

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 182

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/8/97

Third Edition Engrossed 4/15/97

House Committee Substitute Favorable 7/23/97

Short Title: Wildlife Comm. Temporary Rules.

(Public)

Sponsors:

Referred to:

February 19, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE WILDLIFE RESOURCES COMMISSION TO ADOPT CERTAIN TEMPORARY RULES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a1) Notwithstanding the provisions of subsection (a) of this section, the Wildlife Resources Commission may adopt a temporary rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical to establish no wake zones, hunting or fishing seasons, hunting or fishing bag limits, or public game land management. When the Wildlife Resources Commission adopts a temporary rule pursuant to this subsection, it must submit the reference to this subsection as its statement of need to the Codifier of Rules."

Section 2. G.S. 150B-21.1(b) reads as rewritten:

"(b) Review. – When an agency adopts a temporary rule it must submit the rule and the agency's written statement of its findings of the need for the rule to the Codifier of Rules. Within one business day after an agency submits a temporary rule, the Codifier of Rules must review the agency's written statement of findings of need for the rule to determine whether the statement of need meets the criteria listed in ~~subsection (a)~~ subsection (a) or (a1) of this section. In reviewing the statement, the Codifier of Rules may consider any information submitted by the agency or another person. If the Codifier of Rules finds that the statement meets the criteria, the Codifier of Rules must

1 notify the head of the agency and enter the rule in the North Carolina Administrative  
2 Code.

3 If the Codifier of Rules finds that the statement does not meet the criteria, the  
4 Codifier of Rules must immediately notify the head of the agency. The agency may  
5 supplement its statement of need with additional findings or submit a new statement. If  
6 the agency provides additional findings or submits a new statement, the Codifier of  
7 Rules must review the additional findings or new statement within one business day  
8 after the agency submits the additional findings or new statement. If the Codifier of  
9 Rules again finds that the statement does not meet the criteria listed in ~~subsection (a);~~  
10 subsection (a) or (a1) of this section, the Codifier of Rules must immediately notify the  
11 head of the agency.

12 If an agency decides not to provide additional findings or submit a new statement  
13 when notified by the Codifier of Rules that the agency's findings of need for a rule do  
14 not meet the required criteria, the agency must notify the Codifier of Rules of its  
15 decision. The Codifier of Rules must then enter the rule in the North Carolina  
16 Administrative Code on the sixth business day after receiving notice of the agency's  
17 decision."

18 Section 3. G.S. 150B-21.1(c) reads as rewritten:

19 "(c) Standing. – A person aggrieved by a temporary rule adopted by an agency  
20 may file an action for declaratory judgment in Wake County Superior Court pursuant to  
21 Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine  
22 whether the agency's written statement of findings of need for the rule meets the criteria  
23 listed in subsection (a) or (a1) of this section and whether the rule meets the standards in  
24 G.S. 150B-21.9 that apply to review of a permanent rule. The court shall not grant an ex  
25 parte temporary restraining order.

26 Filing a petition for rule making or a request for a declaratory ruling with the agency  
27 that adopted the rule is not a prerequisite to filing an action under this subsection. A  
28 person who files an action for declaratory judgment under this subsection must serve a  
29 copy of the complaint on the agency that adopted the rule being contested, the Codifier  
30 of Rules, and the Commission."

31 Section 4. This act is effective when it becomes law.