

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 831*
Committee Substitute Favorable 5/20/03

Short Title: Coastal Recreational Fishing License/Fund.

(Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE
3 AND A MARINE RESOURCES RESTORATION FUND TO RESTORE,
4 PROTECT, AND ENHANCE THE MARINE RESOURCES OF THE STATE.

5 Whereas, the marine resources of North Carolina are in decline; based on
6 present trends, recreational catch per trip will approach zero in thirty-six years; and
7 some specific marine fisheries have experienced such a severe decline that recovery will
8 take years of careful management; and

9 Whereas, management of marine resources can achieve significant restoration
10 of stocks as demonstrated by the role regulation of overfishing has played in restoring
11 stocks of species such as striped bass; and

12 Whereas, implementing a system for licensing coastal recreational fishers and
13 establishing a fund containing revenue generated by the licensing system would enable
14 the Division of Marine Fisheries to better disseminate information to and gather
15 information from recreational fishers, who are the largest marine resources user group
16 in our State, and would enable the Division to better manage the marine resources of the
17 State through habitat protection, research, and law enforcement; and

18 Whereas, an objective poll conducted by North Carolina State University
19 found that almost 80% of recreational fishers in North Carolina support the
20 establishment of a system for licensing coastal recreational fishing, with the revenues
21 from the license to be used to manage the marine resources of the State; and

22 Whereas, recreational fishers should help pay for the fishery regulation and
23 management efforts of the State and should have a voice in this regulation and
24 management; and

25 Whereas, at a time when the State faces a severe fiscal crisis, a \$15.00 annual
26 license for coastal recreational fishing would provide \$6,000,000 to \$8,000,000 per year
27 in new funds for protection, restoration, and enhancement of fisheries habitat; fisheries
28 research; public education; and enforcement of fisheries laws; and

1 Except as provided in G.S. 113-168.4, it is unlawful for any individual who takes or
2 lands any species of fish under the authority of the Commission by any means to sell,
3 offer for sale, barter, or exchange these fish for anything of value.

4 (c) Assignment and Transfer Prohibited. – Except as provided in G.S.
5 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a
6 license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or
7 otherwise transfer a license issued under this Article.

8 (d) Format. – A license issued under this Article shall be issued in the name of
9 the applicant. A license shall show the type of license; the name, mailing address,
10 physical or residence address, and date of birth of the licensee; the date on which the
11 license is issued; the date on which the license expires; and any other information that
12 the Commission or the Division determines to be necessary to accomplish the purposes
13 of this Subchapter.

14 (e) Licenses Available for Inspection. – It is unlawful for any individual to
15 engage in recreational fishing in coastal fishing waters in the State without having ready
16 at hand for inspection all licenses required under this Article. It is unlawful for an
17 individual to refuse to exhibit any license required by this Article upon the request of an
18 inspector or other law enforcement officer authorized to enforce federal or State laws,
19 regulations, or rules relating to marine fisheries.

20 (f) Replacement Licenses. – The Division shall issue a replacement license to a
21 licensee for a license that has not been suspended or revoked. A licensee may apply for
22 a replacement license for a license that has been lost, stolen, or destroyed and shall
23 apply for a replacement license within 30 days of a change in the licensee's name or
24 address. A licensee may apply for a replacement license in person at any office of the
25 Division or by mail to the Morehead City office of the Division. A licensee may use a
26 copy of the application for a replacement license that has been filed with the Division as
27 a temporary license until the licensee receives the replacement license. The Commission
28 may establish a fee for each type of replacement license, not to exceed five dollars
29 (\$5.00), that compensates the Division for the administrative costs associated with
30 issuing the replacement license.

31 (g) No Dual Residency. – It is unlawful for any individual to hold any license
32 issued under this Article to the individual as a North Carolina resident if that individual
33 holds any commercial or recreational fishing license issued by another state to the
34 individual as a resident of that state.

35 (h) Limitations on Eligibility. – An individual is not eligible to obtain a license
36 under this Article if, at the time the individual applies for the license, any other license
37 or endorsement issued to the individual under this Article is suspended or revoked. An
38 individual is not eligible to obtain a license under this Article if, within the three years
39 prior to the date of application, the individual has been determined to be responsible for
40 four or more violations of State laws, regulations, or rules governing the management of
41 marine and estuarine resources. An applicant for a license under this Article shall certify
42 that the applicant has not been determined to be responsible for four or more violations
43 of State laws, regulations, or rules governing the management of marine and estuarine
44 resources during the previous three years. The Division may also consider violations of

1 federal law and regulations governing the management of marine and estuarine
2 resources in determining whether an applicant is eligible for a license.

3 (i) Cancellation. – The Division may cancel a license issued on the basis of an
4 application that contains false information supplied by the applicant. A cancelled license
5 is void from the date of issuance. An individual in possession of a cancelled license
6 shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender
7 a cancelled license upon demand of any authorized agent of the Division.

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

11 **"§ 113-174.2. Coastal Recreational Fishing License.**

12 (a) License Required. – Except as otherwise provided in this Article, it is
13 unlawful for any individual to engage in recreational fishing in coastal fishing waters by
14 means of recreational gear without holding a CRFL issued under this section. It is
15 unlawful for any individual licensed under this section or fishing under a CRFL to
16 possess fish in excess of recreational size or possession limits.

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

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

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

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

27 (3) Lifetime CRFL. – This license is valid for the lifetime of the licensee.
28 The fee for the Lifetime CRFL, based on the age of the prospective
29 licensee as of the date on which the application is filed with the
30 Division, is:

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

32 b. Six years of age to younger than 11 years of age \$150.00

33 c. 11 years of age to younger than 17 years of age \$200.00

34 d. 17 years of age to younger than 70 years of age \$250.00

35 e. 70 years of age or older \$10.00.

36 (4) Disabled Individual CRFL. – An applicant for a license under this
37 subdivision shall provide documentation to the Division to
38 demonstrate that the applicant is disabled as determined by the United
39 States Social Security Administration. A license issued under this
40 subdivision shall be issued without charge and is valid for the lifetime
41 of the individual so long as the individual remains disabled.

42 (5) Disabled Veteran CRFL. – An applicant for a license under this
43 subdivision shall provide documentation to the Division to
44 demonstrate that the applicant is a fifty percent (50%) or more disabled

1 veteran as determined by the United States Department of Veterans
2 Affairs. A license issued under this subdivision shall be issued without
3 charge and is valid for the lifetime of the individual so long as the
4 individual remains fifty percent (50%) or more disabled.

5 (6) Legally Blind Lifetime CRFL. – An applicant for a license under this
6 subdivision shall provide documentation to the Division to
7 demonstrate that the applicant is legally blind. A license issued under
8 this subdivision shall be issued without charge and is valid for the
9 lifetime of the licensee.

10 (d) Charter/Head/Dive Boat Blanket CRFL. – A person who operates a charter
11 boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL.
12 The Charter/Head/Dive Boat Blanket CRFL entitles all individuals on the boat who do
13 not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall
14 be unlawful for the owner of a charter, head, or dive boat who does not hold a
15 Charter/Head/Dive Boat Blanket CRFL to allow any individual on the boat who does
16 not hold a CRFL to engage in recreational fishing by means of recreational gear. This
17 license is valid for a period of one year from the date of issuance. The fee for a
18 Charter/Head/Dive Boat Blanket CRFL is:

- | | | | |
|----|-----|---|------------------|
| 19 | (1) | <u>Vessel of 25 feet or less in length</u> | <u>\$200.00</u> |
| 20 | (2) | <u>Vessel of greater than 25 feet in length</u> | <u>\$400.00.</u> |

21 (e) Exemptions. – An individual may engage in recreational fishing by means of
22 recreational gear without holding a CRFL if the individual:

- | | | |
|----|-----|---|
| 23 | (1) | <u>Is under 16 years of age.</u> |
| 24 | (2) | <u>Holds a SCFL or a RSCFL.</u> |
| 25 | (3) | <u>Holds a Lifetime Resident Comprehensive Fishing License under G.S.</u> |
| 26 | | <u>113-271(d)(3) or a Lifetime Sportsman License under G.S.</u> |
| 27 | | <u>113-270.1D(b).</u> |

28 (f) Notwithstanding the fee for the Standard CRFL specified in subdivision (1)
29 of subsection (c) of this section, if the Commission finds that a state has established a
30 coastal recreational fishing license fee that exceeds the fee for the Standard CRFL, the
31 Commission may increase the fee for the Standard CRFL applicable to residents of that
32 state to an amount equal to the fee a North Carolina resident is required to pay for a
33 coastal recreational fishing license in that state. The action of the Commission to
34 increase a fee pursuant to this subsection is not subject to the provisions of Article 2A of
35 Chapter 150B of the General Statutes. The action of the Commission to increase a fee
36 pursuant to this subsection becomes effective on the date specified by the Commission.

37 **"§ 113-174.3. Recreational Commercial Gear License.**

38 (a) License Required. – Except as provided in subsection (e) of this section, it is
39 unlawful for any individual to engage in recreational fishing by means of commercial
40 fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL
41 entitles the licensee to use authorized commercial gear to take fish for personal use
42 subject to recreational size and possession limits. It is unlawful for any individual
43 licensed under this section or fishing under a RCGL to possess fish in excess of
44 recreational size or possession limits.

1 (b) Authorized Commercial Gear. –

2 (1) The Commission shall adopt rules authorizing the use of a limited
3 amount of commercial fishing equipment or gear for recreational
4 fishing under a RCGL. The Commission may authorize the limited use
5 of commercial gear on a uniform basis in all coastal fishing waters or
6 may vary the limited use of commercial gear within specified areas of
7 the coastal fishing waters. The Commission shall periodically evaluate
8 and revise the authorized use of commercial gear for recreational
9 fishing. Authorized commercial gear shall be identified by visible
10 colored tags or other means specified by the Commission in order to
11 distinguish between commercial gear used in a commercial fishing
12 operation as defined in G.S. 113-168 and commercial gear used for
13 recreational purposes.

14 (2) An individual who holds a RCGL may use up to 100 yards of gill net
15 to take fish for recreational purposes. Two individuals who each hold a
16 RCGL and who are fishing from a single vessel may use up to a
17 combined 200 yards of gill net to take fish for recreational purposes.
18 No more than 200 yards of gill net may be used to take fish for
19 recreational purposes from a single vessel regardless of the number of
20 individuals aboard the vessel who hold a RCGL.

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

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

28 (e) Exemptions. –

29 (1) An individual who is under 16 years of age may engage in recreational
30 fishing by means of authorized commercial gear without holding a
31 RCGL if the individual is accompanied by a parent, grandparent, or
32 guardian who holds a valid RCGL or if the individual has in the
33 individual's possession a valid RCGL issued to the individual's parent,
34 grandparent, or guardian.

35 (2) An individual may engage in recreational fishing for crabs by means of
36 one or more crab pots attached to the shore along privately owned land
37 or to a privately owned pier without holding a RCGL provided that the
38 crab pots are attached with the permission of the owner of the land or
39 pier.

40 (3) An individual who is on a vessel may engage in recreational fishing by
41 means of authorized commercial gear without holding a RCGL if there
42 is another individual on the vessel who holds a valid RCGL. This
43 exemption does not authorize the use of commercial gear in excess of
44 that authorized for use by the individual who holds the valid RCGL or,

1 if more than one individual on the vessel holds a RCGL, in excess of
2 that authorized for use by those individuals.

3 (4) An individual using nonmechanical means may take shellfish for
4 personal use within the limits specified in G.S. 113-169.2(i) without
5 holding a RCGL.

6 (5) An individual may take fish for recreational purposes by means of a
7 gig without holding a RCGL.

8 **"§ 113-174.4. Marine Resources Restoration Fund.**

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

10 (1) 'Fund' means the Marine Resources Restoration Fund.

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

18 (b) Marine Resources Restoration Fund Established. – The Marine Resources
19 Restoration Fund is established as a special nonreverting fund within the Department.
20 License revenues shall be deposited in the Fund. The State Treasurer shall invest the
21 assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S.
22 147-69.3. The Department shall administer the Fund with the advice of the Marine
23 Fisheries Commission and the Marine Resources Restoration Advisory Committee.

24 (c) Allocation of Moneys From the Fund. – The Department shall use the
25 moneys that accrue to the Fund in each fiscal year for the administration and
26 enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes
27 related to marine fisheries as follows:

28 (1) Resource and habitat enhancement. – Not less than twenty-five percent
29 (25%) of the moneys in the Fund shall be used for resource and habitat
30 enhancement, including, but not limited to, artificial reef construction,
31 restoration and enhancement of submerged aquatic vegetation,
32 acquisition of land or an interest in land that provides for the
33 preservation of critical fisheries habitat, and studies used in the
34 development of a Fishery Management Plan or a Coastal Habitat
35 Protection Plan.

36 (2) Marine fisheries research. – Not less than twenty-five percent (25%) of
37 the moneys in the Fund shall be used for marine fisheries research,
38 including, but not limited to, life history studies of commercially or
39 recreationally significant marine and estuarine species or fisheries,
40 sampling and statistical studies, data collection and analysis, fisheries
41 habitat studies, commercial and recreational discard mortality studies,
42 and studies used in the development of a Fishery Management Plan or
43 a Coastal Habitat Protection Plan.

1 (3) Law enforcement. – Not less than twenty percent (20%), but no more
2 than twenty-five percent (25%) of the moneys in the Fund shall be
3 used for law enforcement.

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

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

10 (6) Grants. – Not more than five percent (5%) of the moneys in the Fund
11 shall be used to fund grants for coastal fishing programs, projects, and
12 scholarships.

13 (d) Marine Resources Restoration Advisory Committee. – The Marine Resources
14 Restoration Advisory Committee shall advise the Department on expenditure of license
15 revenues from the Fund. The Advisory Committee shall consist of nine members as
16 follows:

17 (1) The Governor shall appoint seven individuals, each of whom holds a
18 CRFL at the time of appointment. An individual appointed under this
19 subdivision must continue to hold a CRFL in order to remain eligible
20 to serve on the Advisory Committee.

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

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

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

32 **"§ 113-174.5. License agents.**

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

40 (b) The Secretary may require license agents to enter into a contract that provides
41 for their duties and compensation, post a bond, and submit to reasonable inspections and
42 audits. If a license agent violates any provision of this Article, the rules of the
43 Commission, or the terms of the contract, the Secretary may initiate proceedings for the
44 forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to

1 renew a designation as a license agent and may impound or require the return of all
2 licenses, moneys, record books, reports, license forms, and other documents, ledgers,
3 and materials pertinent or apparently pertinent to the license agency. The Secretary shall
4 report evidence of misuse of State property, including license fees, by a license agent to
5 the State Bureau of Investigation as provided by G.S. 114-15.1.

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

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

9 "(1) 'Commercial fishing operation' means any activity preparatory to,
10 during, or subsequent to the taking of any fish, the taking of which is
11 subject to regulation by the Commission, either with the use of
12 commercial fishing equipment or gear, or by any means if the purpose
13 of the taking is to obtain fish for sale. Commercial fishing operation
14 does not include (i) the taking of fish as part of a recreational fishing
15 tournament, unless commercial fishing equipment or gear is ~~used or~~
16 used, (ii) the taking of fish under a ~~RCGL. RCGL,~~ or (iii) the taking of
17 fish as provided in G.S. 113-261."

18 **SECTION 3.** The catch line of G.S. 113-168.1 reads as rewritten:

19 "**§ 113-168.1. General provisions governing commercial licenses and**
20 **endorsements."**

21 **SECTION 4.** G.S. 113-168.1(a) reads as rewritten:

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

27 **SECTION 5.** G.S. 113-168.1(f) reads as rewritten:

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

34 **SECTION 6.** G.S. 113-169.4 reads as rewritten:

35 "**§ 113-169.4. Licensing of ocean fishing piers; fees.**

36 (a) The owner or operator of an ocean fishing pier within the coastal fishing
37 waters who charges the public a fee to fish in any manner from the pier shall secure a
38 current and valid pier license from the Division. An application for a pier license shall
39 disclose the names of all parties involved in the pier operations, including the owner of
40 the property, owner of the pier if different, and all leasehold or other corporate
41 arrangements, and all persons with a substantial financial interest in the pier.

42 (b) Within 30 days following a change of ownership of a pier, or a change as to
43 the manager, the manager or new manager shall secure a replacement pier license as
44 provided in G.S. 113-168.1(h).

1 (c) Pier licenses are issued upon payment of ~~fifty cents (50¢)~~ four dollars (\$4.00)
2 per linear foot, to the nearest foot, that the pier extends into coastal fishing waters
3 beyond the mean high waterline. The length of the pier shall be measured to include all
4 extensions of the pier.

5 (d) The manager who secures the pier license shall be the individual with the
6 duty of executive-level supervision of pier operations.

7 (e) A pier license entitles all individuals on the pier who do not hold a Coastal
8 Recreational Fishing License issued under Article 14B of this Chapter to engage in
9 recreational fishing, as defined in G.S. 113-174, by means of recreational gear."

10 **SECTION 7.** G.S. 113-172 is repealed.

11 **SECTION 8.** G.S. 113-173 is repealed.

12 **SECTION 9.** G.S. 143B-289.52(a) is amended by adding a new subdivision
13 to read:

14 "(13) To adopt rules to define fishing gear as either recreational gear or
15 commercial gear for purposes of implementing Article 14B of Chapter
16 113 of the General Statutes."

17 **SECTION 10.** Unless otherwise expressly provided, every agency to which
18 this act applies shall adopt rules to implement the provisions of this act only in
19 accordance with the provisions of Chapter 150B of the General Statutes. This act
20 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.
21 Every agency to which this act applies that is authorized to adopt rules to implement the
22 provisions of this act may adopt temporary rules to implement the provisions of this act.
23 This section shall continue in effect until all rules necessary to implement the provisions
24 of this act have become effective as either temporary rules or permanent rules.

25 **SECTION 11.** If any section or provision of this act is declared
26 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
27 provision does not affect the validity of this act as a whole or any part of this act other
28 than the part declared to be unconstitutional or invalid.

29 **SECTION 12.** Sections 9, 10, 11, and 12 of this act are effective when this
30 act becomes law. All other sections of this act become effective March 1, 2004.