

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-209
SENATE BILL 249

AN ACT TO EXTEND THE MORATORIUM ON THE ISSUANCE OF SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES LICENSE AGENTS TO POST BONDS, TO ESTABLISH AN INTERIM CRAB LICENSE, TO ESTABLISH A 1999 GRACE PERIOD FOR THE ISSUANCE OF MARINE FISHING LICENSES, TO PROVIDE THAT THE DIVISION OF MARINE FISHERIES MAY ISSUE LICENSES PRIOR TO THE END OF EACH LICENSE YEAR AND MAY RETAIN REVENUES FROM THOSE LICENSES DURING THE FOLLOWING LICENSE YEAR, TO CLARIFY THE CRUELTY TO ANIMALS STATUTE, AND TO EXEMPT PERSONS WHO TAKE FISH BY MEANS OF A GIG FOR RECREATIONAL PURPOSES FROM THE RECREATIONAL COMMERCIAL GEAR LICENSE REQUIREMENT.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L. 1998-56, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of

beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1, 1999.~~ October 1, 2001."

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

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

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

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

Section 4.(b) SCFL Not Valid to Take Crabs. – Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.

Section 4.(c) Interim Crab License Required to Take Crabs as Part of a Commercial Fishing Operation; Sale of Crabs. – Except as otherwise provided by this section, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina without having first procured an interim crab license. A person who works as a member of the crew of a vessel that is taking crabs as part of a commercial fishing operation under the direction of a person who holds an interim crab license is not required to hold an interim crab license. An interim crab license entitles the holder to transfer crabs taken under the interim crab license to a person who holds a Standard Commercial Fishing License issued under G.S. 113-168.2 or a Retired Standard Commercial Fishing License issued under G.S. 113-168.3.

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

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

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

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

Section 4.(h) Assignment and Transfer. – Except as provided in this subsection and subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license. An interim crab license may be transferred only by the Division. The Division shall transfer an interim crab license only to a person who is eligible to obtain or renew a license or endorsement under G.S. 113-168.1(g). The Division may transfer an interim crab license upon the request of:

- (1) A licensee, from the licensee to a member of the licensee's immediate family.
- (2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds an interim crab license under this subdivision may, for the benefit of the estate of the deceased licensee, take crabs as part of a commercial fishing operation.
- (3) An administrator or executor to whom an interim crab license was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family.
- (4) The surviving member of the deceased licensee's immediate family to whom an interim crab license was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.

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

Section 4.(j) Exemptions. – A person who is under 16 years of age is exempt from the license requirements of this section if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the

person's possession a valid interim crab license issued to the person's parent, grandparent, or guardian.

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

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

Section 5. Notwithstanding S.L. 1997-400 and S.L. 1998-225, a license or endorsement issued for the 1998-1999 license year by the Division of Marine Fisheries of the Department of Environment and Natural Resources under Article 14 of Chapter 113 of the General Statutes that has not been suspended or revoked shall continue in effect from 1 July 1999 until the earlier of: (i) the date on which the license or endorsement is replaced by a license or endorsement issued pursuant to Article 14A of Chapter 113 of the General Statutes or (ii) 1 August 1999.

Section 6. G.S. 113-168.1 is amended by adding a new subsection to read:

"(j) Advance Sale of Licenses, License Revenue. – To ensure an orderly transition from one license year to the next, the Division may issue a license or endorsement prior to 1 July of the license year for which the license or endorsement is valid. Revenue that the Division receives for the issuance of a license or endorsement prior to the beginning of a license year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the license year in which the license or endorsement is valid."

Section 7. The Department of Environment and National Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on the use of funds derived from the sale of licenses and endorsements under Article 14A of Chapter 113 of the General Statutes no later than 1 October 1999.

Section 8. G.S. 14-360(c) reads as rewritten:

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

- (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of 'wild birds' pursuant to G.S. ~~113-129(15a)~~; 113-129(15a).
- (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of ~~livestock or poultry~~; livestock, poultry, or aquatic species.

- (2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.
- (3) Activities conducted for lawful veterinary purposes; or purposes.
- (4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health."

Section 9. G.S. 113-173(j) is amended by adding a new subdivision to read:

"(5) A person may take fish for recreational purposes by means of a gig without holding a RCGL."

Section 10. Section 6 of this act is effective 30 June 1999. Sections 7, 8, and 10 of this act are effective when this act becomes law. All other sections of this act become effective 1 July 1999. Section 4 of this act expires 1 October 2000.

In the General Assembly read three times and ratified this the 24th day of June, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 3:30 p.m. this 24th day of June, 1999