

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 987

Short Title: Moratoria/Inactive Lagoons.

(Public)

Sponsors: Senator Miller.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIA ON THE CONSTRUCTION AND EXPANSION OF SWINE FARMS, TO REQUIRE AN ANIMAL WASTE MANAGEMENT PLAN TO CONTAIN A PROVISION REGARDING A LAGOON CLOSURE PLAN, TO PROVIDE FOR DEVELOPING AN INVENTORY OF INACTIVE SWINE LAGOONS, AND TO ESTABLISH A TIMETABLE FOR PROPERLY CLOSING THESE INACTIVE LAGOONS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a1) of Section 1.1 of S.L. 1997-458, as amended by Section 2 of S.L. 1998-188, reads as rewritten:

"(a1) There is hereby established a moratorium on the construction or expansion of swine farms and on lagoons and animal waste management systems for swine farms. The purposes of this moratorium are to allow counties time to adopt zoning ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time for the completion of the studies authorized by the 1995 General Assembly (1996 Second Extra Session); and to allow the 1999 General Assembly to receive and act on the findings and recommendations of those studies. Except as provided in subsection (b) of this section, the Environmental Management Commission shall not issue a permit for an animal waste management system for a new swine farm or the expansion of an existing swine farm for a period beginning on 1 March 1997 and ending on ~~1 September 1999~~ September 1, 2000. The construction or expansion of a swine farm or animal waste management system for a swine farm is prohibited during the period of the moratorium regardless of

the date on which a site evaluation for the swine farm is completed and regardless of whether the animal waste management system is permitted under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North Carolina Administrative Code 2H.0217."

Section 2. Section 1.2 of S.L. 1997-458, as amended by Section 3 of S.L. 1998-188, reads as rewritten:

"Section 1.2. (a) As used in this section, 'swine farm' and 'lagoon' have the same meaning as in G.S. 106-802. As used in this section, 'animal waste management system' has the same meaning as in G.S. 143-215.10B. There is hereby established a moratorium for any new or expanding swine farm or lagoon for which a permit is required under Parts 1 or 1A of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103. Effective 1 January 1997, until ~~1 September 1999~~, September 1, 2000, the Environmental Management Commission shall not issue a permit for an animal waste management system, as defined in G.S. 143-215.10B, or for a new or expanded swine farm or lagoon, as defined in G.S. 106-802. The exemptions set out in subsection (b) of Section 1.1 of this act do not apply to the moratorium established under this section.

(b) In order to protect travel and tourism, effective ~~1 September 1999~~, September 1, 2000, no animal waste management system shall be permitted except under an individual permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103."

Section 3. G.S. 143-215.10C(e) is amended by adding a new subdivision to read:

"(9) Provisions regarding a closure plan for lagoons that provide for closing all lagoons covered by the plan so that the lagoons will pose no significant threat to public health, the environment, or natural resources."

Section 4. Part 1A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.10I. Inactive swine lagoons.

(a) The Department of Environment and Natural Resources shall develop and maintain an inventory of all inactive lagoons that at one time served as a component of an animal waste management system at a swine farm, as defined in G.S. 106-802. The Department shall establish a priority for closure of each inactive lagoon in the inventory based on the following criteria:

- (1) Whether the inactive lagoon constitutes an imminent threat to public health, the environment, or natural resources.
 - (2) Whether the inactive lagoon has contaminated or is likely to contaminate drinking water wells.
 - (3) Whether the inactive lagoon has contributed or is likely to contribute to water quality degradation.
 - (4) The likelihood that the structural integrity of the inactive lagoon will deteriorate so as to result in a release of pollutants from the lagoon.
 - (5) Whether the inactive lagoon is determined by the Department to be a nuisance.
- (b) The Department shall establish a timetable for closing inactive lagoons in the inventory under subsection (a) of this section and shall direct closure according to the priority determined in accordance with subsection (a) of this section."

Section 5. G.S. 143-215.10M(a) is amended by adding a new subdivision to read:

- "(9a) The number and location of inactive lagoons in the inventory required by G.S. 143-215.10I and its priority ranking for closure in order to protect the public health, the environment, or natural resources."

Section 6. The Environmental Management Commission shall, no later than January 1, 2000, adopt temporary rules that strengthen the current closure requirements that apply to lagoons that are components of an animal waste management system at swine farms, as defined in G.S. 106-802.

Section 7. The initial inventory required under G.S. 143-215.10I, as enacted by Section 4 of this act, shall be completed no later than January 1, 2000.

Section 8. Section 5 becomes effective January 1, 2000. The remainder of this act is effective when it becomes law.