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SENATE BILL DRS35453-NPa-46

Short Title: Moratorium on New Coastal Fishing Regulations. (Public)

Sponsors: Senators Hanig and Sanderson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A TEMPORARY MORATORIUM ON REGULATORY ACTIONS
3 AFFECTING COMMERCIAL AND RECREATIONAL FISHING PENDING REVIEW
4 AND IMPLEMENTATION OF THE NORTH CAROLINA COLLABORATORY STUDY
5 OF THE COASTAL AND MARINE FISHERIES OF THE STATE AND TO
6 REESTABLISH THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND
7 AQUACULTURE.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. MORATORIUM ON NEW COASTAL FISHING REGULATIONS**

11
12 **LEGISLATIVE FINDINGS AND PURPOSE**

13 **SECTION 1.** Legislative Findings. – The General Assembly finds the following:

- 14 (1) The seafood industry and recreational fishing sector are essential to the
15 economic stability, food supply, tourism economy, and cultural heritage of the
16 State.
17 (2) In 2021, the General Assembly directed the North Carolina Collaboratory to
18 conduct a study on the overall status of the coastal and marine fisheries
19 regulated by the State (Collaboratory Study).
20 (3) The Collaboratory Study is intended to serve as the primary policy guidance
21 for future coastal and marine fisheries management decisions.
22 (4) Ongoing regulatory changes and instability have created significant economic
23 uncertainty for commercial fishermen, charter operators, recreational anglers,
24 seafood dealers, seafood processors, and related businesses.
25 (5) A temporary suspension of regulatory expansion is necessary to allow for full
26 legislative review and consideration of the Collaboratory Study and its
27 recommendations.

28 **SECTION 2.** Legislative Purpose. – The purpose of this Part is to establish a
29 comprehensive and enforceable moratorium preventing both direct and indirect regulatory
30 expansion affecting commercial and recreational fishing activity until the Collaboratory Study
31 can be fully evaluated by the General Assembly.

32
33 **COMPREHENSIVE MORATORIUM ON EXPANDING COASTAL FISHERIES**
34 **REGULATION**

35 **SECTION 3.** Definitions. – In addition to the definitions in G.S. 113-128 and
36 G.S. 113-129, the following definitions apply to this Part:



- 1 (1) Collaboratory Study. – The study conducted by the North Carolina
2 Collaboratory on the overall status of the State's coastal and marine fisheries,
3 as directed by the North Carolina General Assembly pursuant to Section 8.11
4 of S.L. 2021-180, as amended by Section 2.10 of S.L. 2022-6.
- 5 (2) Recreational fishing. – Any activity preparatory to, during, or subsequent to
6 the taking of any fish by any means if the purpose of the taking is to obtain
7 fish that are not to be sold.
- 8 (3) Regulatory action. – Any of the following:
 - 9 a. The adoption or amendment of a rule as provided under Article 2A of
10 Chapter 150B of the General Statutes.
 - 11 b. The adoption or amendment of a fisheries management plan as
12 provided in G.S. 113-182.1.
 - 13 c. The implementation of temporary management measures as
14 authorized by the Secretary of Environmental Quality under
15 G.S. 113-182.1(e1).
 - 16 d. The issuance of a proclamation by the Fisheries Director in accordance
17 with authority delegated by the Marine Fisheries Commission under
18 G.S. 113-221.1.
 - 19 e. The imposition of a condition or limitation in a license authorizing a
20 person to engage in activities connected with marine and estuarine
21 resources.
 - 22 f. The implementation of any policy, guidance, or interpretive statement
23 that purports to have binding legal effect on members of the public.
- 24 (4) Seafood industry. – Any of the following:
 - 25 a. Commercial fishing operations, as defined in G.S. 113-168.
 - 26 b. Fish dealers licensed under G.S. 113-169.3.
 - 27 c. For hire vessels, as defined in G.S. 113-174.
 - 28 d. Marine aquaculture, as defined in G.S. 113-215.
 - 29 e. The cultivation of shellfish, as provided under Article 16 of Chapter
30 113 of the General Statutes.
 - 31 f. The operation of an ocean fishing pier licensed under G.S. 113-169.4.
 - 32 g. The handling, processing, packaging, and marketing of fishery or
33 seafood products from coastal fishing waters.
- 34 (5) State marine fisheries agency. – The following agencies or officers charged
35 with implementing and enforcing the laws related to coastal fishing, coastal
36 fisheries, and marine and estuarine resources:
 - 37 a. The Division of Marine Resources of the Department of
38 Environmental Quality.
 - 39 b. The Fisheries Director.
 - 40 c. The Marine Fisheries Commission.
 - 41 d. The Secretary of Environmental Quality.

42 **SECTION 4.** Comprehensive Moratorium on Regulatory Expansion. –
43 Notwithstanding any provision to the contrary in Subchapter IV of Chapter 113 of the General
44 Statutes or Part 5D of Article 7 of Chapter 143B of the General Statutes, except as otherwise
45 provided in Section 8 of this act, no State marine fisheries agency may establish, implement, or
46 enforce a regulatory action imposing new or expanded restrictions on the seafood industry or on
47 recreational fishing in the coastal fishing waters. For purposes of this section, "a regulatory action
48 imposing new or expanded restrictions on the seafood industry or on recreational fishing in the
49 coastal fishing waters" includes the following:

- 50 (1) Reductions in bag limits, size limits, or trip limits.
- 51 (2) Shortening or eliminating a season for taking fish.

- 1 (3) Closing of coastal fishing waters, whether entirely or only as to the taking of
- 2 particular classes of fish or the use of particular equipment.
- 3 (4) Additional reporting requirements.
- 4 (5) Additional monitoring or observer requirements.
- 5 (6) Additional restrictions on fishing methods or gear.

6 **SECTION 5.** Quota Reallocation Prohibited. – Notwithstanding G.S. 113-221.1,
7 G.S. 143B-289.52, and any other provision of law to the contrary, no State marine fisheries
8 agency shall reallocate or modify the harvest quotas allocated to the commercial and recreational
9 fishing sectors, respectively.

10 **SECTION 6.(a)** Recreational Fishing; 2019 Regulations in Effect. –
11 Notwithstanding any provision of law to the contrary, except as otherwise provided in Section 8
12 of this act, for any person engaged in recreational fishing in the coastal fishing waters, the
13 recreational bag limits, size limits, seasons, and lawful harvest methods that were in effect on
14 January 1, 2019, shall apply.

15 **SECTION 6.(b)** Fisheries Director; Conforming Proclamations. – No later than 30
16 days after the effective date of this Part, the Fisheries Director shall issue proclamations
17 consistent with subsection (a) of this section to restore recreational bag limits, size limits,
18 seasons, and lawful harvest methods to those that were in effect on January 1, 2019.

19 **SECTION 6.(c)** Marine Fisheries Commission; Conforming Rules. – The Marine
20 Fisheries Commission shall take all steps necessary to revise its current administrative rules,
21 guidelines, and policies consistent with subsection (a) of this section to restore recreational bag
22 limits, size limits, seasons, and lawful harvest methods to those that were in effect on January 1,
23 2019.

24 **SECTION 7.** Anti-Circumvention. – No State marine fisheries agency shall take any
25 actions or series of actions to avoid the requirements of this Part or to circumvent its purpose and
26 intent, including through (i) the reinterpretation of existing rules or fisheries management plans
27 or (ii) the implementation and development of adaptive management measures.

28 **SECTION 8.(a)** Limited Exceptions; Federal Compliance. – A State marine fisheries
29 agency may take regulatory actions that would otherwise be prohibited under this Part if strictly
30 necessary to comply with a condition imposed on the receipt of federal funds, or to implement
31 or comply with federal law, including:

- 32 (1) The Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. §
- 33 5101 et seq.
- 34 (2) The Clean Water Act, 33 U.S.C. § 1251 et seq.
- 35 (3) The Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq.
- 36 (4) The Magnuson-Stevens Fishery Conservation and Management Act, 16
- 37 U.S.C. § 1801 et seq.
- 38 (5) The Marine Mammal Protection Act of 1972, 16 U.S.C. § 1361 et seq.
- 39 (6) The Migratory Bird Treaty Act of 1918, 16 U.S.C. § 703 et seq.

40 **SECTION 8.(b)** Additional Provisions; Federal Compliance. – Any regulatory
41 action taken by a State marine fisheries agency in accordance with subsection (a) of this section
42 shall be narrowly tailored to the purpose of complying with federal law or conditions imposed
43 on the receipt of federal funds. Any new or expanded restrictions implemented under subsection
44 (a) of this section shall be the minimum necessary to maintain compliance. Whenever a State
45 marine fisheries agency proposes a regulatory action under the federal compliance exception in
46 subsection (a) of this section, the agency shall prepare a written statement that identifies the
47 federal law requiring the proposed regulatory action and sets forth the reasons why the proposed
48 regulatory action is required by federal law.

49 **SECTION 8.(c)** Limited Exception; Emergency Response. – A State marine
50 fisheries agency may take regulatory actions that would otherwise be prohibited under this Part
51 if strictly necessary for any of the following purposes:

- 1 (1) To protect against imminent threats to public health and safety.
- 2 (2) To respond to a declared state of emergency in accordance with Chapter 166A
- 3 of the General Statutes.
- 4 (3) To prevent catastrophic loss of marine and estuarine resources.
- 5 (4) To address fishery collapse as confirmed by peer-reviewed stock assessments.
- 6 (5) To prevent imminent loss of access by residents to fisheries under federal
- 7 management jurisdiction.

8 **SECTION 8.(d)** Additional Provisions; Emergency Response. – Any regulatory
9 action taken by a State marine fisheries agency in accordance with subsection (c) of this section
10 shall be narrowly tailored to the purpose of addressing the pending emergency situation. Any
11 new or expanded restrictions implemented under subsection (c) of this section shall be the
12 minimum necessary to sufficiently address the emergency. As soon as practicable following the
13 proposal or implementation of a regulatory action under the emergency response exception in
14 subsection (c) of this section, a State marine fisheries agency shall prepare a written statement
15 that identifies the emergency situation requiring the regulatory action and sets forth the reasons
16 why the regulatory action is necessary to address the emergency.

17 **SECTION 8.(e)** Expiration; Excepted Regulatory Actions. – A regulatory action
18 authorized under this section shall expire no later than 180 days following its effective date.

19 **SECTION 9.** Judicial Review. – Any person aggrieved by a regulatory action taken
20 by a State marine fisheries agency in violation of this Part may petition for judicial review in the
21 Wake County Superior Court. Article 4 of Chapter 150B of the General Statutes governs judicial
22 review of a regulatory action under this Part. In any action arising under this section, the Court
23 may award costs and reasonable attorneys' fees to the prevailing party.

24 25 **DIVISION OF MARINE FISHERIES' PROGRESS REPORT ON IMPLEMENTING** 26 **RECOMMENDATIONS FROM THE COLLABORATORY STUDY**

27 **SECTION 10.(a)** Division of Marine Fisheries; Biannual Report. – Beginning on
28 September 1, 2026, the Division of Marine Fisheries shall report biannually to the Joint
29 Legislative Oversight Committee on Agriculture and Natural and Economic Resources on its
30 progress related to its review and implementation of the recommendations from the
31 Collaboratory Study. The report shall include (i) a summary of the Division's determinations
32 regarding the recommendations and findings in the Collaboratory Study, (ii) a description of any
33 current or near-term actions to be taken by the Division to implement the recommendations in
34 the Collaboratory Study, and (iii) an assessment of any long-term planning being considered by
35 the Division in response to the recommendations and findings in the Collaboratory Study.

36 **SECTION 10.(b)** There is appropriated from the General Fund to the Department of
37 Environmental Quality the sum of ten thousand dollars (\$10,000) in nonrecurring funds for the
38 2026-2027 fiscal year to be used by the Department's Division of Marine Fisheries to produce
39 the reports required by subsection (a) of this section.

40 **SECTION 10.(c)** This section becomes effective July 1, 2026.

41 42 **MORATORIUM EFFECTIVE DATE AND EXPIRATION**

43 **SECTION 11.** Effective Date. – Except as otherwise provided, this Part is effective
44 when it becomes law and expires January 1, 2037.

45 46 **PART II. REESTABLISHMENT OF THE JOINT LEGISLATIVE COMMISSION ON** 47 **SEAFOOD AND AQUACULTURE**

48 **SECTION 12.** Chapter 120 of the General Statutes is amended by adding a new
49 Article to read:

50 "Article 12T.

51 "Joint Legislative Commission on Seafood and Aquaculture.

1 **"§ 120-70.175. Commission established.**

2 The Joint Legislative Commission on Seafood and Aquaculture is hereby established as a
3 permanent joint committee of the General Assembly. As used in this Article, the term
4 "Commission" means the Joint Legislative Commission on Seafood and Aquaculture.

5 **"§ 120-70.176. Membership; cochair; vacancies; quorum.**

6 (a) The Joint Legislative Commission on Seafood and Aquaculture shall consist of 15
7 members: four Senators appointed by the President Pro Tempore of the Senate; four
8 Representatives appointed by the Speaker of the House of Representatives; four members
9 appointed by the Governor; and three members appointed by the Commissioner of Agriculture.
10 The members shall serve at the pleasure of their appointing officer.

11 (b) The President Pro Tempore of the Senate shall designate one Senator to serve as
12 cochair, and the Speaker of the House of Representatives shall designate one Representative to
13 serve as cochair.

14 (c) Except as otherwise provided in this section, a legislative member of the Commission
15 shall serve for so long as the member remains a member of the General Assembly and no
16 successor has been appointed. A member of the General Assembly who does not seek reelection
17 or is not reelected to the General Assembly may complete a term of service on the Commission
18 until the day on which a new General Assembly convenes. A legislative member of the
19 Commission who resigns or is removed from service in the General Assembly shall be deemed
20 to have resigned or been removed from office on the Commission. Any vacancy that occurs on
21 the Commission shall be filled in the same manner as the original appointment.

22 (d) A quorum of the Commission shall consist of eight members.

23 **"§ 120-70.177. Powers and duties.**

24 The Commission shall have the following powers and duties:

- 25 (1) To monitor and study the current seafood industry in North Carolina,
26 including studies of the feasibility of increasing the State's production,
27 processing, and marketing of seafood.
- 28 (2) To study the potential for increasing the role of aquaculture in all regions of
29 the State.
- 30 (3) To evaluate the feasibility of creating a central permitting office for fishing
31 and aquaculture matters.
- 32 (4) To evaluate actions of the Division of Marine Fisheries of the Department of
33 Environmental Quality, the Wildlife Resources Commission, and of any other
34 board, commission, department, or agency of the State or local government as
35 such actions relate to the seafood and aquaculture industries.
- 36 (5) To make recommendations regarding regulatory matters relating to the
37 seafood and aquaculture industries, including:
- 38 a. Increasing the State's representation and decision-making ability by
39 dividing the State between the Atlantic and South Atlantic regions of
40 the National Division of Marine Fisheries.
- 41 b. Evaluating the necessity to substantially increase penalties for trespass
42 and theft of shellfish and other aquaculture products.
- 43 (6) To review and evaluate changes in federal law and regulations, relevant court
44 decisions, and changes in technology affecting the seafood and aquaculture
45 industries.
- 46 (7) To review existing and proposed State law and rules affecting the seafood and
47 aquaculture industries and to determine whether any modification of law or
48 rules is in the public interest.
- 49 (8) To make reports and recommendations, including draft legislation, to the
50 General Assembly from time to time as to any matter relating to the powers
51 and duties set out in this section.

1 (9) To undertake such additional studies as it deems appropriate or as may from
2 time to time be requested by the President of the Senate, the President Pro
3 Tempore of the Senate, the Speaker of the House of Representatives, either
4 house of the General Assembly, the Legislative Research Commission, or the
5 Joint Legislative Commission on Governmental Operations and to make such
6 reports and recommendations to the General Assembly regarding such studies
7 as it deems appropriate.

8 **"§ 120-70.178. Additional powers.**

9 (a) The Commission, while in the discharge of official duties, may exercise all the powers
10 of a joint committee of the General Assembly provided for under the provisions of G.S. 120-19
11 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the call
12 of either cochair, whether or not the General Assembly is in session. The Commission may meet
13 in the Legislative Building or the Legislative Office Building upon the approval of the Legislative
14 Services Commission.

15 (b) The Commission may contract for consultants or hire employees in accordance with
16 G.S. 120-32.02.

17 **"§ 120-70.179. Compensation and expenses of members.**

18 Members of the Commission shall receive per diem and travel allowances in accordance with
19 G.S. 120-3.1 for members who are legislators and shall receive compensation and per diem and
20 travel allowances in accordance with G.S. 138-5 for members who are not legislators.

21 **"§ 120-70.180. Staffing.**

22 The Legislative Services Officer shall assign as staff to the Commission professional
23 employees of the General Assembly, as approved by the Legislative Services Commission.
24 Clerical staff shall be assigned to the Commission through the offices of the Directors of
25 Legislative Assistants of the Senate and House of Representatives. The expenses of employment
26 of clerical staff shall be borne by the Commission.

27 **"§ 120-70.181. Funding.**

28 From funds available to the General Assembly, the Legislative Services Commission shall
29 allocate monies to fund the Joint Legislative Commission on Seafood and Aquaculture."
30

31 **PART III. SEVERABILITY AND EFFECTIVE DATE**

32 **SECTION 13.** Severability. – If any provision of this act or its application is held
33 invalid, the invalidity does not affect other provisions or applications of this act that can be given
34 effect without the invalid provisions or application and, to this end, the provisions of this act are
35 severable.

36 **SECTION 14.** Effective Date. – Except as otherwise provided, this act is effective
37 when it becomes law.