

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**HOUSE BILL 1121
Committee Substitute Favorable 8/22/01**

Short Title: Coastal Recreational Fishing License.

(Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources so that more fish will be available on a sustainable basis for commercial and recreational harvest; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,
The General Assembly of North Carolina enacts:

1 license is issued; the date on which the license expires; and any other information that
2 the Commission or the Division determines to be necessary to accomplish the purposes
3 of this Subchapter.

4 (e) Licenses Available for Inspection. – It is unlawful for any person to engage in
5 recreational fishing in coastal fishing waters in the State without having ready at hand
6 for inspection all licenses required under this Article. It is unlawful for a person to
7 refuse to exhibit any license required by this Article upon the request of an inspector or
8 other law enforcement officer authorized to enforce federal or State laws, regulations, or
9 rules relating to marine fisheries.

10 (f) Replacement Licenses. – The Division shall issue a replacement license to a
11 licensee for a license that has not been suspended or revoked. A licensee may apply for
12 a replacement license for a license that has been lost, stolen, or destroyed and shall
13 apply for a replacement license within 30 days of a change in the licensee's name or
14 address. A licensee may apply for a replacement license in person at any office of the
15 Division or by mail to the Morehead City office of the Division. A licensee may use a
16 copy of the application for a replacement license that has been filed with the Division as
17 a temporary license until the licensee receives the replacement license. The Commission
18 may establish a fee for each type of replacement license, not to exceed five dollars
19 (\$5.00), that compensates the Division for the administrative costs associated with
20 issuing the replacement license.

21 (g) No Dual Residency. – It is unlawful for any person to hold any license issued
22 under this Article to the person as a North Carolina resident if that person holds any
23 commercial or recreational fishing license issued by another state to the person as a
24 resident of that state.

25 (h) Limitations on Eligibility. – A person is not eligible to obtain a license under
26 G.S. 113-174.3 if, at the time the person applies for the license, any other license or
27 endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113
28 of the General Statutes is suspended or revoked. A person is not eligible to obtain a
29 license under G.S. 113-174.3 if, within the three years prior to the date of application,
30 the person has been determined to be responsible for four or more violations of State
31 laws, regulations, or rules governing the management of marine and estuarine resources.
32 An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not
33 been determined to be responsible for four or more violations of State laws, regulations,
34 or rules governing the management of marine and estuarine resources during the
35 previous three years. The Division may also consider violations of federal law and
36 regulations governing the management of marine and estuarine resources in determining
37 whether an applicant is eligible for a license.

38 (i) Cancellation. – The Division may cancel a license issued on the basis of an
39 application that contains false information supplied by the applicant. A cancelled license
40 is void from the date of issuance. A person in possession of a cancelled license shall
41 surrender the cancelled license to the Division. It is unlawful to refuse to surrender a
42 cancelled license upon demand of any authorized agent of the Division.

1 (j) Reporting Requirements. – The holder of a license issued under this Article
2 shall comply with the biological data sampling and survey programs of the Commission
3 and the Division.

4 **"§ 113-174.2. Coastal Recreational Fishing License.**

5 (a) License Required. – Except as otherwise provided in this Article, it is
6 unlawful for any person to engage in recreational fishing in coastal fishing waters by
7 means of recreational gear without holding a CRFL issued under this section. It is
8 unlawful for any person licensed under this section or fishing under a CRFL to possess
9 fish in excess of recreational possession limits.

10 (b) Purchase; Renewal. – Any license issued under this section may be purchased
11 at designated offices of the Division or from the Division by mail. A license issued
12 under subdivisions (1) and (2) of subsection (c) of this section may also be purchased
13 through a license agent authorized under G.S. 113-174.5. Any license issued under this
14 section may be renewed by mail.

15 (c) Types of CRFLs; Fees; Duration. – The Division shall issue the following
16 CRFLs:

17 (1) Standard CRFL. – \$15.00. This license is valid for a period of one year
18 from the date of issuance.

19 (2) Ten-Day CRFL. – \$5.00. This license is valid for a period of 10 days.

20 (3) Lifetime CRFL. – This license is valid for the lifetime of the licensee.
21 The fee for the Lifetime CRFL, based on the age of the prospective
22 licensee as of the date on which the application is filed with the
23 Division, is:

24 a. Younger than six years of age \$100.00

25 b. Between six and 11 years of age \$150.00

26 c. Between 11 and 17 years of age \$200.00

27 d. Between 17 and 65 years of age \$250.00

28 (4) Permanently Handicapped or Disabled Lifetime CRFL. – An applicant
29 for a license under this subdivision shall provide documentation to the
30 Division to demonstrate that the applicant is permanently handicapped
31 or disabled. A license issued under this subdivision shall be issued
32 without charge and is valid for the lifetime of the licensee.

33 (5) Disabled Veteran Lifetime CRFL. – An applicant for a license under
34 this subdivision shall provide documentation to the Division to
35 demonstrate that the applicant is a fifty percent (50%) or more disabled
36 war veteran as determined by the United States Department of
37 Veterans Affairs. A license issued under this subdivision shall be
38 issued without charge and is valid for the lifetime of the licensee.

39 (6) Legally Blind Lifetime CRFL. – An applicant for a license under this
40 subdivision shall provide documentation to the Division to
41 demonstrate that the applicant is legally blind. A license issued under

1 this subdivision shall be issued without charge and is valid for the
2 lifetime of the licensee.

3 (d) Charter/Head/Dive Boat Blanket CRFL. – A person who operates a charter
4 boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL.
5 The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not
6 hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be
7 unlawful for the owner of a charter, head, or dive boat who does not hold a
8 Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not
9 hold a CRFL to engage in recreational fishing by means of recreational gear. This
10 license is valid for a period of one year from the date of issuance. The fee for a
11 Charter/Head/Dive Boat Blanket CRFL is:

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|----|---|-----------------|
| 12 | (1) <u>Vessel of 25 feet or less</u> | <u>\$200.00</u> |
| 13 | <u>in length</u> | |
| 14 | (2) <u>Vessel of greater than 25 feet</u> | <u>\$400.00</u> |
| 15 | <u>in length</u> | |

16 (e) Ocean Fishing Pier Blanket CRFL. – A person who owns or operates an
17 ocean fishing pier and who charges a fee to allow a person to engage in recreational
18 fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier
19 Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the
20 names of all parties involved in the pier operation, including the owner of the property,
21 the owner of the pier if different, and all leasehold or other corporate arrangements, and
22 all persons with a substantial financial interest in the pier. The Ocean Fishing Pier
23 Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in
24 recreational fishing by means of recreational gear. This license is valid for a period of
25 one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is
26 four dollars (\$4.00) per linear foot, to the nearest foot, that the pier extends into coastal
27 fishing waters beyond the mean high waterline. The length of the pier shall be measured
28 to include all extensions of the pier. Within 30 days following a change of ownership of
29 a pier, or a change as to the manager, the manager or new manager shall secure a
30 replacement pier license as provided in G.S. 113-174.1(f).

31 (f) Exemptions. – A person may engage in recreational fishing by means of
32 recreational gear without holding a CRFL if the person:

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|----|---|--|
| 33 | (1) <u>Is under 16 years of age.</u> | |
| 34 | (2) <u>Is 65 years of age or older.</u> | |
| 35 | (3) <u>Holds a SCFL or a RSCFL.</u> | |
| 36 | (4) <u>Holds a Lifetime Resident Comprehensive Fishing License under G.S.</u> | |
| 37 | <u>113-271(d)(3) or a Lifetime Sportsman License under G.S. 113-</u> | |
| 38 | <u>270.1D(b).</u> | |

39 (g) If a state that requires a license to engage in recreational fishing by means of
40 recreational gear recognizes through statute, rule, or reciprocal agreement the validity of
41 a CRFL within its boundaries, North Carolina shall recognize the validity of a license to

1 engage in recreational fishing by means of recreational gear held by a resident of that
2 state.

3 **"§ 113-174.3. Recreational Commercial Gear License.**

4 (a) License Required. – Except as provided in subsection (e) of this section, it is
5 unlawful for any person to engage in recreational fishing by means of commercial
6 fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL
7 entitles the licensee to use authorized commercial gear to take fish for personal use
8 subject to recreational possession limits. It is unlawful for any person licensed under
9 this section or fishing under a RCGL to possess fish in excess of recreational possession
10 limits.

11 (b) Authorized Commercial Gear. –

12 (1) The Commission shall adopt rules authorizing the use of a limited
13 amount of commercial fishing equipment or gear for recreational
14 fishing under a RCGL. The Commission may authorize the limited use
15 of commercial gear on a uniform basis in all coastal fishing waters or
16 may vary the limited use of commercial gear within specified areas of
17 the coastal fishing waters. The Commission shall periodically evaluate
18 and revise the authorized use of commercial gear for recreational
19 fishing. Authorized commercial gear shall be identified by visible
20 colored tags or other means specified by the Commission in order to
21 distinguish between commercial gear used in a commercial fishing
22 operation as defined in G.S. 113-168 and commercial gear used for
23 recreational purposes.

24 (2) A person who holds a RCGL may use up to 100 yards of gill net to
25 take fish for recreational purposes. Two persons who each hold a
26 RCGL and who are fishing from a single vessel may use up to a
27 combined 200 yards of gill net to take fish for recreational purposes.
28 No more than 200 yards of gill net may be used to take fish for
29 recreational purposes from a single vessel regardless of the number of
30 persons aboard the vessel who hold a RCGL.

31 (c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the
32 Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be
33 renewed by mail.

34 (d) Duration; Fees. – The RCGL shall be valid for a one-year period from the
35 date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five
36 dollars (\$35.00). The fee for a RCGL for an individual who is not a North Carolina
37 resident shall be two hundred fifty dollars (\$250.00).

38 (e) Exemptions. –

39 (1) A person who is under 16 years of age may engage in recreational
40 fishing by means of authorized commercial gear without holding a
41 RCGL if the person is accompanied by a parent, grandparent, or
42 guardian who holds a valid RCGL or if the person has in the person's

1 possession a valid RCGL issued to the person's parent, grandparent, or
2 guardian.

3 (2) A person may engage in recreational fishing for crabs by means of one
4 or more crab pots attached to the shore along privately owned land or
5 to a privately owned pier without holding a RCGL provided that the
6 crab pots are attached with the permission of the owner of the land or
7 pier.

8 (3) A person who is on a vessel may engage in recreational fishing by
9 means of authorized commercial gear without holding a RCGL if there
10 is another person on the vessel who holds a valid RCGL. This
11 exemption does not authorize the use of commercial gear in excess of
12 that authorized for use by the person who holds the valid RCGL or, if
13 more than one person on the vessel holds a RCGL, in excess of that
14 authorized for use by those persons.

15 (4) A person using nonmechanical means may take shellfish for personal
16 use within the limits specified in G.S. 113-169.2(i) without holding a
17 RCGL.

18 (5) A person may take fish for recreational purposes by means of a gig
19 without holding a RCGL.

20 **§ 113-174.4. Sealife Enhancement Fund.**

21 (a) Definitions. – As used in this section:

22 (1) 'Fund' means the Sealife Enhancement Fund.

23 (2) 'License revenues' means the net proceeds from the sale of licenses
24 issued under G.S. 113-174.2 and interest earned from the investment
25 of license proceeds. The term includes funds realized from the sale,
26 lease, rental, or other grant of rights to real or personal property
27 acquired or produced with license revenues and federal aid project
28 reimbursements to the extent that license revenues originally funded
29 the project for which the reimbursement is made.

30 (b) Sealife Enhancement Fund Established. – The Sealife Enhancement Fund is
31 established as a special nonreverting fund within the Department. License revenues
32 shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in
33 accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission
34 shall administer the Fund with the advice of the Sealife Enhancement Advisory
35 Committee.

36 (c) Allocation of Moneys From the Fund. – The Secretary shall disburse moneys
37 from the Fund only upon the written direction of the Commission. The Commission
38 shall use the moneys that accrue to the Fund in each fiscal year for the administration
39 and enforcement of the provisions of Subchapter IV of Chapter 113 of the General
40 Statutes related to marine fisheries as follows:

41 (1) Resource and habitat enhancement. – Not less than thirty-five percent
42 (35%) of the moneys in the Fund shall be used for resource and habitat

1 enhancement, including, but not limited to, artificial reef construction,
2 restoration and enhancement of submerged aquatic vegetation,
3 acquisition of land or an interest in land that provides for the
4 preservation of critical fisheries habitat, and studies used in the
5 development of a Fishery Management Plan or a Coastal Habitat
6 Protection Plan.

7 (2) Marine fisheries research. – Not less than thirty-five percent (35%) of
8 the moneys in the Fund shall be used for marine fisheries research,
9 including, but not limited to, life history studies of commercially or
10 recreationally significant marine and estuarine species or fisheries,
11 sampling and statistical studies, data collection and analysis, fisheries
12 habitat studies, commercial and recreational discard mortality studies,
13 and studies used in the development of a Fishery Management Plan or
14 a Coastal Habitat Protection Plan.

15 (3) Grants. – Not more than five percent (5%) of the moneys in the Fund
16 shall be used to fund grants for coastal fishing programs, projects, and
17 scholarships.

18 (4) Administration. – Not more than ten percent (10%) of the moneys,
19 exclusive of the license agent fees, in the Fund shall be used for
20 administrative costs.

21 (5) Public education and information. – Not less than five percent (5%),
22 but no more than ten percent (10%), of the moneys in the Fund shall be
23 used for public education and information.

24 (d) Sealife Enhancement Advisory Committee. – The Sealife Enhancement
25 Advisory Committee shall advise the Commission on expenditure of license revenues
26 from the Fund. The Advisory Committee shall consist of nine members as follows:

27 (1) The Governor shall appoint seven persons each of whom holds a
28 CRFL at the time of appointment. A person appointed under this
29 subdivision must continue to hold a CRFL in order to remain eligible
30 to serve on the Advisory Committee.

31 (2) The Director of the Division of Marine Fisheries or the Director's
32 designee shall serve as a nonvoting, ex officio member of the Advisory
33 Committee.

34 (3) The Chair of the Marine Fisheries Commission or the Chair's designee
35 shall serve as a nonvoting, ex officio member of the Advisory
36 Committee.

37 (e) Report Required. – The Secretary shall submit to the Joint Legislative
38 Commission on Seafood and Aquaculture and the Joint Legislative Commission on
39 Governmental Operations by 30 September of each year a report on the Fund that shall
40 include the source and amounts of all moneys credited to the Fund and the purpose and
41 amount of all expenditures from the Fund during the prior fiscal year.

42 **"§ 113-174.5. License agents.**

1 (a) The Secretary shall designate license agents for the Department. At least one
2 license agent shall be designated for each county that contains or borders on coastal
3 fishing waters. The Secretary may designate additional license agents in any county if
4 the Secretary determines that additional agents are needed to provide efficient service to
5 the public. The Division and license agents designated by the Secretary under this
6 section shall issue licenses authorized under this Article in accordance with this Article
7 and the rules of the Commission.

8 (b) The Secretary may require license agents to enter into a contract that provides
9 for their duties and compensation, post a bond, and submit to reasonable inspections and
10 audits. If a license agent violates any provision of this Article, the rules of the
11 Commission, or the terms of the contract, the Secretary may initiate proceedings for the
12 forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to
13 renew a designation as a license agent and may impound or require the return of all
14 licenses, moneys, record books, reports, license forms and other documents, ledgers,
15 and materials pertinent or apparently pertinent to the license agency. The Secretary shall
16 report evidence of misuse of State property, including license fees, by a license agent to
17 the State Bureau of Investigation as provided by G.S. 114-15.1.

18 (c) A license agent may deduct a fee of six percent (6%) from the amount
19 collected for each license."

20 **SECTION 2.** G.S. 113-168(1) reads as rewritten:

21 "(1) 'Commercial fishing operation' means any activity preparatory to,
22 during, or subsequent to the taking of any fish, the taking of which is
23 subject to regulation by the Commission, either with the use of
24 commercial fishing equipment or gear, or by any means if the purpose
25 of the taking is to obtain fish for sale. Commercial fishing operation
26 does not include (i) the taking of fish as part of a recreational fishing
27 tournament, unless commercial fishing equipment or gear is ~~used or~~
28 used, (ii) the taking of fish under a ~~RCGL~~ RCGL, or (iii) the taking of
29 fish as provided in G.S. 113-261."

30 **SECTION 3.** G.S. 113-168.1(a) reads as rewritten:

31 "(a) Duration, Fees. – ~~Except as provided in G.S. 113-173(f), all~~ All licenses and
32 endorsements issued under this Article expire on the last day of the license year. An
33 applicant for any license or endorsement shall pay the full annual fee at the time the
34 applicant applies for the license or endorsement regardless of when application is
35 made."

36 **SECTION 4.** G.S. 113-168.1(f) reads as rewritten:

37 "(f) License Issuance and Renewal. – ~~Except as provided in G.S. 113-173(d), the~~
38 The Division shall issue licenses and endorsements under this Article to eligible
39 applicants at any office of the Division or by mail from the Morehead City office of the
40 Division. A license or endorsement may be renewed in person at any office of the
41 Division or by mail to the Morehead City office of the Division. Eligibility to renew an
42 expired SCFL shall end one year after the date of expiration of the SCFL."

1 **SECTION 5.** G.S. 113-168.1(g) reads as rewritten:

2 "(g) Limitations on Eligibility. – A person is not eligible to obtain or renew a
3 license or endorsement under this Article if, at the time the person applies for the license
4 or endorsement, any other license or endorsement issued to the person under this Article
5 or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license
6 or endorsement under this Article if, within the three years prior to the date of
7 application, the person has been determined to be responsible for four or more
8 violations of state laws, regulations, or rules governing the management of marine and
9 estuarine resources. An applicant for a license under this Article shall certify that the
10 applicant has not been determined to be responsible for four or more violations of state
11 laws, regulations, or rules governing the management of marine and estuarine resources
12 during the previous three years. The Division may also consider violations of federal
13 law and regulations governing the management of marine and estuarine resources in
14 determining whether an applicant is eligible for a license."

15 **SECTION 6.** G.S. 113-185(a) reads as rewritten:

16 "(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of
17 an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The
18 prohibition shall be effective when:

- 19 (1) Buoys or beach markers, placed at the owner's expense in accordance
20 with the rules adopted by the Marine Fisheries Commission, indicate
21 clearly to fishermen in vessels and on the beach the requisite distance
22 of 750 feet from the pier, and
23 (2) The public is allowed to fish from the pier for a reasonable fee.

24 The prohibition shall not apply to littoral proprietors whose property is within 750 feet
25 of a duly licensed ocean pier."

26 **SECTION 7.** G.S. 113-169.4 is repealed.

27 **SECTION 8.** G.S. 113-172 is repealed.

28 **SECTION 9.** G.S. 113-173 is repealed.

29 **SECTION 10.** G.S. 143B-289.52(a) is amended by adding a new
30 subdivision to read:

31 "(13) To adopt rules to define fishing gear as either recreational gear or
32 commercial gear."

33 **SECTION 11.** The Joint Legislative Commission on Seafood and
34 Aquaculture shall study issues related to the establishment of a unified recreational
35 fishing license for recreational fishing in both the inland and coastal fishing waters of
36 the State. The Commission shall make specific findings as to whether a unified
37 licensing system should be adopted for recreational fishing in the State and, if so, what
38 that system should be and how it should be implemented. The Commission shall present
39 its findings and recommendations, if any, to the 2002 Regular Session of the 2001
40 General Assembly.

41 **SECTION 12.** Unless otherwise expressly provided, every agency to which
42 this act applies shall adopt rules to implement the provisions of this act only in

1 accordance with the provisions of Chapter 150B of the General Statutes. This act
2 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.
3 Every agency to which this act applies that is authorized to adopt rules to implement the
4 provisions of this act may adopt temporary rules to implement the provisions of this act.
5 This section shall continue in effect until all rules necessary to implement the provisions
6 of this act have become effective as either temporary rules or permanent rules.

7 **SECTION 13.** If any section or provision of this act is declared
8 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
9 provision does not affect the validity of this act as a whole or any part of this act other
10 than the part declared to be unconstitutional or invalid.

11 **SECTION 14.** Sections 10, 11, 12, 13, and 14 of this act are effective when
12 this act becomes law. All other sections of this act become effective 1 March 2003.