



# SENATE BILL 648: Support Shellfish Aquaculture.

2019-2020 General Assembly

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| <b>Committee:</b>     | Senate Rules and Operations of the Senate | <b>Date:</b>        | May 6, 2019    |
| <b>Introduced by:</b> | Sens. Sanderson, Rabon                    | <b>Prepared by:</b> | Jeff Hudson    |
| <b>Analysis of:</b>   | Second Edition                            |                     | Staff Attorney |

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**OVERVIEW:** *Senate Bill 648 would make various changes to State laws governing shellfish aquaculture.*

## **BILL ANALYSIS:**

### **Authorize Establishment of Shellfish Aquaculture Enterprise Areas**

Section 1 would authorize the Secretary of the Department of Environmental Quality (Secretary) to establish Shellfish Aquaculture Enterprise Areas and the Marine Fisheries Commission (MFC) to adopt rules necessary to implement the process for establishing Shellfish Aquaculture Enterprise Areas. Section 1 would also direct the Division of Marine Fisheries (DMF) of the Department of Environmental Quality (DEQ) to identify areas in waters that are under a shellfish leasing moratorium that could potentially be established as Shellfish Aquaculture Enterprise Areas.

### **Establish Pamlico Sound Shellfish Aquaculture Pilot Project**

Section 2 would establish a pilot project under which the Secretary could grant up to three shellfish cultivation leases or water column leases in Pamlico Sound. Each lease could be up to 50 acres in size, must be separated from any other lease and from the shoreline by at least 250 yards, and no person could hold more than 100 acres of leases. DMF will study the advantages and disadvantages associated with leasing such areas within Pamlico Sound and will submit an interim report to the General Assembly no later than January 1, 2025, and a final report no later than January 1, 2030. In its final report, DMF will include a recommendation on whether the pilot project should be terminated, be made permanent, or be expanded. The pilot project would terminate July 1, 2030, and any leases granted pursuant to it would terminate no later than July 1, 2031.

### **Increase Production and Planting Requirements for Shellfish Leases**

Section 3 would increase the annual production and planting requirements for shellfish cultivation leases as follows:

- For shellfish bottom leases:
  - Production requirements would be increased from 10 bushels of shellfish per acre to 20 bushels of shellfish per acre.

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- For intensive culture bottom operations, the planting requirements would be increased from 25 bushels of seed shellfish per acre or 50 bushels of cultch per acre to purchasing 23,000 shellfish seed per acre.
- For extensive culture bottom operations, the planting requirements would be increased from 25 bushels of seed shellfish per acre or 50 bushels of cultch per acre to purchasing 15,000 shellfish seed per acre.
- For water column leases:
  - Production requirements would be increased from 40 bushels of shellfish per acre to 50 bushels of shellfish per acre.
  - Planting requirements would be increased from 100 bushels of seed shellfish or cultch to 23,000 shellfish seed per acre.

## **Facilitate the Transition of Terminated Leases to Productive Uses**

Section 4 would provide that, in addition to throwing open terminated shellfish leases for public use, the Secretary could also make the bottom available for new lease applications for a period of 18 months or designate the bottom as a Shellfish Aquaculture Enterprise Area. Section 4 would also provide that the former holders of a terminated lease must remove gear in addition to markers.

## **Allow Transplanting of Seed Oysters and Seed Clams from Permitted Aquaculture Operations Nursery Facilities in Prohibited Waters**

Section 5 would allow the transport of seed oysters and seed clams from aquaculture operations in prohibited waters unless the Secretary determines that it would be a risk to public health.

## **Administrative Remedy for Shellfish Leasing Appeals**

Section 6 would establish a new process for appeals of shellfish lease decisions. Under the new process, the Chair of the MFC would appoint a three- member Shellfish Cultivation Lease Review Committee to determine whether a contested case is appropriate for a person, other than the lease applicant, who is affected by the decision and wishes to appeal it.

## **Moratorium on Shellfish Leasing in the New Hanover County Area**

Section 7 would provide that until July 1, 2021, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established for the New Hanover County area.

## **Moratorium on Shellfish Leasing in Bogue Sound**

Section 8 would provide that until July 1, 2021, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established for Bogue Sound.

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## Studies

Sections 9 through 12 would establish the following studies related to shellfish aquaculture:

- Direct DMF and the MFC to study how to reduce user conflict related to shellfish cultivation leases.
- Direct DMF to study penalties associated with violations of law regarding taking shellfish and shellfish aquaculture operations.
- Direct the North Carolina Coastal Federation to study a low-interest loan program to provide start-up and expansion capital to shellfish growers in North Carolina.
- Direct the Department of Agriculture and Consumer Services to study crop insurance and other risk of loss mitigation and protection programs available to shellfish growers.

**EFFECTIVE DATE:** Except as otherwise provided, the act would become effective July 1, 2019.