

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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SENATE BILL 249\*  
House Committee Substitute Favorable 4/21/99  
House Committee Substitute #2 Favorable 5/17/99

Short Title: Core Sound Moratorium/Crab License.

(Public)

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Sponsors:

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Referred to:

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March 8, 1999

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH  
3 CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF  
4 MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE  
5 RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF  
6 CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD  
7 AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO  
8 AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF  
9 ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES  
10 LICENSE AGENTS TO POST BONDS, TO ESTABLISH AN INTERIM CRAB  
11 LICENSE, AND TO CLARIFY THAT THE LAWFUL TAKING OF MARINE  
12 AND ESTUARINE RESOURCES UNDER THE JURISDICTION OF THE  
13 MARINE FISHERIES COMMISSION OR AS AUTHORIZED BY A FEDERAL  
14 LAW, REGULATION, OR FISHERY MANAGEMENT PLAN IS EXEMPT FROM  
15 THE CRUELTY TO ANIMALS STATUTE.

16 The General Assembly of North Carolina enacts:

17                   Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular  
18 Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995

1 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session  
2 Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347;  
3 Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L. 1998-  
4 56, reads as rewritten:

5 "Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation  
6 leases shall be imposed in the remaining area of Core Sound not described in Section 1 of  
7 this act. During the moratorium, a comprehensive study of the shellfish lease program  
8 shall be conducted. The moratorium established under this section covers that part of  
9 Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N -  
10 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W,  
11 thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N -  
12 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N -  
13 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W,  
14 thence following the shoreline in a northerly direction to the point of beginning except  
15 that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall  
16 be considered shoreline. The moratorium shall expire ~~July 1, 1999.~~ October 1, 2001."

17 Section 2. The Division of Marine Fisheries and the Primary Investigator for  
18 the Human Use Mapping Project in Core Sound shall report the results of the shellfish  
19 mapping and human use mapping of Core Sound to the Joint Legislative Commission on  
20 Seafood and Aquaculture and the Marine Fisheries Commission no later than October 1,  
21 1999.

22 Section 3. G.S. 113-172(a) reads as rewritten:

23 "(a) The Secretary shall designate license agents for the Department. At least one  
24 license agent shall be designated for each county that contains or borders on coastal  
25 fishing waters. The Secretary may designate additional license agents in any county if the  
26 Secretary determines that additional agents are needed to provide efficient service to the  
27 public. The Division and license agents designated by the Secretary under this section  
28 shall issue licenses authorized under this Article in accordance with this Article and the  
29 rules of the Commission. The Secretary ~~shall~~ may require license agents to enter into a  
30 contract that provides for their duties and compensation, post a bond, and submit to  
31 reasonable inspections and audits. If a license agent violates any provision of this  
32 Article, the rules of the Commission, or the terms of the contract, the Secretary may  
33 initiate proceedings for the forfeiture of the license agent's bond and may summarily  
34 suspend, revoke, or refuse to renew a designation as a license agent and may impound or  
35 require the return of all licenses, moneys, record books, reports, license forms and other  
36 documents, ledgers, and materials pertinent or apparently pertinent to the license agency.  
37 The Secretary shall report evidence or misuse of State property, including license fees, by  
38 a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1."

39 Section 4.(a) Definitions. – The definitions set out in G.S. 113-168 shall apply to  
40 this section.

41 Section 4.(b) SCFL Not Valid to Take Crabs. – Notwithstanding G.S. 113-168.2,  
42 it is unlawful for any person to take crabs as part of a commercial fishing operation from

1 the coastal fishing waters of North Carolina under a SCFL or any other license issued by  
2 the Division other than an interim crab license issued pursuant to this section.

3 Section 4.(c) Interim Crab License Required to Take Crabs as Part of a  
4 Commercial Fishing Operation; Sale of Crabs. – Except as otherwise provided by this  
5 section, it is unlawful for any person to take crabs as part of a commercial fishing  
6 operation from the coastal fishing waters of North Carolina without having first procured  
7 an interim crab license. A person who works as a member of the crew of a vessel that is  
8 taking crabs as part of a commercial fishing operation under the direction of a person  
9 who holds an interim crab license is not required to hold an interim crab license. An  
10 interim crab license entitles the holder to sell crabs taken under the interim crab license.

11 Section 4.(d) Eligibility for Interim Crab License. – Any person who held a valid  
12 crab license issued pursuant to G.S. 113-153.1 at any time during the period July 1, 1994,  
13 through June 30, 1999, and who holds a valid endorsement to sell fish issued pursuant to  
14 G.S. 113-154.1 on June 30, 1999, is eligible to receive an interim crab license. The  
15 Division shall issue an interim crab license to any person who is eligible under this  
16 section upon receipt of an application and required fees.

17 Section 4.(e) Duration; Fees. – The interim crab license expires on October 1,  
18 2000. The fee for the interim crab license shall be seven dollars and fifty cents (\$7.50)  
19 for a resident of this State and one hundred dollars (\$100.00) for a person who is not a  
20 resident of this State.

21 Section 4.(f) General Provisions. – Subsections (c), (d), (e), (g), (h), and (i) of  
22 G.S. 113-168.1 shall apply to the interim crab license.

23 Section 4.(g) License Issuance. – The Division shall issue an interim crab  
24 license to eligible applicants at any office of the Division.

25 Section 4.(h) Assignment and Transfer Prohibited. – An interim crab license is  
26 not transferable. Except as provided in subsection (j) of this section, it is unlawful to  
27 buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license, or to attempt  
28 to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license.

29 Section 4.(i) Record-Keeping Requirements. – The record-keeping  
30 requirements of G.S. 113-168.2(i) shall apply to the interim crab license.

31 Section 4.(j) Exemptions. – A person who is under 16 years of age is exempt  
32 from the license requirements of this section if the person is accompanied by a parent,  
33 grandparent, or guardian who holds an interim crab license or if the person has in the  
34 person's possession a valid interim crab license issued to the person's parent, grandparent,  
35 or guardian.

36 Section 4.(k) Rules on Incidental Taking of Crabs. – Notwithstanding  
37 subsections (b) and (c) of this section, the Marine Fisheries Commission may adopt rules  
38 to allow the landing and sale of crabs taken incidentally in the course of other  
39 commercial fishing operations.

40 Section 4.(l) Note to G.S. 113-168.2. – The Revisor of Statutes shall set out  
41 this section as a note to G.S. 113-168.2.

42 Section 5. G.S. 14-360(c) reads as rewritten:

1       "(c) As used in this section, the words 'torture', 'torment', and 'cruelly' include or  
2 refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering,  
3 or death. As used in this section, the word 'intentionally' refers to an act committed  
4 knowingly and without justifiable excuse, while the word 'maliciously' means an act  
5 committed intentionally and with malice or bad motive. As used in this section, the term  
6 'animal' includes every living vertebrate except human beings. However, this section shall  
7 not apply to the following activities:

- 8           (1) The lawful taking of animals under the jurisdiction and regulation of the  
9 Wildlife Resources Commission, except that this section shall apply to  
10 those birds exempted by the Wildlife Resources Commission from its  
11 definition of 'wild birds' pursuant to G.S. ~~113-129(15a)~~; 113-129(15a).
- 12           (2) Lawful activities conducted for purposes of biomedical research or  
13 training or for purposes of production of livestock or ~~poultry~~; poultry.
- 14           (3) Activities conducted for lawful veterinary ~~purposes~~; or purposes.
- 15           (4) The lawful destruction of any animal for the purposes of protecting the  
16 public, other animals, property, or the public health.
- 17           (5) The lawful taking of marine and estuarine resources (i) under the  
18 jurisdiction of the Marine Fisheries Commission or (ii) as authorized by  
19 a federal law, regulation, or fishery management plan."

20       Section 6. Section 5 of this act is effective when this act becomes law. All  
21 other sections of this act become effective July 1, 1999. Section 4 of this act expires  
22 October 1, 2000.