

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH10460-SBz-29* (05/03)

Short Title: Land-Disturbing Activities Near Trout Waters. (Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING LAND-DISTURBING
ACTIVITIES NEAR TROUT WATERS, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-57(1) reads as rewritten:

"(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse ~~watercourse~~ ~~unless a buffer zone is provided along the margin of the watercourse~~

a. Waters other than those classified as trout waters by the Environmental Management Commission shall have a buffer zone of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.

b. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to maintain the ecological functions provided by the buffer zone and confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. ~~Provided, however, that the~~

c. The Sedimentation Control Commission may ~~approve~~ approve, or approve with modifications, plans which ~~that~~ include land-disturbing activity within the buffer zone along trout waters ~~when the duration of said disturbance would be~~

1 ~~temporary and the extent of said disturbance would be~~
2 ~~minimal~~.if any of the following criteria are met:

3 1. The land-disturbing activity is planned so as to result in
4 temporary and minimal impacts from erosion and
5 sedimentation. A plan meets this criterion if the applicant
6 demonstrates that the land-disturbing activity disturbs
7 less than ten percent (10%) of the total length of the
8 buffer zone within the tract to be disturbed, disturbs no
9 more than 100 linear feet in each 1,000 linear feet of
10 buffer zone, meets all other provisions of this Article and
11 rules adopted pursuant to this Article, and provides
12 temporary ground cover that controls erosion and
13 sedimentation to at least the same extent as
14 predisturbance conditions as soon as practicable, but no
15 more than 21 days after completing the disturbance.

16 2. The land-disturbing activity exceeds the level of
17 disturbance described in sub-sub-subdivision 1. of this
18 sub-subdivision and is associated with a road that will be
19 a part of the State highway system; a waterline;
20 wastewater or other utility infrastructure; a stormwater
21 control structure; or a temporary erosion and
22 sedimentation control device. Impacts to the buffer shall
23 be approved under this sub-sub-subdivision only if the
24 Department finds that the impacts to the buffer cannot
25 reasonably be avoided, impacts have been minimized to
26 the extent practicable, and the area affected by
27 construction activity is restored. An erosion and
28 sedimentation control plan meets the avoidance,
29 minimization, and restoration criteria in this
30 sub-sub-subdivision if the erosion and sedimentation
31 control plan meets all other provisions of this Article and
32 rules adopted pursuant to this Article and demonstrates
33 all of the following:

34 I. The basic project purpose cannot be practically
35 accomplished in a manner that would better avoid
36 erosion and sedimentation impacts to the trout
37 buffer or stream.

38 II. The land-disturbing activity cannot be practically
39 reduced in size or density, reconfigured, or
40 redesigned to minimize the temporary and
41 permanent erosion and sedimentation impacts to
42 the trout buffer or stream.

- 1 III. The plan incorporates all reasonable means and
- 2 measures to restore the trout buffer or stream
- 3 upon completion of construction.
- 4 3. The land-disturbing activity is part of a stream
- 5 restoration activity that is designed to improve water
- 6 quality, aquatic habitat, or habitat along the bank. Stream
- 7 restoration activities include mitigation projects
- 8 approved through a State or federal water quality permit
- 9 or funded by a State or federal program in an effort to
- 10 improve water quality.
- 11 d. ~~This subdivision~~Sub-subdivision c. of this subdivision shall not
- 12 apply to a land-disturbing activity in connection with the
- 13 construction of facilities to be located on, over, or under a lake
- 14 or natural watercourse."

15 **SECTION 2.** This act is effective when it becomes law and applies to land-

16 disturbing activities that commence on or after this date.