

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1436*

Short Title: Crab License/Fisheries Moratorium.

(Public)

Sponsors: Senators Albertson, Lee, and Perdue.

Referred to: Agriculture, Marine Resources and Wildlife.

May 25, 1994

A BILL TO BE ENTITLED

1 AN ACT TO CREATE A SEPARATE CRAB LICENSE IN CHAPTER 113 OF THE
2 GENERAL STATUTES, TO ESTABLISH A TWO-YEAR MORATORIUM ON
3 SPECIFIED FISHING LICENSES, AND TO APPROPRIATE FUNDS TO STUDY
4 THE FISHERY DURING THE MORATORIUM.
5

6 Whereas, it is the long-established policy of this State to preserve and protect
7 its marine and estuarine resources for the use and benefit of all North Carolina citizens;
8 and

9 Whereas, North Carolina's coastal fisheries resources have experienced
10 significant pressures from a combination of factors including: (i) overfishing; (ii)
11 environmental factors, such as water pollution; (iii) loss of wetlands and other fisheries
12 habitat; and (iv) disease; and

13 Whereas, fishing has been a way of life for many of the State's coastal
14 citizens for nearly four centuries, and North Carolina has a significant interest in
15 preserving and protecting its historical and cultural heritage; and

16 Whereas, North Carolina's traditional commercial fishermen have been
17 adversely impacted by a number of factors, which include: (i) the decline of fishery
18 populations; (ii) the use of more gear due to that decline; (iii) increasing conflicts
19 between resource users in different fisheries; and (iv) the economic impact of increased
20 State and federal fisheries regulation; and

21 Whereas, it is in the best interest of the citizens of this State that North
22 Carolina develop, protect, and manage its own fishery resources in lieu of federal
23 regulation of those resources; and

1 Whereas, the historical method by which the State has established fisheries
2 regulations has resulted in a largely piecemeal approach to proper fisheries
3 management; and

4 Whereas, these factors make it necessary to establish a two-year moratorium
5 on vessel licenses, endorsements to sell fish, shellfish licenses, and crab licenses in
6 order to conduct a comprehensive study of the fishery industry including: reviewing
7 available measures to control fishing effort, gathering vital fisheries information,
8 conducting necessary scientific research, studying fisheries management measures taken
9 by other states or resource management organizations (including national and
10 international), and obtaining public comments; Now, therefore,
11 The General Assembly of North Carolina enacts:

12 Section 1. Article 14 of Chapter 113 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 113-153.1. Crab license.**

15 (a) It is unlawful for an individual to take crabs from the coastal fishing waters of
16 North Carolina for commercial use by any means without having first procured an
17 individual crab license.

18 (b) It is unlawful for any individual to take crabs for commercial use from the
19 coastal fishing waters of North Carolina without having ready at hand for inspection a
20 current and valid crab license issued to him personally and bearing his correct name and
21 address. It is unlawful for any such individual taking or possessing freshly taken crabs
22 to refuse to exhibit his license upon the request of an officer authorized to enforce the
23 fishing laws.

24 (c) Crab licenses shall be issued annually on a fiscal year basis upon payment of
25 a fee of seven dollars and fifty cents (\$7.50) for residents and one hundred dollars
26 (\$100.00) for nonresidents.

27 (d) In the event an individual possessing a crab license changes his name or
28 address or receives one erroneous in this respect, he must within 30 days surrender the
29 license for one bearing the correct name and address. Upon a showing by the individual
30 that the name or address change occurred within the past 30 days, the trial court or
31 prosecutor shall dismiss any charges brought pursuant to this subsection.

32 (e) It is unlawful for an individual issued a crab license to transfer or offer to
33 transfer his license, either temporarily or permanently, to another. It is unlawful for an
34 individual to secure or attempt to secure a crab license from a source not authorized by
35 the Marine Fisheries Commission."

36 Sec. 2. G.S. 113-154 reads as rewritten:

37 **"§ 113-154. Shellfish and crab licenses. license.**

38 (a) It is unlawful for an individual to take shellfish ~~or crabs~~ from the public or
39 private grounds of North Carolina by mechanical means or for commercial use by any
40 means without having first procured an individual shellfish ~~and crab~~ license.

41 (b) It is unlawful for any individual to take shellfish ~~or crabs~~ for commercial use
42 from the public or private grounds of North Carolina without having ready at hand for
43 inspection a current and valid shellfish ~~and crab~~ license issued to him personally and
44 bearing his correct name and address. It is unlawful for any such individual taking or

1 possessing freshly taken shellfish ~~or crabs~~ to refuse to exhibit his license upon the
2 request of an officer authorized to enforce the fishing laws.

3 (c) Shellfish ~~and crab~~ licenses are issued annually on a fiscal year basis upon
4 payment of a fee of ~~fifteen dollars (\$15.00)~~ seven dollars and fifty cents (\$7.50) upon
5 proof that the license applicant is a resident of North Carolina: Provided, that persons
6 under 16 years of age are exempt from the license requirements of this section if they
7 are accompanied by their parent or guardian who is in compliance with the requirements
8 of this section or if they have in their possession their parent's or guardian's shellfish ~~and~~
9 ~~crab~~ license. ~~Notwithstanding G.S. 113-130, for purposes of this subsection, a North Carolina~~
10 ~~resident means a person that has resided in North Carolina for six months immediately~~
11 ~~preceding the application for the shellfish and crab license.~~

12 (d) In the event an individual possessing a shellfish ~~and crab~~ license changes his
13 name or address or receives one erroneous in this respect, he must within 30 days
14 surrender the license for one bearing the correct name and address. ~~An individual~~
15 ~~prosecuted for failure to possess a valid license is exonerated if he can show that the invalidity~~
16 ~~consisted solely of an incorrect name or address appearing in a license to which he was~~
17 ~~lawfully entitled and that the erroneous condition had not existed for longer than 30 days.~~
18 Upon a showing by the individual that the name or address change occurred within the
19 past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to
20 this subsection.

21 (e) It is unlawful for an individual issued a shellfish ~~and crab~~ license to transfer or
22 offer to transfer his license, either temporarily or permanently, to another. It is unlawful
23 for an individual to secure or attempt to secure a shellfish ~~and crab~~ license from a source
24 not authorized by the Marine Fisheries Commission."

25 Sec. 3. (a) Except as provided in subsections (b) or (c) of this section, the
26 Department shall not issue any new licenses for a two-year period beginning July 1,
27 1994, and ending June 30, 1996, under the following statutes:

- 28 (1) G.S. 113-152. Vessel licenses.
29 (2) G.S. 113-153.1. Crab license.
30 (3) G.S. 113-154. Shellfish license.
31 (4) G.S. 113-154.1. Endorsement to sell fish.

32 (b) Any resident who possesses a shellfish and crab license or nonresident who
33 possesses a crab license on June 30, 1994, may apply for a crab license issued in
34 accordance with G.S. 113-153.1.

35 (c) The Department may renew any license issued prior to July 1, 1994, under
36 the following statutes:

- 37 (1) G.S. 113-152. Vessel licenses.
38 (2) G.S. 113-154. Shellfish license.
39 (3) G.S. 113-154.1. Endorsement to sell fish.

40 (d) During the moratorium, there shall be an Appeals Panel to consider license
41 applications for new licenses.

- 42 (1) The Appeals Panel shall consist of the Fisheries Director, the
43 Chairman of the Marine Fisheries Commission, and one other person
44 selected by the Co-Chairs of the Joint Legislative Commission on

1 Seafood and Aquaculture to review hardship or emergency license
2 cases.

3 (2) The Marine Fisheries Commission shall adopt temporary rules to
4 govern the operation of the Appeals Panel. The Appeals Panel is
5 exempt from the provisions of Article III of Chapter 150B of the
6 General Statutes. Decisions of the Appeals Panel shall be subject to
7 judicial review under the provisions of Article IV of Chapter 150B of
8 the General Statutes.

9 (3) The Appeals Panel may grant a license if it finds that the denial of the
10 license application would create an emergency or hardship on the
11 individual or the State. In no event shall the Appeals Panel grant a
12 license when the total number of licenses in the specific category
13 would exceed the number of licenses in effect on July 1, 1994.

14 (e) During the moratorium, the Cooperative Institute for Fisheries
15 Oceanography shall conduct an extensive study of the fishery industry including:
16 gathering available information, conducting necessary scientific research, studying other
17 states or resource management organizations (including national and international
18 organizations), and obtaining public comments on recommendations. The Cooperative
19 Institute for Fisheries Oceanography shall study all issues relating to the fishery
20 resource including, but not limited to:

21 (1) Analysis of licensing limitations including the biological, social, and
22 economic impact of seasonal, specific areas, or gear restrictions.

23 (2) Comparison of licensing programs.

24 (3) Classification and enumeration of user groups.

25 (4) Development of management policies and plans for crabs and other
26 fishery resources.

27 (5) Any other issue relating to the fishery industry.

28 The Cooperative Institute for Fisheries Oceanography shall work with the
29 Steering Committee and shall report quarterly to the Joint Legislative Commission on
30 Seafood and Aquaculture and the Marine Fisheries Commission beginning October 1,
31 1994.

32 (f) The Joint Legislative Commission on Seafood and Aquaculture shall
33 select a 13-member Steering Committee to oversee the study of the fishery resource
34 comprised of the following:

35 (1) Chair, Marine Fisheries Commission (or designee).

36 (2) Director of Marine Fisheries Division of the Department of
37 Environment, Health, and Natural Resources (or designee).

38 (3) Director of North Carolina Sea Grant College Program of North
39 Carolina State University (or designee).

40 (4) The Co-Chairs of the Joint Legislative Commission on Seafood and
41 Aquaculture (or designees).

42 (5) One representative from the commercial fishing industry.

43 (6) One representative from the North Carolina Fisheries Association
44 Auxiliary.

1 (7) One representative from the recreational fishing industry.

2 (8) One seafood processor.

3 (9) Two academic fisheries scientists.

4 (10) One ecologist.

5 (11) One social scientist.

6 (12) One economist.

7 The Chair of the Steering Committee shall be the Chair of the Marine
8 Fisheries Commission.

9 Sec. 4. During the moratorium, the Marine Fisheries Commission shall be
10 limited in the exercise of its existing authority to regulate and control the commercial
11 and recreational harvest of marine fisheries resources to measures: (i) that prevent
12 further endangerment of the resources; or (ii) that are necessary to maintain State
13 control of its own fishery resources in order to avoid the exercise of federal fishery
14 management authority over those resources.

15 Sec. 5. The Joint Legislative Commission on Seafood and Aquaculture may
16 report to the 1995 General Assembly, and shall report on the first day the 1996 Regular
17 Session commences on its findings, together with any recommended legislation.

18 Sec. 6. There is appropriated from the General Fund for the 1994-95 fiscal
19 year the sum of two hundred twenty-five thousand dollars (\$225,000) to the Board of
20 Governors of The University of North Carolina for the Cooperative Institute for
21 Fisheries Oceanography to study the fishery resource and management structure. Funds
22 appropriated under this section may be used for personnel, administrative costs, and
23 hiring of consultants.

24 Sec. 7. There is appropriated from the General Fund for the 1994-95 fiscal
25 year the sum of twenty-five thousand dollars (\$25,000) to the General Assembly for the
26 Joint Legislative Commission on Seafood and Aquaculture for expenses of the Steering
27 Committee.

28 Sec. 8. This act becomes effective July 1, 1994.