

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 363
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Short Title: Fisheries Inspection Authority.

(Public)

Sponsors: Senator Block.

Referred to: Agriculture, Marine Resources, and Wildlife.

March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE INSPECTION AUTHORITY OF MARINE FISHERIES
INSPECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-136 reads as rewritten:

"§ 113-136. Enforcement authority of inspectors and protectors; inspection authority; refusal to obey or allow inspection by inspectors and protectors.

(a) Inspectors and protectors are granted the powers of peace officers anywhere in this State, and beyond its boundaries to the extent provided by law, in enforcing all matters within their respective subject-matter jurisdiction as set out in this section.

(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the Department set out in this Subchapter, Part 5A of Article 7 of Chapter 143B of the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the Department which it directs inspectors to enforce. In addition, inspectors have jurisdiction over all offenses involving property of or leased to or managed by the Department in connection with the conservation of marine and estuarine resources.

(c) The jurisdiction of protectors extends to all matters within the jurisdiction of the Wildlife Resources Commission, whether set out in this Chapter, Chapter 75A, Chapter 143, Chapter 143B, or elsewhere. The Wildlife Resources Commission is specifically granted jurisdiction over all aspects of:

(1) Boating and water safety;

- 1 (2) Hunting and trapping;
2 (3) Fishing, exclusive of fishing under the jurisdiction of the Marine
3 Fisheries Commission; and
4 (4) Activities in woodlands and on inland waters governed by G.S. 113-
5 60.1 to G.S. 113-60.3.

6 In addition, protectors have jurisdiction over all offenses involving property of or leased
7 by the Wildlife Resources Commission or occurring on wildlife refuges, game lands, or
8 boating and fishing access areas managed by the Wildlife Resources Commission. The
9 authority of protectors over offenses on public hunting grounds is governed by the
10 jurisdiction granted the Commission in G.S. 113-264(c).

11 (d) Inspectors and protectors are additionally authorized to arrest without warrant
12 under the terms of G.S. 15A-401(b) for felonies, for breaches of the peace, for assaults
13 upon them or in their presence, and for other offenses evincing a flouting of their
14 authority as enforcement officers or constituting a threat to public peace and order
15 which would tend to subvert the authority of the State if ignored. In particular, they are
16 authorized, subject to the direction of the administrative superiors, to arrest for
17 violations of G.S. 14-223, 14-225, 14-269, and 14-277.

18 (e) Inspectors and protectors may serve arrest warrants, search warrants, orders
19 for arrest, criminal summonses, subpoenas, and all other process connected with any
20 cases within their subject-matter jurisdiction. In the exercise of their law enforcement
21 powers, inspectors are subject to provisions relating to police officers in general set out
22 in Chapter 15, Chapter 15A, and elsewhere.

23 (f) Inspectors and protectors are authorized to stop or detain temporarily any
24 persons they reasonably believe to be engaging ~~in~~ in, or to have recently engaged in, an
25 activity regulated by their respective ~~ageneies~~ agencies, and to inspect without a warrant
26 fish and wildlife, equipment, nets, weapons, licenses, coolers or other holding
27 containers, or other regulated items in order to determine whether such activity has been
28 or is being conducted within the requirements of the law, including license
29 requirements. If the person stopped or detained is in a motor vehicle being driven at the
30 time and the inspector or protector in question is also in a motor vehicle, the inspector
31 or protector is required to sound a siren or activate a special light, bell, horn, or exhaust
32 whistle approved for law-enforcement vehicles under the provisions of G.S. 20-125(b)
33 or 20-125(c).

34 (f1) Inspectors are authorized to enter and inspect without a warrant any building
35 or structure, including refrigerated rooms or coolers used for the storage of fisheries
36 products, other than a private dwelling, in which activities subject to the licensing
37 requirements of G.S. 113-156 and G.S. 113-156.1 are conducted, including the storage,
38 processing, or packing of fish, in order to determine whether regulated activity has been
39 or is being conducted within the requirements of the law, including licensing
40 requirements. Such inspections shall be limited to times during which the subject
41 premises are open for business, or fish are being stored, loaded, unloaded, packed,
42 processed, or shipped.

43 (g) Protectors may not temporarily stop or inspect vehicles proceeding along
44 primary highways of the State without clear evidence that someone within the vehicle is

1 or has recently been engaged in an activity regulated by the Wildlife Resources
2 Commission. Inspectors may temporarily stop vehicles, boats, airplanes, and other
3 conveyances upon reasonable grounds to believe that they are transporting ~~taxable~~
4 ~~seafood products, regulated fishery products or fishery equipment;~~ they are authorized to
5 inspect without a warrant any seafood products fishery product or fishing equipment
6 being transported to determine whether they were taken or are possessed in accordance
7 with law and to require exhibition of any applicable license, tax receipts, permits, bills
8 of lading, or other identification required to accompany such ~~seafood products.~~ fishery
9 products or equipment.

10 (h), (i) Repealed by Session Laws 1979, c. 830, s. 1.

11 (j) The refusal of any person to stop in obedience to the directions of an
12 inspector or protector acting under the authority of this section is unlawful. A violation
13 of this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more
14 than two hundred dollars (\$200.00), imprisonment not to exceed 30 days, or both.

15 (k) It is unlawful to refuse to exhibit upon request by any ~~inspector, protector, or~~
16 ~~other law enforcement officer~~ inspector or protector any item required to be carried by any
17 law or rule as to which inspectors or protectors have enforcement jurisdiction. The items
18 that must be exhibited include boating safety or other equipment or any license, permit,
19 tax receipt, certificate, or identification. It is unlawful to refuse to allow ~~inspectors,~~
20 ~~protectors, or other law enforcement officers to inspect weapons, equipment, fish, or wildlife~~
21 ~~that the officer reasonably believes to be possessed incident to an activity regulated by any law~~
22 ~~or rule as to which inspectors and protectors have enforcement jurisdiction.~~ inspectors or
23 protectors to make any inspection authorized by subsections (f), (f1) or (g) of this
24 section.

25 (l) Nothing in this section authorizes searches within the curtilage of a dwelling
26 or of the living quarters of a vessel in contravention of constitutional prohibitions
27 against unreasonable searches and seizures.”

28 Sec. 2. This act is effective upon ratification.