

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 132  
HOUSE BILL 554

AN ACT TO PROVIDE FOR THE CONTROL OF AQUATIC WEEDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 15.  
"Aquatic Weed Control.

**"§ 113A-220. Short title.**

This Article shall be known as the Aquatic Weed Control Act of 1991.

**"§ 113A-221. Definitions.**

Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

- (1) 'Department' means the Department of Environment, Health, and Natural Resources.
- (2) 'Secretary' means the Secretary of Environment, Health, and Natural Resources or his designee.
- (3) 'Noxious aquatic weed' means any plant organism so designated under this Article.
- (4) 'Waters of the State' means any surface body or accumulation of water, whether publicly or privately owned and whether naturally occurring or artificially created, which is contained within, flows through, or borders upon any part of this State.

**"§ 113A-222. Designation of noxious aquatic weeds.**

(a) The Secretary, after consultation with the Director of the North Carolina Agricultural Extension Service, the Wildlife Resources Commission, and the Marine Fisheries Commission, and with the concurrence of the Commissioner of Agriculture, may designate as a noxious aquatic weed any plant organism which:

- (1) Grows in or is closely associated with the aquatic environment, whether floating, emersed, submersed, or ditch-bank species, and including terrestrial phases of any such plant organism;
- (2) Exhibits characteristics of obstructive nature and either massive productivity or choking density; and
- (3) Is or may become a threat to public health or safety or to existing or new beneficial uses of the waters of the State.

(b) A plant organism may be designated as being a noxious aquatic weed either throughout the State or within specified areas within the State.

(c) The Secretary shall designate a plant organism as a noxious aquatic weed by rules adopted pursuant to Chapter 150B of the General Statutes.

(d) The Secretary may modify or withdraw any designation of a plant organism as a noxious aquatic weed made previously under this section. Any modification or withdrawal of such designation shall be made following the procedures for designation set out in this section.

**"§ 113A-223. Powers and duties of the Secretary.**

(a) The Secretary shall direct the control, eradication, and regulation of noxious aquatic weeds so as to protect and preserve human health, safety, and the beneficial uses of the waters of the State and to prevent injury to property and beneficial plant and animal life. The Secretary shall have the power to:

- (1) Conduct research and planning related to the control of noxious aquatic weeds;
- (2) Coordinate activities of all public bodies, authorities, agencies, and units of local government in the control and eradication of noxious aquatic weeds;
- (3) Delegate to any public body, authority, agency, or unit of local government any power or duty under this Article, except that the Secretary may not delegate the designation of noxious aquatic weeds;
- (4) Accept donations, grants, and services from both public and private sources;
- (5) Enter into contracts or agreements, including cost-sharing agreements, with public or private agencies for research and development of methods of control of noxious aquatic weeds or for the performance of noxious aquatic weed control activities;
- (6) Construct, acquire, operate, and maintain facilities and equipment necessary for the control of noxious aquatic weeds; and
- (7) Enter upon private property for purposes of conducting investigations and engaging in aquatic weed control activities.

(b) The Secretary may control, remove, or destroy any noxious aquatic weed located in the waters of the State or in areas adjacent to such waters wherever such weeds threaten to invade such waters. The Secretary may employ any appropriate control technology which is consistent with federal and State law, regulations, and rules. Control technologies may include, but are not limited to drawdown of waters, application of chemicals to shoreline and surface waters, mechanical controls, physical removal from transport mechanisms, quarantine of transport mechanisms, and biological controls. Any biological control technology may be implemented only after the environmental review provisions of the State Environmental Policy Act have been satisfied.

(c) In determining the appropriate strategies and technologies, the Secretary shall consider their relative short-term and long-term cost-efficiency and effectiveness, consistent with a margin of safety adequate to protect public health and the resources of the State.

(d) All activities carried out by the Secretary, his designees, and others authorized to perform any function under this Article shall be consistent with all applicable federal and State law, regulations, and rules.

**"§ 113A-224. Powers of the Commissioner of Agriculture.**

(a) The Commissioner of Agriculture may regulate the importation, sale, use, culture, collection, transportation, and distribution of a noxious aquatic weed as a plant pest under Article 36 of Chapter 106 of the General Statutes.

(b) This Article shall not be construed to limit any power of the Commissioner of Agriculture, the Department of Agriculture, or the Board of Agriculture under any other provision of law.

**"§ 113A-225. Responsibilities of other State agencies.**

All State agencies shall cooperate with the Secretary to assist in the implementation of this Article.

**"§ 113A-226. Enforcement.**

(a) Any person who violates this Article or any rule adopted pursuant to this Article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000), or imprisoned for not less than 10 days nor more than 180 days, or both, for each offense.

(b) Whenever there exists reasonable cause to believe that any person has violated this Article or rules adopted pursuant to this Article, the Secretary may request the Attorney General to institute a civil action for injunctive relief to restrain the violation. The Attorney General may institute such action in the name of the State upon relation of the Department in the superior court of the county in which the violation occurred. Upon a determination by the court that the alleged violation of the provisions of this Article or of rules adopted pursuant to this Article has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action, nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty otherwise prescribed for violations of this Article.

**"§ 113A-227. Adoption of rules.**

The Secretary may adopt rules necessary to implement the provisions of this Article pursuant to Chapter 150B of the General Statutes."

Sec. 2. This act becomes effective 1 October 1991.

In the General Assembly read three times and ratified this the 27th day of May, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives