Fishing seasons, including provisions for manner of take or any other
45 conditions required for the implementation of such seasons.
- 46 b. Fishing size and harvest limits."

47 48 **JOBS AND INVESTMENTS TO SUPPORT COMMERCIAL FISHERIES**

49 **SECTION 5.** There is appropriated from the General Fund to the Division of
50 Marine Fisheries of the Department of Environmental Quality the sum of seven hundred fifty
51 thousand dollars (\$750,000) in recurring funds for the following purposes:

- 1 (1) A study by the Division of the impact to holders of commercial fishing
2 licenses due to changes to rules and Fisheries Management Plans resulting
3 from this act.
- 4 (2) The design and implementation of a fisheries license buyback program for
5 impacted commercial license holders.
- 6 (3) The extension and expansion of programs to remove crab pots and other
7 derelict fishing gear from northeastern, eastern, and southeastern North
8 Carolina waters, with preference for program participants granted to
9 transitioning commercial license holders.
- 10 (4) The expansion of aquaculture and shellfish leasing programs, including
11 training and start-up funding for new participants in those programs, with
12 preference given to transitioning commercial license holders.

13 **SECTION 6.** This act is effective when it becomes law.