



SENATE BILL 648: Support Shellfish Aquaculture.

2019-2020 General Assembly

| | | | |
|-----------------------|--------------|---------------------|---------------------|
| Committee: | | Date: | December 10, 2019 |
| Introduced by: | | Prepared by: | Jeff Hudson |
| Analysis of: | S.L. 2019-37 | | Legislative Analyst |

OVERVIEW: *S.L. 2019-37 makes the following changes to State laws governing shellfish aquaculture:*

- *Authorizes the establishment of Shellfish Aquaculture Enterprise Areas.*
- *Establishes the Pamlico Sound Shellfish Aquaculture Pilot Project.*
- *Increases the production and planting requirements for shellfish leases.*
- *Facilitates the transition of terminated leases to productive uses.*
- *Allows transplanting of seed oysters and seed clams from permitted aquaculture operation nursery facilities in prohibited waters.*
- *Establishes a new administrative process for certain appeals of shellfish lease decisions.*
- *Establishes temporary moratoria on shellfish leasing in the New Hanover County Area and in Bogue Sound.*
- *Establishes various studies related to shellfish aquaculture.*

This act became effective July 1, 2019.

BILL ANALYSIS:

Authorize Establishment of Shellfish Aquaculture Enterprise Areas

Section 1 authorizes 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 also directs 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 establishes 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

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 648

Page 2

recommendation on whether the pilot project should be terminated, be made permanent, or be expanded. The pilot project will terminate July 1, 2030, and any leases granted pursuant to it will terminate no later than July 1, 2031.

Increase Production and Planting Requirements for Shellfish Leases

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

- For shellfish bottom leases:
 - Production requirements are increased from 10 bushels of shellfish per acre to 20 bushels of shellfish per acre.
 - For intensive culture bottom operations, the planting requirements are 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 are 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 are increased from 40 bushels of shellfish per acre to 50 bushels of shellfish per acre.
 - Planting requirements are 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 provides 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 also provides 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 Operation Nursery Facilities in Prohibited Waters

Section 5 allows 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 establishes a new process for appeals of shellfish lease decisions. Under the new process, the Chair of the MFC appoints 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.

Senate Bill 648

Page 3

Moratorium on Shellfish Leasing in the New Hanover County Area

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

Moratorium on Shellfish Leasing in Bogue Sound

Section 8 establishes a moratorium on new shellfish cultivation leases and new water column leases for aquaculture for Bogue Sound until July 1, 2021.

Studies

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

- Directs DMF and the MFC to study how to reduce user conflict related to shellfish cultivation leases.
- Directs DMF to study penalties associated with violations of law regarding taking shellfish and shellfish aquaculture operations.
- Directs 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.
- Directs 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: This act became effective July 1, 2019.