

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1540*
Committee Substitute Favorable 6/2/94

Short Title: Crab License/Fisheries Moratorium.

(Public)

Sponsors:

Referred to:

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) Except as provided in subsection (d) of this section, it is unlawful for an
16 individual to take crabs from the coastal fishing waters of North Carolina for
17 commercial use by any means without having first procured an 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) Individual crab licenses shall be issued annually on a fiscal year basis upon
25 payment of a fee of seven dollars and fifty cents (\$7.50) for residents and one hundred
26 dollars (\$100.00) for nonresidents. Vessel crab licenses shall be issued annually on a
27 fiscal year basis upon payment of a fee of twenty-two dollars and fifty cents (\$22.50)
28 and shall be issued in the name of the owner.

29 (d) The owner of a vessel licensed under G.S. 113-152 shall be eligible to
30 purchase a vessel crab license for crabs under this section. A vessel crab license
31 authorizes the owner of the vessel and up to two unlicensed persons serving as crew to
32 fish for crabs from that vessel. It is unlawful for the owner of a vessel to take crabs
33 from the coastal fishing waters of North Carolina for commercial use by any means,
34 when unlicensed persons not authorized by the vessel crab license are on the vessel.
35 The vessel crab license issued under this subsection shall be revoked when the owner or
36 any other person using the owner's vessel is convicted of a violation under this section,
37 except for subsection (b).

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

43 (f) It is unlawful for an individual issued a crab license to transfer or offer to
44 transfer his license, either temporarily or permanently, to another. It is unlawful for an

1 individual to secure or attempt to secure a crab license from a source not authorized by
2 the Marine Fisheries Commission."

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

4 "**§ 113-154. Shellfish and crab licenses. license.**

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

8 (b) It is unlawful for any individual to take shellfish ~~or crabs~~ for commercial use
9 from the public or private grounds of North Carolina without having ready at hand for
10 inspection a current and valid shellfish ~~and crab~~ license issued to him personally and
11 bearing his correct name and address. It is unlawful for any such individual taking or
12 possessing freshly taken shellfish ~~or crabs~~ to refuse to exhibit his license upon the
13 request of an officer authorized to enforce the fishing laws.

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

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

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

36 Sec. 3. (a) Except as provided in subsections (b) or (c) of this section, the
37 Department shall not issue any new licenses for a two-year period beginning July 1,
38 1994, and ending June 30, 1996, under the following statutes:

- 39 (1) G.S. 113-152. Vessel licenses.
- 40 (2) G.S. 113-153.1. Crab license.
- 41 (3) G.S. 113-154. Shellfish license.
- 42 (4) G.S. 113-154.1. Non-vessel endorsements to sell fish.

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

4 (c) The Department may renew any license issued on or after July 1, 1993, under
5 the following statutes:

6 (1) G.S. 113-152. Vessel licenses.

7 (2) G.S. 113-154. Oyster, scallop and clam license (amended, effective
8 January 1, 1994).

9 (3) G.S. 113-154. Shellfish and crab license.

10 (4) G.S. 113-154.1. Endorsement to sell fish.

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

13 (1) The Appeals Panel shall consist of the Fisheries Director, the
14 Chairman of the Marine Fisheries Commission, and one other person
15 selected by the Co-Chairs of the Joint Legislative Commission on
16 Seafood and Aquaculture to review hardship or emergency license
17 cases.

18 (2) The Marine Fisheries Commission shall adopt temporary rules to
19 govern the operation of the Appeals Panel. The Appeals Panel is
20 exempt from the provisions of Article 3 of Chapter 150B of the
21 General Statutes. Decisions of the Appeals Panel shall be subject to
22 judicial review under the provisions of Article 4 of Chapter 150B of
23 the General Statutes.

24 (3) The Appeals Panel may grant a license if it finds that the denial of the
25 license application would create an emergency or hardship on the
26 individual or the State. In no event shall the Appeals Panel grant a
27 license when the total number of licenses in the specific category
28 would exceed the number of licenses in effect on June 30, 1994.

29 (4) The Appeals Panel may grant an emergency temporary license due to
30 death, illness, or incapacity, for a period not to exceed 30 days.
31 Emergency temporary licenses shall be limited to vessel crab licenses
32 authorized under G.S. 113-153.1(d).

33 (e) During the moratorium, the North Carolina Sea Grant College Program
34 shall conduct an extensive study of the fishery industry including: gathering available
35 information, conducting necessary scientific research, studying other states or resource
36 management organizations (including national and international organizations), and
37 obtaining public comments on recommendations. The North Carolina Sea Grant
38 College Program shall study all issues relating to the fishery resource including, but not
39 limited to:

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

42 (2) Comparison of licensing programs.

43 (3) Classification and enumeration of user groups.

- 1 (4) Development of management policies and plans for crabs, shellfish,
2 and all other fishery resources.
- 3 (5) Evaluation and development of an effective enforcement mechanism
4 for the licensing program recommended by this study.
- 5 (6) Any other issue relating to the fishery industry.

6 The North Carolina Sea Grant College Program shall work with the Steering
7 Committee and shall report quarterly to the Joint Legislative Commission on Seafood
8 and Aquaculture and the Marine Fisheries Commission beginning October 1, 1994.

9 (f) The Speaker of the House of Representatives and the President Pro
10 Tempore of the Senate shall select a 15-member Steering Committee to oversee the
11 study of the fishery resource comprised of the following:

- 12 (1) Chair, Marine Fisheries Commission.
- 13 (2) Director of the Marine Fisheries Division of the Department of
14 Environment, Health, and Natural Resources (or designee).
- 15 (3) Director of the North Carolina Sea Grant College Program (or
16 designee).
- 17 (4) The Co-Chairs of the Joint Legislative Commission on Seafood and
18 Aquaculture (or designees).
- 19 (5) One representative from the commercial fishing industry, appointed by
20 the President Pro Tempore of the Senate.
- 21 (6) One representative from the North Carolina Fisheries Association
22 Auxiliary, appointed by the Speaker of the House of Representatives.
- 23 (7) One representative from the recreational fishing industry, appointed by
24 the Speaker of the House of Representatives.
- 25 (8) One seafood processor, appointed by the President Pro Tempore of the
26 Senate.
- 27 (9) Two academic fisheries scientists, one appointed by the Speaker of the
28 House of Representatives and the other appointed by the President Pro
29 Tempore of the Senate.
- 30 (10) One ecologist, appointed by the Speaker of the House of
31 Representatives.
- 32 (11) One social scientist, appointed by the President Pro Tempore of the
33 Senate.
- 34 (12) One economist, appointed by the Speaker of the House of
35 Representatives.
- 36 (13) One environmentalist, appointed by the President Pro Tempore of the
37 Senate.

38 The Chair of the Steering Committee shall be the Chair of the Marine
39 Fisheries Commission.

40 Sec. 4. During the moratorium, the Marine Fisheries Commission shall be
41 limited in the exercise of its existing authority to regulate and control the commercial
42 and recreational harvest of marine fisheries resources to measures: (i) that prevent
43 further endangerment of the resources; (ii) that involve user conflicts; or (iii) that are

1 necessary to maintain State control of its own fishery resources in order to avoid the
2 exercise of federal fishery management authority over those resources.

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

6 Sec. 6. There is appropriated from the General Fund for the 1994-95 fiscal
7 year the sum of two hundred twenty-five thousand dollars (\$225,000) to the Board of
8 Governors of The University of North Carolina for the North Carolina Sea Grant
9 College Program to study the fishery resource and management structure. Funds
10 appropriated under this section may be used for personnel, administrative costs, and
11 hiring of consultants.

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

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