

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 1126

**Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/5/05
Finance Committee Substitute Adopted 4/6/05
Fourth Edition Engrossed 4/11/05
House Committee Substitute Favorable 6/28/05
House Committee Substitute #2 Favorable 7/5/05**

Short Title: Implement CRFL/Amend Fisheries Laws.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE COASTAL
2 RECREATIONAL FISHING LICENSE, TO EXEMPT FROM COASTAL
3 RECREATIONAL FISHING LICENSE REQUIREMENTS ONLY THOSE
4 INDIVIDUALS WHO ARE UNDER SIXTEEN YEARS OF AGE OR WHO
5 HOLD CERTAIN LICENSES ISSUED BY THE WILDLIFE RESOURCES
6 COMMISSION THAT WERE PURCHASED PRIOR TO JANUARY 1, 2007, TO
7 PROVIDE FOR A STATEWIDE SUBSISTENCE FISHING LICENSE, TO
8 PROHIBIT THE WILDLIFE RESOURCES COMMISSION FROM DISCLOSING
9 PERSONAL IDENTIFYING INFORMATION OF LICENSEES AND OTHERS
10 UNDER CERTAIN CIRCUMSTANCES, TO AMEND VARIOUS STATUTES
11 RELATED TO THE WILDLIFE RESOURCES COMMISSION, TO PROVIDE A
12 SYSTEM OF UNIFIED LICENSES UNDER WHICH INDIVIDUALS MAY FISH
13 THROUGHOUT THE STATE, TO RECONSTITUTE THE MARINE FISHERIES
14 COMMISSION, TO AUTHORIZE THE NEW MARINE FISHERIES
15 COMMISSION TO DISBURSE FISHING LICENSE REVENUES AND
16 INVESTMENT INCOME TO MANAGE THE MARINE RESOURCES OF THE
17 STATE, TO AUTHORIZE MARINE INSPECTORS TO ACCEPT
18 DEPUTIZATION FROM THE NATIONAL MARINE FISHERIES SERVICE,
19 AND TO PROVIDE MARINE INSPECTORS WITH THE SAME
20 ENFORCEMENT AUTHORITY AS WILDLIFE PROTECTORS.
21

22 The General Assembly of North Carolina enacts:

23 **PART I. AMEND FISHING LICENSE REQUIREMENTS**

24

1 Article and Articles 21 and 25A of this Chapter and with applicable rules adopted by the
2 Marine Fisheries Commission and the Wildlife Resources Commission.

3 (a2) Fourth of July Free Fishing Day. – The fourth day of July of each year is
4 declared a free fishing day to promote the sport of fishing, and no license issued under
5 this Article or Article 25A of this Chapter is required to fish in any of the public waters
6 of the State on that day. All other laws and rules pertaining to recreational fishing apply.

7 (b) Sale of Fish Prohibited. – A license issued under this Article or Article 25A
8 of this Chapter does not authorize an individual who takes or lands any species of fish
9 under the authority of the Marine Fisheries Commission to sell, offer for sale, barter, or
10 exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is
11 unlawful for any individual who takes or lands any species of fish under the authority of
12 the Marine Fisheries Commission by any means to sell, offer for sale, barter, or
13 exchange these fish for anything of value.

14 (c) Assignment and Transfer Prohibited. – It is unlawful to buy, sell, lend,
15 borrow, assign, or otherwise transfer a license issued under this Article or Article 25A
16 of this Chapter or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a
17 license issued under this Article. Article or Article 25A of this Chapter.

18 ~~(d) General Enforcement. — It is unlawful for any individual to engage in~~
19 ~~recreational fishing in coastal fishing waters in the State without providing the~~
20 ~~individual's name and residence address upon the request of an inspector or other law~~
21 ~~enforcement officer authorized to enforce federal or State laws, regulations, or rules~~
22 ~~relating to marine fisheries.~~

23 ~~(e) Enforcement for Charterboats and Headboats. — An inspector or other law~~
24 ~~enforcement officer may only verify the licensure of an individual fishing from a~~
25 ~~charterboat or headboat after the charterboat or headboat has returned to shore and the~~
26 ~~individual has disembarked from the charterboat or headboat. Except as provided in~~
27 ~~G.S. 113-174.2(d), each individual on board a charterboat or headboat engaged in~~
28 ~~recreational fishing, other than crew members who do not engage in recreational~~
29 ~~fishing, must have purchased a current SFL issued pursuant to G.S. 113-174.2. An~~
30 ~~owner, operator, or crew member of a charterboat or headboat is not responsible for the~~
31 ~~licensure of a customer fishing from a charterboat or headboat.~~

32 ~~(f) Cancellation. Cancellation of Fraudulent License; Penalties. – The Division~~
33 ~~Wildlife Resources Commission may cancel a license issued by the Commission under~~
34 ~~this Article or Article 25A of this Chapter if the license was issued on the basis of false~~
35 ~~information supplied by the license applicant. The Division may cancel a For Hire~~
36 ~~Blanket CRFL issued under G.S. 113-174.3 or an Ocean Fishing Pier Blanket CRFL~~
37 ~~issued under G.S. 113-174.4 if the license was issued on the basis of false information~~
38 ~~supplied by the license applicant. A cancelled license is void from the date of issuance.~~
39 ~~It is a Class 1 misdemeanor for an individual to knowingly do any of the following:~~

40 ~~(1) Engage in any activity regulated under this Article with an improper,~~
41 ~~false, or altered license.~~

42 ~~(2) Make any false, fraudulent, or misleading statement in applying for a~~
43 ~~license issued under this Article or Article 25A of this Chapter.~~

1 (3) Counterfeit, alter, or falsify any application or license issued under this
2 Article or Article 25A of this Chapter.

3 (g) Reporting Requirements. – A person licensed under this Article or Article
4 25A of this Chapter shall comply with the biological data sampling and survey
5 programs of the Marine Fisheries Commission and the Division.

6 (h) Replacement Licenses. – Upon receipt of a proper application together with a
7 fee of five dollars (\$5.00), the Wildlife Resources Commission or the Division may
8 issue a new license to replace one issued by the respective agency that has been lost or
9 destroyed before its expiration. The application must be on a form of the Wildlife
10 Resources Commission or the Division setting forth information in sufficient detail to
11 allow ready identification of the lost or destroyed license and ascertainment of the
12 applicant's continued entitlement to it."

13 **SECTION 1.4.** G.S. 113-174.2 reads as rewritten:

14 **"§ 113-174.2. Saltwater Coastal Recreational Fishing License.**

15 ~~(a) License Required.~~ — ~~Except as otherwise provided in this Article, it is~~
16 ~~unlawful for any individual to engage in recreational fishing in coastal fishing waters by~~
17 ~~means of recreational gear without having purchased a current SFL issued under this~~
18 ~~section. It is unlawful for any individual fishing under a SFL to possess fish in excess of~~
19 ~~recreational possession limits.~~

20 ~~(a1) Authorization to Fish in Coastal and Joint Fishing Waters.~~ – A CRFL issued
21 ~~under this section authorizes the licensee to engage in recreational fishing in coastal~~
22 ~~fishing waters, including joint fishing waters. A CRFL issued under this section does~~
23 ~~not authorize the licensee to fish in inland fishing waters.~~

24 ~~(b) Purchase; Renewal.~~ — ~~Any license issued under this section may be purchased~~
25 ~~or renewed at designated offices of the Division; from the Division by mail, electronic~~
26 ~~mail, the Internet, or telephone; or at locations designated by the North Carolina~~
27 ~~Saltwater Fishing Fund Board of Trustees.~~

28 ~~(c) Types of SFLs; CRFLs; Fees; Duration.~~ – ~~The Division Wildlife Resources~~
29 ~~Commission shall issue the following SFLs; CRFLs:~~

30 ~~(1) One year SFL. Annual Resident CRFL.~~ – \$15.00. This license is valid
31 for a period of one year from the date of issuance. This license shall be
32 issued only to an individual who is a resident of the State.

33 ~~(1a) Annual Nonresident CRFL.~~ – \$30.00. This license is valid for a period
34 of one year from the date of issuance. This license shall be issued only
35 to an individual who is not a resident of the State.

36 ~~(2) Two year SFL.~~ — \$30.00. This license is valid for a period of two years
37 ~~from the date of issuance.~~

38 ~~(3) Three year SFL.~~ — \$45.00. This license is valid for a period of three
39 ~~years from the date of issuance.~~

40 ~~(4) Seven day SFL. Ten-Day Resident CRFL.~~ – \$1.00;\$5.00. This license
41 is valid for a period of ~~seven consecutive days. 10 consecutive days, as~~
42 indicated on the license. An individual may purchase this license only
43 once in any 12 month period. This license shall be issued only to an
44 individual who is a resident of the State.

- 1 (4a) Ten-Day Nonresident CRFL. – \$10.00. This license is valid for a
2 period of 10 consecutive days, as indicated on the license. This license
3 shall be issued only to an individual who is not a resident of the State.
- 4 (5) ~~Subsistence SFL. – An applicant for a license under this subdivision~~
5 ~~shall provide to the Division a certification from the Department of~~
6 ~~Health and Human Services that the individual falls below the federal~~
7 ~~poverty level. A license issued under this subdivision shall be issued~~
8 ~~without charge and is valid for a period of one year from the date of~~
9 ~~issuance.~~
- 10 (6) ~~Lifetime SFL/CRFLs. – This license is~~ Except as provided in
11 ~~sub-subdivision j. of this subdivision, CRFLs issued under this~~
12 ~~subdivision are valid for the lifetime of the licensee. The fee for the~~
13 ~~Lifetime SFL, based on the age of the prospective licensee as of the~~
14 ~~date on which the application is filed with the Division, is:~~
- 15 a. ~~Younger than six years of age – \$100.00~~
16 b. ~~Six years of age to younger than 11 years of age – \$150.00~~
17 c. ~~11 years of age to younger than 18 years of age – \$200.00~~
18 d. ~~18 years of age or older – \$500.00~~
- 19 e. Infant Lifetime CRFL. – \$100.00. This license shall be issued
20 only to an individual younger than one year of age.
- 21 f. Youth Lifetime CRFL. – \$150.00. This license shall be issued
22 only to an individual who is one year of age or older but
23 younger than 12 years of age.
- 24 g. Resident Adult Lifetime CRFL. – \$250.00. This license shall be
25 issued only to an individual who is 12 years of age or older but
26 younger than 65 years of age and who is a resident of the State.
- 27 h. Nonresident Adult Lifetime CRFL. – \$500.00. This license
28 shall be issued only to an individual who is 12 years of age or
29 older and who is not a resident of the State.
- 30 i. Resident Elderly Lifetime CRFL. – \$10.00. This license shall
31 be issued only to an individual who is 65 years of age or older
32 and who is a resident of the State.
- 33 j. Resident Disabled Veteran CRFL. – \$10.00. This license shall
34 be issued only to an individual who is a resident of the State and
35 who is a fifty percent (50%) or more disabled veteran as
36 determined by the United States Department of Veterans
37 Affairs. This license remains valid for the lifetime of the
38 licensee so long as the licensee remains fifty percent (50%) or
39 more disabled.
- 40 k. Resident Totally Disabled CRFL. – \$10.00. This license shall
41 be issued only to an individual who is a resident of the State and
42 who is totally and permanently disabled as determined by the
43 Social Security Administration.

1 (d) Exemptions. – ~~An individual may engage in recreational fishing by means of~~
2 ~~recreational gear without having purchased a SFL~~is exempt from the license
3 requirements of G.S. 113-174.1(a) if the individual is either:

4 (1) Is under 16 years of age.~~18 years of age or younger and is currently~~
5 ~~enrolled in school and is making progress toward obtaining a high~~
6 ~~school diploma or its equivalent.~~

7 (2) Holds any of the following licenses that were purchased prior to
8 January 1, 2007:

9 a. Infant Lifetime Sportsman License issued under
10 G.S. 113-270.1D(b)(1).

11 b. Youth Lifetime Sportsman License issued under
12 G.S. 113-270.1D(b)(2).

13 c. Adult Resident Lifetime Sportsman License issued under
14 G.S. 113-270.1D(b)(3).

15 d. Nonresident Lifetime Sportsman License issued under
16 G.S. 113-270.1D(b)(4).

17 e. Age 70 Resident Lifetime Sportsman License issued under
18 G.S. 113-270.1D(b)(5).

19 f. Lifetime Resident Comprehensive Fishing License issued under
20 G.S. 113-271(d)(3).

21 g. Lifetime Combination Hunting and Fishing License for
22 Disabled Residents issued under G.S. 113-270.1C(b)(4).

23 h. Disabled Resident Sportsman License issued under
24 G.S. 113-270.1D(b)(6).

25 (3) Holds any of the following licenses:

26 a. Lifetime Fishing License for the Legally Blind issued under
27 G.S. 113-271(d)(7).

28 b. Adult Care Home Resident Fishing License issued under
29 G.S. 113-271(d)(8)."

30 **SECTION 1.5.** Article 14B of Chapter 113 of the General Statutes is
31 amended by adding two new sections to read:

32 **"§ 113-174.3. For Hire Blanket CRFL.**

33 (a) License. – A person who operates a for hire boat may purchase a For Hire
34 Blanket CRFL issued by the Division. A For Hire Blanket CRFL authorizes all
35 individuals on the for hire boat who do not hold a license issued under this Article or
36 Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters
37 that are not joint fishing waters. A For Hire Blanket CRFL does not authorize
38 individuals to engage in recreational fishing in joint fishing waters or inland fishing
39 waters. This license is valid for a period of one year from the date of issuance. The fee
40 for a For Hire Blanket CRFL is:

41 (1) Three hundred dollars (\$300.00) for a vessel captained by an
42 individual who holds a certification from the United States Coast
43 Guard to carry six or fewer passengers.

1 (2) Four hundred dollars (\$400.00) for a vessel captained by an individual
2 who holds a certification from the United States Coast Guard to carry
3 greater than six passengers.

4 (b) Implementation. – Except as provided in this section and G.S. 113-174.2(d),
5 each individual on board a for hire boat engaged in recreational fishing, other than crew
6 members who do not engage in recreational fishing, must hold a license issued under
7 this Article or Article 25A of this Chapter. An owner, operator, or crew member of a for
8 hire boat is not responsible for the licensure of a customer fishing from the boat.

9 **"§ 113-174.4. Ocean Fishing Pier Blanket CRFL.**

10 Ocean Fishing Pier Blanket CRFL. – A person who owns or operates an ocean
11 fishing pier and who charges a fee to allow a person to engage in recreational fishing
12 from the pier may purchase an Ocean Fishing Pier Blanket CRFL issued by the
13 Division. An Ocean Fishing Pier Blanket CRFL authorizes all individuals who do not
14 hold a license issued under this Article or Article 25A of this Chapter to engage in
15 recreational fishing in coastal fishing waters while on the pier. This license is valid for a
16 period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket
17 CRFL is four dollars (\$4.00) per linear foot, to the nearest foot, that the pier extends
18 into coastal fishing waters beyond the mean high waterline. The length of the pier shall
19 be measured to include all extensions of the pier."

20 **SECTION 1.6.** G.S. 113-270.1C reads as rewritten:

21 **"§ 113-270.1C. Combination hunting and inland fishing licenses.**

22 (a) The combination hunting and inland fishing licenses set forth in subsection
23 (b) of this section entitle the ~~holder~~ licensee to take, except on game lands, all wild birds
24 and wild animals, other than big game and waterfowl, by all lawful methods and in all
25 open seasons, and to fish with hook and line in all inland and joint fishing waters,
26 except public mountain trout waters. A combination hunting and inland fishing license
27 issued under this section does not entitle the licensee to engage in recreational fishing in
28 coastal fishing waters that are not joint fishing waters.

29 (b) Combination hunting and inland fishing licenses issued by the Wildlife
30 Resources Commission are:

31 (1) Resident Annual Combination Hunting and Inland Fishing License –
32 \$20.00. This license shall be issued only to an individual resident of
33 the State.

34 (2), (3) Repealed by Session Laws 1997-326, s. 2.

35 ~~(4) Lifetime Combination Hunting and Fishing License for Disabled~~
36 ~~Residents – \$10.00. This license shall be issued only to (i) an~~
37 ~~individual resident of the State who is a fifty percent (50%) or more~~
38 ~~disabled veteran as determined by the United States Department of~~
39 ~~Veterans Affairs, remaining valid for the lifetime of the individual so~~
40 ~~long as the individual remains fifty percent (50%) or more disabled; or~~
41 ~~(ii) an individual resident of the State who is totally disabled,~~
42 ~~remaining valid for the lifetime of the individual so long as the~~
43 ~~individual remains totally disabled. For purposes of this section,~~
44 ~~"totally disabled" means physically incapable of being gainfully~~

1 employed. The application form for this license, to be provided by the
2 Wildlife Resources Commission, allows a person to apply only for the
3 fishing privileges conveyed by the license. This license entitles the
4 holder to fish in public mountain trout waters as provided in
5 G.S. 113-272(a).

6 (5) Resident Disabled Veteran Lifetime Combination Hunting and Inland
7 Fishing License – \$10.00. This license shall be issued only to an
8 individual who is a resident of the State and who is a fifty percent
9 (50%) or more disabled veteran as determined by the United States
10 Department of Veterans Affairs. This license remains valid for the
11 lifetime of the licensee so long as the licensee remains fifty percent
12 (50%) or more disabled. This license entitles the licensee to fish in
13 public mountain trout waters as provided in G.S. 113-272(a).

14 (6) Resident Totally Disabled Lifetime Combination Hunting and Inland
15 Fishing License – \$10.00. This license shall be issued only to an
16 individual who is a resident of the State and who is totally and
17 permanently disabled as determined by the Social Security
18 Administration. This license remains valid for the lifetime of the
19 licensee. This license entitles the licensee to fish in public mountain
20 trout waters as provided in G.S. 113-272(a)."

21 **SECTION 1.7.** G.S. 113-270.1D reads as rewritten:

22 **"§ 113-270.1D. Sportsman licenses.**

23 (a) Annual Sportsman License – \$40.00. This license shall be issued only to an
24 individual resident of the State and entitles the ~~holder~~-licensee to take all wild animals
25 and wild birds, including waterfowl, by all lawful methods in all open seasons,
26 including the use of game lands, and to fish with hook and line for all fish in all inland
27 and joint fishing waters, including public mountain trout waters. An annual sportsman
28 license issued under this subsection does not entitle the licensee to engage in
29 recreational fishing in coastal fishing waters that are not joint fishing waters.

30 (b) Lifetime Sportsman Licenses. ~~Lifetime~~ Except as provided in subdivision (7)
31 of this subsection, lifetime sportsman licenses are valid for the lifetime of the ~~holders~~
32 licensees. ~~and~~ Lifetime sportsman licenses entitle the ~~holders~~-licensees to take all wild
33 animals and wild birds by all lawful methods in all open seasons, including the use of
34 game lands, and to fish with hook and line for all fish in all inland and joint fishing
35 waters, including public mountain trout waters. A lifetime sportsman license issued
36 under this subsection does not entitle the licensee to engage in recreational fishing in
37 coastal fishing waters that are not joint fishing waters. Lifetime sportsman licenses
38 issued by the Wildlife Resources Commission are:

- 39 (1) Infant Lifetime Sportsman License – \$200.00. This license shall be
40 issued only to an individual under one year of age.
- 41 (2) Youth Lifetime Sportsman License – \$350.00. This license shall be
42 issued only to an individual under 12 years of age.
- 43 (3) Adult Resident Lifetime Sportsman License – \$500.00. This license
44 shall be issued only to an individual resident of the State.

- 1 (4) Nonresident Lifetime Sportsman License – \$1,000. This license shall
2 be issued only to an individual nonresident of the State.
- 3 (5) Age ~~70~~65 Resident Lifetime Sportsman License – \$10.00. This
4 license shall be issued only to an individual resident of the State who is
5 at least ~~70~~65 years of age.
- 6 ~~(6) Disabled Resident Sportsman License—\$100.00. This license shall be~~
7 ~~issued only to (i) an individual resident of the State who is a fifty~~
8 ~~percent (50%) or more disabled veteran as determined by the United~~
9 ~~States Department of Veterans Affairs, remaining valid for the lifetime~~
10 ~~of the individual so long as the individual remains fifty percent (50%)~~
11 ~~or more disabled; or (ii) an individual resident of the State who is~~
12 ~~totally disabled, remaining valid for the lifetime of the individual so~~
13 ~~long as the individual remains totally disabled. For purposes of this~~
14 ~~section, "totally disabled" means physically incapable of being~~
15 ~~gainfully employed.~~
- 16 (7) Resident Disabled Veteran Lifetime Sportsman License – \$100.00.
17 This license shall be issued only to an individual who is a resident of
18 the State and who is a fifty percent (50%) or more disabled veteran as
19 determined by the United States Department of Veterans Affairs. This
20 license remains valid for the lifetime of the licensee so long as the
21 licensee remains fifty percent (50%) or more disabled.
- 22 (8) Resident Totally Disabled Lifetime Sportsman License – \$100.00.
23 This license shall be issued only to an individual who is a resident of
24 the State and who is totally and permanently disabled as determined by
25 the Social Security Administration."

26 **SECTION 1.8.** G.S. 113-271 reads as rewritten:

27 **"§ 113-271. Hook-and-line licenses in inland and joint fishing waters.**

28 (a) An inland hook-and-line fishing license issued under this section entitles the
29 licensee to fish with hook and line in inland fishing waters and joint fishing waters. An
30 inland hook-and-line fishing license issued under this section does not entitle the
31 licensee to engage in recreational fishing in coastal fishing waters that are not joint
32 fishing waters. An inland hook-and-line fishing license issued under subdivision (1),
33 (3), (6a), (6b), (6c), or (9) of subsection (d) of this section entitles the licensee All the
34 hook-and-line fishing licenses set forth in subdivisions (1), (3), (7), and (9) of
35 subsection (d) of this section entitle the holder to fish with hook and line in public
36 mountain trout waters.

37 (b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 684, s. 4.

38 (c) Repealed by Session Laws 1979, c. 830, s. 1.

39 (d) The hook-and-line fishing licenses issued by the Wildlife Resources
40 Commission are as follows:

- 41 (1) Resident Annual Comprehensive Inland Fishing License – \$20.00.
42 This license shall be issued only to an individual resident of the State.
- 43 (2) Resident State Inland Fishing License – \$15.00. This license shall be
44 issued only to an individual resident of the State.

- 1 (3) Lifetime Resident Comprehensive Inland Fishing License – \$250.00.
2 This license shall be issued only to an individual resident of the State
3 and is valid for the lifetime of the ~~holder~~.licensee.
- 4 (4) Resident County Inland Fishing License – \$10.00. This license shall be
5 issued only to an individual resident of the State and is valid only
6 within the county of residence of the ~~license holder~~.licensee.
- 7 (5) Nonresident State Inland Fishing License – \$30.00. This license shall
8 be issued to an individual nonresident of the State.
- 9 (6) Short-Term Inland Fishing Licenses. Short-term inland fishing licenses
10 are valid only for the date or consecutive dates indicated on the
11 licenses. Short-term inland fishing licenses issued by the Wildlife
12 Resources Commission are:
- 13 a. Resident ~~one day~~10-day Inland Fishing License – \$5.00. This
14 license shall be issued only to a resident of the State.
- 15 b. Nonresident ~~one day~~10-day Inland Fishing License – \$10.00.
16 This license shall be issued only to a nonresident of the State.
- 17 c. ~~Nonresident three day~~ — \$15.00. ~~This license shall be issued~~
18 ~~only to a nonresident of the State.~~
- 19 (6a) Age 65 Resident Lifetime Inland Fishing License – \$10.00. This
20 license shall be issued only to an individual resident of the State who is
21 at least 65 years of age.
- 22 (6b) Resident Disabled Veteran Lifetime Inland Fishing License – \$10.00.
23 This license shall be issued only to an individual who is a resident of
24 the State and who is a fifty percent (50%) or more disabled veteran as
25 determined by the United States Department of Veterans Affairs. This
26 license remains valid for the lifetime of the licensee so long as the
27 licensee remains fifty percent (50%) or more disabled.
- 28 (6c) Resident Totally Disabled Lifetime Inland Fishing License – \$10.00.
29 This license shall be issued only to an individual who is a resident of
30 the State and who is totally and permanently disabled as determined by
31 the Social Security Administration. This license remains valid for the
32 lifetime of the licensee.
- 33 (7) ~~Lifetime Fishing License for the Legally Blind~~ — ~~No charge~~. This
34 ~~license shall be issued only to an individual resident of the State who~~
35 ~~has been certified by the Department of Health and Human Services as~~
36 ~~a person whose vision with glasses is insufficient for use in ordinary~~
37 ~~occupations for which sight is essential. This license is valid for the~~
38 ~~life of the individual so long as he remains legally blind.~~
- 39 (8) ~~Adult Care Home Resident Fishing License~~ — ~~No charge~~. This license
40 ~~shall be issued only to an individual resident of the State who resides~~
41 ~~in an adult care home as defined in G.S. 131D-2(a)(3) or~~
42 ~~G.S. 131E-101(4). This license is valid for the life of the individual so~~
43 ~~long as the individual remains a resident of an adult care home.~~

1 (9) Special Guest Inland Fishing License – \$50.00. This license shall be
2 issued only to the owner or lessee of private property bordering inland
3 or joint fishing waters, including public mountain trout waters, and
4 entitles ~~persons~~individuals to fish from the shore or any pier or dock
5 originating from the property without any additional fishing license.
6 This license is applicable only to private property and private docks
7 and piers and is not valid for any public property, pier, or dock nor for
8 any private property, pier, or dock operated for any commercial
9 purpose whatsoever. The guest fishing license shall not be in force
10 unless displayed on the premises of the property and only entitles
11 fishing without additional license to ~~persons~~individuals fishing from
12 the licensed property and then only when fishing within the private
13 property lines. The guest fishing license is not transferable as to person
14 or location."

15 **SECTION 1.9.** G.S. 113-272.3(c) reads as rewritten:

16 "(c) Lifetime licenses are issued from the Wildlife Resources Commission
17 headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime
18 Sportsman License must be accompanied by a certified copy of the birth ~~certificate~~
19 certificate, adoption order containing the date of birth, or other proof of age satisfactory
20 to the Commission, of the individual to be named as the ~~license holder~~licensee."

21 **SECTION 1.10.** G.S. 113-275(c1) reads as rewritten:

22 "(c1) Upon receipt of a proper application together with a fee of ~~two~~five dollars
23 ~~(\$2.00),(\$5.00),~~ the Wildlife Resources Commission may issue a new license or permit
24 to replace one that has been lost or destroyed before its expiration. The application must
25 be on a form of the Wildlife Resources Commission setting forth information in
26 sufficient detail to allow ready identification of the lost or destroyed license or permit
27 and ascertainment of the applicant's continued entitlement to it."

28 **SECTION 1.11.** G.S. 113-276(m) reads as rewritten:

29 "~~Notwithstanding any other provision of law, the~~The fourth day of July of
30 each year is declared a free fishing day to promote the sport of fishing and no
31 hook-and-line fishing license is required to fish in any of the public waters of the State
32 on ~~this~~that day. All other laws and rules pertaining to hook-and-line fishing ~~still~~apply."

33 **SECTION 1.12.** G.S. 113-276 is amended by adding a new subsection to
34 read:

35 "(n) The Wildlife Resources Commission may adopt rules to exempt individuals
36 who participate in organized fishing events held in inland or joint fishing waters from
37 recreational fishing license requirements for the specified time and place of the event
38 when the purpose of the event is consistent with the conservation objectives of the
39 Commission."

40 **SECTION 1.13.** G.S. 113-296(b) reads as rewritten:

41 "(b) In order to be eligible for participation in the Disabled Sportsman Program
42 established by this section, a ~~person~~an individual must be able to certify through
43 competent medical evidence one of the following disabilities:

- 1 (1) ~~Amputation of~~Missing fifty percent (50%) or more of one or more
2 ~~limbs;limbs, whether by amputation or natural causes.~~
- 3 (2) Paralysis of one or more ~~limbs;limbs.~~
- 4 (3) Dysfunction of one or more limbs rendering the ~~person~~individual
5 unable to perform the tasks of grasping and lifting with the hands and
6 arms or unable to walk without mechanical assistance, other than a
7 ~~cane;cane.~~
- 8 (4) Disease, injury, or defect confining the ~~person~~individual to a
9 wheelchair, walker, or ~~erutches;crutches.~~
- 10 (5) Legal ~~deafness; or~~deafness.
- 11 (6) Legal blindness, for purposes of participation in disabled fishing only.

12 The disability must be permanent, and a ~~person~~an individual loses eligibility to
13 participate in the Disabled Sportsman Program when the specified disability ceases to
14 exist."

15 **SECTION 1.14.** Subchapter IV of Chapter 113 of the General Statutes is
16 amended by adding a new Article to read:

17 "Article 25A.

18 "Unified Licenses.

19 "**§ 113-351. Unified hunting and fishing licenses; subsistence license waiver.**

20 (a) Definitions. – The definitions set out in G.S. 113-174 apply to this Article.

21 (b) General Provisions Governing Licenses and Waivers. – The general
22 provisions governing licenses set out in G.S. 113-174.1 apply to licenses and waivers
23 issued under this section.

24 (c) Types of Unified Hunting and Fishing Licenses; Fees; Duration. – The
25 Wildlife Resources Commission shall issue the following Unified Hunting and Fishing
26 Licenses:

- 27 (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing
28 License. – \$55.00. This license is valid for a period of one year from
29 the date of issuance. This license shall be issued only to an individual
30 who is a resident of the State. This license authorizes the licensee to
31 take all wild animals and wild birds, including waterfowl, by all lawful
32 methods in all open seasons, including the use of game lands; to fish
33 with hook and line for all fish in all inland fishing waters and joint
34 fishing waters, including public mountain trout waters; and to engage
35 in recreational fishing in coastal fishing waters.
- 36 (2) Annual Resident Unified Inland/Coastal Recreational Fishing License.
37 – \$35.00. This license is valid for a period of one year from the date of
38 issuance. This license shall be issued only to an individual who is a
39 resident of the State. This license authorizes the licensee to fish with
40 hook and line for all fish in all inland fishing waters and joint fishing
41 waters, including public mountain trout waters, and to engage in
42 recreational fishing in coastal fishing waters.
- 43 (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses. –
44 Except as provided in sub-subdivision f. of this subdivision, a license

1 issued under this subdivision is valid for the lifetime of the licensee. A
2 license issued under this subdivision authorizes the licensee to take all
3 wild animals and wild birds, including waterfowl, by all lawful
4 methods in all open seasons, including the use of game lands; to fish
5 with hook and line for all fish in all inland fishing waters and joint
6 fishing waters, including public mountain trout waters; and to engage
7 in recreational fishing in coastal fishing waters.

8 a. Infant Lifetime Unified Sportsman/Coastal Recreational Fishing
9 License. – \$275.00. This license shall be issued only to an
10 individual who is younger than one year of age.

11 b. Youth Lifetime Unified Sportsman/Coastal Recreational
12 Fishing License. – \$450.00. This license shall be issued only to
13 an individual who is one year of age or older but younger than
14 12 years of age.

15 c. Resident Adult Lifetime Unified Sportsman/Coastal
16 Recreational Fishing License. – \$675.00. This license shall be
17 issued only to an individual who is 12 years of age or older but
18 younger than 65 years of age and who is a resident of the State.

19 d. Nonresident Adult Lifetime Unified Sportsman/Coastal
20 Recreational Fishing License. – \$1,350. This license shall be
21 issued only to an individual who is 12 years of age or older and
22 who is not a resident of the State.

23 e. Resident Elderly Lifetime Unified Sportsman/Coastal
24 Recreational Fishing License. – \$20.00. This license shall be
25 issued only to an individual who is 65 years of age or older and
26 who is a resident of the State.

27 f. Resident Disabled Veteran Lifetime Unified Sportsman/Coastal
28 Recreational Fishing License. – \$110.00. This license shall be
29 issued only to an individual who is a resident of the State and
30 who is a fifty percent (50%) or more disabled veteran as
31 determined by the United States Department of Veterans
32 Affairs. This license remains valid for the lifetime of the
33 licensee so long as the licensee remains fifty percent (50%) or
34 more disabled.

35 g. Resident Totally Disabled Lifetime Unified Sportsman/Coastal
36 Recreational Fishing License. – \$110.00. This license shall be
37 issued only to an individual who is a resident of the State and
38 who is totally and permanently disabled as determined by the
39 Social Security Administration.

40 (4) Lifetime Unified Inland/Coastal Recreational Fishing Licenses. –
41 Except as provided in sub-subdivisions b. and c. of this subdivision, a
42 license issued under this subdivision is valid for the lifetime of the
43 licensee. A license issued under this subdivision authorizes the
44 licensee to fish with hook and line for all fish in all inland fishing

1 waters and joint fishing waters, including public mountain trout
2 waters, and to engage in recreational fishing in coastal fishing waters.

3 a. Lifetime Unified Inland/Coastal Recreational Fishing License. –
4 \$450.00.

5 b. Resident Legally Blind Lifetime Unified Inland/Coastal
6 Recreational Fishing License. – No charge. This license shall be
7 issued only to an individual who is a resident of the State and
8 who has been certified by the Department of Health and Human
9 Services as an individual whose vision with glasses is
10 insufficient for use in ordinary occupations for which sight is
11 essential. This license remains valid for the lifetime of the
12 licensee so long as the licensee remains legally blind.

13 c. Resident Adult Care Home Lifetime Unified Inland/Coastal
14 Recreational Fishing License. – No charge. This license shall be
15 issued only to an individual who is a resident of the State and
16 who resides in an adult care home as defined in
17 G.S. 131D-2(a)(1b) or G.S. 131E-101(1). This license remains
18 valid for the lifetime of the licensee so long as the licensee
19 remains a resident of an adult care home.

20 (d) Resident Subsistence Unified Inland/Coastal Recreational Fishing License. –
21 \$1.00. This license is valid for a period of one year from the date of issuance. This
22 license shall be issued only to an individual who is a resident of the State. This license
23 authorizes the licensee to fish with hook and line for all fish in all inland fishing waters
24 and joint fishing waters, except for public mountain trout waters, and to engage in
25 recreational fishing in coastal fishing waters. An applicant for a license issued under this
26 subsection shall provide to a designated license agent a certification from the county
27 department of social services that the applicant is currently enrolled and receives
28 benefits from at least one of the eligible social service programs listed on an application
29 developed by the Division of Marine Fisheries and the Wildlife Resources
30 Commission."

31 **SECTION 1.15.** Article 24 of Chapter 143 of the General Statutes is
32 amended by adding a new section to read:

33 "**§ 143-254.5. Disclosure of personal identifying information.**

34 (a) Personal identifying information obtained by the Commission from an
35 applicant for a license, title, permit, or registration issued by the Commission, from a
36 consumer who purchases or subscribes to a good or service offered by the Commission,
37 or from a donor in connection with any gift to the Commission is confidential under
38 G.S. 132-1.2 and shall only be disclosed by the Commission as provided in this section.

39 (b) Personal identifying information obtained from the holder of a license issued
40 under Article 14B or Article 25A of Chapter 113 of the General Statutes shall be
41 disclosed to the Division of Marine Fisheries and the Marine Fisheries Commission.

42 (c) Personal identifying information may be disclosed to any officer, employee,
43 or authorized representative of any federal, state, or local government agency if

1 disclosure is necessary to carry out a proper function of the Commission or other
2 agency.

3 (d) As used in this section, "personal identifying information" includes a person's
4 mailing address, residence address, date of birth, telephone number, electronic mail
5 address, driver license number, and social security number."

6 **SECTION 1.16.** Sections 3, 4, 9, 10, 11, and 12 of S.L. 2004-187 are
7 repealed.

8 **SECTION 1.17.** Section 15 of S.L. 2004-187 reads as rewritten:

9 "**SECTION 15.** ~~Sections 2, 3, and 4~~ Section 2 of this act ~~become~~ becomes effective
10 January 1, ~~2006~~ 2007. All other sections of this act become effective when the act
11 becomes law."

12 **SECTION 1.18.** The repeal by this act of the statutory authority of the
13 Wildlife Resources Commission to issue a type of license shall not affect the authority
14 of an individual to whom a license of that type is issued prior to the effective date of the
15 repeal to engage in the activity that the repealed license type authorizes so long as the
16 license is otherwise valid.

17 **SECTION 1.19.** G.S. 113-130(4) is amended by adding a new
18 sub-subdivision to read:

19 "f. Students. – Nonresident students attending a university, college,
20 or community college in the State."

21 22 **PART II. MARINE RESOURCES FUND AND MARINE RESOURCES** 23 **ENDOWMENT FUND**

24
25 **SECTION 2.1.** The title of Article 14C of Chapter 113 of the General
26 Statutes reads as rewritten:

27 "Article 14C.

28 ~~North Carolina Saltwater Fishing~~ Marine Resources Fund and Marine Resources
29 Endowment Fund."

30 **SECTION 2.2.** G.S. 113-175 reads as rewritten:

31 **"§ 113-175. Definitions.**

32 As used in this Article:

33 (1) ~~"Board of Trustees" means the Board of Trustees of the Fund.~~

34 (1a) "Endowment Fund" means the North Carolina Marine Resources
35 Endowment Fund.

36 (1b) "Endowment investment income" means interest and other income
37 earned from the investment of the principal of the Endowment Fund.

38 (1c) "Endowment license revenues" means the net proceeds from the sale
39 of licenses issued under G.S. 113-174.2(c)(6) and a portion of the net
40 proceeds from the sale of licenses issued under G.S. 113-351(c)(3) and
41 (4). The apportionment of the net proceeds from the sale of licenses
42 issued under G.S. 113-351(c)(3) and (4) shall be jointly determined by
43 the Division of Marine Fisheries and the Wildlife Resources
44 Commission. In the event that the Division of Marine Fisheries and the

Wildlife Resources Commission cannot agree on the apportionment, the Governor is authorized to determine the apportionment.

(2) ~~"Fund"~~ "Marine Resources Fund" means the North Carolina Saltwater Fishing ~~Marine Resources~~ Fund.

(3) ~~"Investment"~~ "Marine resources investment income" means interest earned from the investment of ~~license revenues and the proceeds of any gifts, grants, or contributions deposited in~~ the principal of the Marine Resources Fund.

(4) ~~"License"~~ "Marine resources license revenues" means the net proceeds from the sale of ~~Saltwater Fishing Licenses~~ licenses issued under ~~G.S. 113-174.2.~~ Article 14B of this Chapter and a portion of the net proceeds from the sale of licenses issued under Article 25A of this Chapter, excluding endowment license revenues. The apportionment of the net proceeds from the sale of licenses issued under Article 25A of this Chapter shall be jointly determined by the Division of Marine Fisheries and the Wildlife Resources Commission. In the event that the Division of Marine Fisheries and the Wildlife Resources Commission cannot agree on the apportionment, the Governor is authorized to determine the apportionment. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made."

SECTION 2.3. G.S. 113-175.1 reads as rewritten:

"§ 113-175.1. North Carolina Saltwater Fishing Fund. Marine Resources Fund.

(a) There is hereby established the North Carolina ~~Saltwater Fishing~~ Marine Resources Fund as a nonreverting special revenue fund in the office of the State Treasurer. The purpose of the Marine Resources Fund is to enhance the ~~fishery~~ marine resources of the State ~~for commercial and recreational fishing.~~ State. License revenues and the proceeds of any gifts, grants, and contributions to the State that are specifically designated for inclusion in the Fund shall be deposited in the Fund. The principal of the Marine Resources Fund shall consist of:

(1) Marine resources license revenues.

(2) Proceeds of any gifts, grants, and contributions to the State that are specifically designated for inclusion in the Marine Resources Fund.

(3) Funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced from funds disbursed from the Marine Resources Fund.

(4) Federal aid project reimbursements to the extent that funds disbursed from the Marine Resources Fund originally funded the project for which the reimbursement is made.

(b) The State Treasurer shall hold the Marine Resources Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Marine Resources Fund in accordance with the provisions of G.S. 147-69.2 and

1 ~~G.S. 147-69.3.~~ G.S. 147-69.3 and all marine resources investment income shall be
2 deposited to the credit of the Marine Resources Fund. The State Treasurer shall disburse
3 the principal of the Marine Resources Fund and marine resources investment income
4 only upon the written direction of the Marine Fisheries Commission.

5 (c) The Marine Fisheries Commission may authorize the disbursement of the
6 principal of the Marine Resources Fund and marine resources investment income only
7 to manage, protect, restore, develop, cultivate, conserve, and enhance the marine
8 resources of the State. Expenditure of the assets of the Marine Resources Fund shall be
9 made through the State budget accounts of the Division of Marine Fisheries in
10 accordance with the provisions of the Executive Budget Act. The Marine Resources
11 Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter
12 147 of the General Statutes.

13 **SECTION 2.4.** G.S. 113-175.2 is repealed.

14 **SECTION 2.5.** G.S. 113-175.3 is repealed.

15 **SECTION 2.6.** G.S. 113-175.4 is repealed.

16 **SECTION 2.7.** Article 14C of Chapter 113 of the General Statutes is
17 amended by adding three new sections to read:

18 **"§ 113-175.5. North Carolina Marine Resources Endowment Fund.**

19 (a) There is hereby established the North Carolina Marine Resources Endowment
20 Fund as a nonreverting special revenue fund in the office of the State Treasurer. The
21 purpose of the Endowment Fund is to provide the citizens and residents of the State
22 with the opportunity to invest in the future of the marine resources of the State. The
23 principal of the Endowment Fund shall consist of:

24 (1) Endowment license revenues.

25 (2) Proceeds of any gifts, grants, or contributions to the State that are
26 specifically designated for inclusion in the Endowment Fund.

27 (3) Proceeds of any gifts, grants, or contributions to the Marine Fisheries
28 Commission or the Division of Marine Fisheries that are not
29 specifically designated for another purpose.

30 (4) Funds realized from the sale, lease, rental, or other grant of rights to
31 real or personal property acquired or produced from endowment
32 investment income.

33 (5) Federal aid project reimbursements to the extent that endowment
34 investment income originally funded the project for which the
35 reimbursement is made.

36 (6) Transfers to the Endowment Fund.

37 (7) Any endowment investment income or marine resources license
38 revenue that is credited to the Endowment Fund for the purpose of
39 increasing the principal of the Endowment Fund.

40 (b) The State Treasurer shall hold the Endowment Fund separate and apart from
41 all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the
42 Endowment Fund in accordance with the provisions of G.S. 147-69.2 and
43 G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income
44 only upon the written direction of the Marine Fisheries Commission.

1 (c) Subject to the limitations set out in subsection (d) of this section, the Marine
2 Fisheries Commission may authorize the disbursement of endowment investment
3 income only to manage, protect, restore, develop, cultivate, conserve, and enhance the
4 marine resources of the State.

5 (d) The Endowment Fund is declared to constitute a special trust derived from a
6 contractual relationship between the State and the members of the public whose
7 investments contribute to the Endowment Fund. In recognition of this special trust, all
8 of the following limitations are placed on disbursement of funds held in the Endowment
9 Fund:

10 (1) Any restrictions specified by the donors on the uses of income derived
11 from gifts, grants, and voluntary contributions shall be respected but
12 shall not be binding.

13 (2) No disbursements of the endowment investment income derived from
14 the endowment license revenues generated by the sale of Infant
15 Lifetime CRFLs under G.S. 113-174.2(c)(6)e., Youth Lifetime CRFLs
16 under G.S. 113-174.2(c)(6)f., Infant Lifetime Unified
17 Sportsman/Coastal Recreational Fishing Licenses under
18 G.S. 113-351(c)(3)a., or Youth Lifetime Unified Sportsman/Coastal
19 Recreational Fishing Licenses under G.S. 113-351(c)(3)b. shall be
20 made for any purpose until the respective licensees attain the age of 16
21 years. The State Treasurer shall periodically make an actuarial
22 determination as to the amount of endowment investment income
23 within the Endowment Fund that remains encumbered by the
24 restriction of this subdivision and the amount that is free of the
25 restriction. The Executive Director of the Wildlife Resources
26 Commission shall provide the State Treasurer with the information
27 necessary to make this determination.

28 (3) No disbursement shall be made from the principal of the Endowment
29 Fund except as otherwise provided by law.

30 (e) Expenditure of the endowment investment income shall be made through the
31 State budget accounts of the Division of Marine Fisheries in accordance with the
32 provisions of the Executive Budget Act. The Endowment Fund is subject to the
33 oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General
34 Statutes.

35 **"§ 113-175.6. Marine Resources Committee.**

36 (a) The Marine Resources Committee shall consist of five members of the
37 Marine Fisheries Commission appointed by the Chair of the Marine Fisheries
38 Commission as follows:

39 (1) The Fisheries Director shall be an ex officio voting member of the
40 Marine Resources Committee and shall serve as the Chair of the
41 Marine Resources Committee.

42 (2) One member of the Marine Fisheries appointed to the Commission
43 pursuant to subdivision (1), (2), (3), or (10) of subsection (a) of
44 G.S. 143B-289.69.

1 (3) One member of the Marine Fisheries appointed to the Commission
2 pursuant to subdivision (4), (5), (6), or (12) of subsection (a) of
3 G.S. 143B-289.69.

4 (4) One member of the Marine Fisheries appointed to the Commission
5 pursuant to subdivision (7) or (8) of subsection (a) of
6 G.S. 143B-289.69.

7 (5) One member of the Marine Fisheries appointed to the Commission
8 pursuant to subdivision (9), (11), or (13) of subsection (a) of
9 G.S. 143B-289.69.

10 (b) In making appointments to the Marine Resources Committee, the Chair of the
11 Marine Fisheries Commission shall provide for fair geographic representation on the
12 Committee.

13 (c) The Marine Resources Committee shall advise the Marine Fisheries
14 Commission on the disbursement of funds from the Marine Resources Fund pursuant to
15 G.S. 113-175.1 and on the disbursement of endowment investment income from the
16 Endowment Fund pursuant to G.S. 113-175.5.

17 **"§ 113-175.7. Report.**

18 The Chair of the Marine Fisheries Commission shall submit to the Joint Legislative
19 Commission on Seafood and Aquaculture by October 1 of each year a report on the
20 Marine Resources Fund and the Endowment Fund that shall include the source and
21 amounts of all moneys credited to each fund and the purpose and amount of all
22 disbursements from each fund during the prior fiscal year."

23 **SECTION 2.8.** The first report required pursuant to G.S. 113-175.7, as
24 enacted by Section 2.7 of this act, is due by October 1, 2006.

25 **SECTION 2.9.** G.S. 113-174.2(d), as enacted by Section 1.4 of this act,
26 provides that the holders of certain lifetime licenses purchased prior to January 1, 2007,
27 are exempt from the license requirement for engaging in recreational fishing in coastal
28 fishing waters. The General Assembly finds that, because the holders of these lifetime
29 licenses will be authorized to take marine resources from the coastal fishing waters of
30 the State, it is appropriate that a portion of the revenues derived from the sale of these
31 lifetime licenses should be transferred to the Marine Resources Endowment Fund so
32 that the endowment investment income generated by the transferred license revenues
33 will be used to manage, protect, restore, develop, cultivate, conserve, and enhance the
34 marine resources of the State. The General Assembly specifically finds that this transfer
35 of funds is consistent with the overall spirit, intent, and purpose underlying the creation
36 of the Wildlife Endowment Fund and the Marine Resources Endowment Fund.
37 Therefore, in accordance with G.S. 143-250.1(d)(3), the State Treasurer shall transfer
38 the sum of three million eight hundred thousand dollars (\$3,800,000) from the Wildlife
39 Endowment Fund to the Marine Resources Endowment Fund. This transfer shall be
40 made in five equal installments of seven hundred sixty thousand dollars (\$760,000) on
41 the first day of March in 2006, 2007, 2008, 2009, and 2010.

42 **SECTION 2.10.(a)** The Wildlife Resources Commission may disburse up to
43 one million dollars (\$1,000,000) from the Wildlife Resources Fund to implement this
44 act.

1 **SECTION 2.10.(b)** The State Treasurer shall transfer a sum equal to the sum
2 of funds disbursed pursuant to subsection (a) of this section from the Marine Resources
3 Fund to the Wildlife Resources Fund on July 1, 2010.

4
5 **PART III. WILDLIFE RESOURCES COMMISSION LICENSE AGENTS**

6
7 **SECTION 3.1.(a)** The Wildlife Resources Commission shall adopt rules to
8 provide for the following:

- 9 (1) Qualifications of license agents.
10 (2) Duties of license agents.
11 (3) Methods and procedures to ensure accountability and security for
12 proceeds and unissued licenses and permits.
13 (4) Types and amounts of evidence that a license agent must submit to
14 relieve the agent of responsibility for losses due to occurrences beyond
15 the control of the agent.
16 (5) Any other reasonable requirement or condition that the Wildlife
17 Resources Commission deems necessary to expedite and control the
18 issuance of licenses and permits by license agents.

19 **SECTION 3.1.(b)** The Wildlife Resources Commission shall adopt rules to
20 authorize the Executive Director to take the following actions related to license agents:

- 21 (1) Select and appoint license agents in areas most convenient for the sale
22 of licenses and permits.
23 (2) Limit the number of license agents in an area if necessary for
24 efficiency of operation.
25 (3) Require prompt and accurate reporting and remittance of public funds
26 or documents by license agents.
27 (4) Conduct periodic and special audits of accounts.
28 (5) Suspend or terminate the authorization of any license agent found to be
29 noncompliant with rules adopted by the Wildlife Resources
30 Commission or when State funds or property are reasonably believed
31 to be in jeopardy.
32 (6) Require the immediate surrender of all equipment, forms, licenses,
33 permits, records, and State funds and property, issued by or belonging
34 to the Wildlife Resources Commission, in the event of the termination
35 of a license agent.

36 **SECTION 3.2.** G.S. 113-270.1 reads as rewritten:

37 **"§ 113-270.1. License agents.**

38 (a) The Wildlife Resources Commission may by rule provide for the ~~annual~~
39 appointment of persons as license agents to sell licenses and permits ~~which it that the~~
40 Commission is authorized to issue by this Subchapter or by any other provisions of law.
41 To facilitate the convenience of the public, the efficiency of administration, the need to
42 keep statistics and records affecting the conservation of wildlife resources, boating,
43 water safety, and other matters within the jurisdiction of the Wildlife Resources
44 Commission, and the need to issue licenses and permits containing special restrictions,

1 the Wildlife Resources Commission may issue licenses and permits in any particular
2 category through:

- 3 (1) License agents.
- 4 (2) The Wildlife Resources Commission's headquarters.
- 5 (3) Employees of the Wildlife Resources Commission.
- 6 (4) Two or more such sources simultaneously.

7 (a1) When there are substantial reasons for differing treatment, the Wildlife
8 Resources Commission may issue a type of license or permit by one method in one
9 locality and by another method in another locality.

10 (b) License agents may deduct from the amount collected for each license or
11 permit a fee of six percent (6%).

12 (b1) When licenses or permits are to be issued by license agents as provided by
13 subsection (a) of this section, the Wildlife Resources Commission may adopt rules to
14 provide for any of the following:

- 15 (1) Qualifications of the license agents.
- 16 (2) Duties of the license agents.
- 17 (3) Methods and procedures to ensure accountability and security for
18 proceeds and unissued licenses and permits.
- 19 (4) Types and amounts of evidence that a license agent must submit to
20 relieve the agent of responsibility for losses due to occurrences beyond
21 the control of the agent.
- 22 (5) Any other reasonable requirement or condition that the Wildlife
23 Resources Commission deems necessary to expedite and control the
24 issuance of licenses and permits by license agents.

25 (b2) The Wildlife Resources Commission may adopt rules to authorize the
26 Executive Director to take any of the following actions related to license agents:

- 27 (1) Select and appoint license agents in areas most convenient for the sale
28 of licenses and permits.
- 29 (2) Limit the number of license agents in an area if necessary for
30 efficiency of operation.
- 31 (3) Require prompt and accurate reporting and remittance of public funds
32 or documents by license agents.
- 33 (4) Conduct periodic and special audits of accounts.
- 34 (5) Suspend or terminate the authorization of any license agent found to be
35 noncompliant with rules adopted by the Wildlife Resources
36 Commission or when State funds or property are reasonably believed
37 to be in jeopardy.
- 38 (6) Require the immediate surrender of all equipment, forms, licenses,
39 permits, records, and State funds and property, issued by or belonging
40 to the Wildlife Resources Commission, in the event of the termination
41 of a license agent.

42 (b3) The Wildlife Resources Commission is exempt from the contested case
43 provisions of Chapter 150B of the General Statutes with respect to determinations of

1 whether to authorize or terminate the authority of a person to sell licenses and permits
2 as a license agent of the Wildlife Resources Commission.

3 (b4) If any check or bank account draft of any license agent for the issuance of
4 licenses or permits shall be returned by the banking facility upon which the same is
5 drawn for lack of funds, the license agent shall be liable to the Commission for a
6 penalty of five percent (5%) of the amount of the check or bank account draft, but in no
7 event shall the penalty be less than five dollars (\$5.00) or more than two hundred dollars
8 (\$200.00). License agents shall be assessed a penalty of twenty-five percent (25%) of
9 their issuing fee on all remittances to the Commission after the fifteenth day of the
10 month immediately following the month of sale.

11 ~~(e) The Wildlife Resources Commission may provide qualifications and~~
12 ~~standards concerning license agents and delegate to the Executive Director the task of~~
13 ~~appointment and supervision. Annual appointments run from May 1 to April 30 each~~
14 ~~year. The Wildlife Resources Commission may require license agents to post bonds,~~
15 ~~keep records and make reports concerning licenses and receipts, be subject to such~~
16 ~~audits and inspections as may be necessary, and pay a penalty of five percent (5%) on~~
17 ~~any worthless checks given the Wildlife Resources Commission. The minimum penalty~~
18 ~~for a worthless check, however, is five dollars (\$5.00), and the maximum penalty is two~~
19 ~~hundred dollars (\$200.00). The Wildlife Resources Commission shall require license~~
20 ~~agents to pay penalties of twenty five percent (25%) of the agents' fees on any license~~
21 ~~fees remitted to the Commission after the fifteenth day of the month immediately~~
22 ~~following the month of sale.~~

23 ~~(d) The Wildlife Resources Commission may make rules in implementing the~~
24 ~~authority granted in subsection (c), but it need not set out in its rules details as to forms~~
25 ~~of license, records and accounting procedures, and other reasonable requirements that~~
26 ~~may be administratively promulgated by employees of the Wildlife Resources~~
27 ~~Commission in implementation of the purposes of this Article in order for such~~
28 ~~administrative requirements to be deemed validly required. It is a Class 1 misdemeanor~~
29 ~~for a license agent:agent to do any of the following:~~

- 30 (1) ~~To withhold~~Withhold or misappropriate funds from the sale of
31 ~~licenses;~~licenses or permits.
- 32 (2) ~~To falsify~~Falsify records of licenses sold;or permits sold.
- 33 (3) ~~Wilfully~~Willfully and knowingly ~~to~~assist or allow a person to obtain
34 a license or permit for which he is ineligible;the person is ineligible.
- 35 (4) ~~Wilfully to~~Willfully issue a backdated ~~license;~~license or permit.
- 36 (5) ~~Wilfully on records or licenses to~~Willfully include false information or
37 omit material information asto:on records, licenses, or permits
38 regarding either:
- 39 a. ~~A person's entitlement to a particular license;~~orlicense or
40 permit.
- 41 b. ~~The applicability or term of a particular license;~~orlicense or
42 permit.
- 43 (6) ~~To refuse to return all consigned licenses, or to remit the net value of~~
44 ~~consigned licenses sold or unaccounted for, upon demand from an~~

1 ~~authorized employee of the Wildlife Resources Commission. Charge or~~
2 ~~accept any additional fee, remuneration, or other item of value in~~
3 ~~association with any activity set out in subdivisions (1) through (5) of~~
4 ~~this subsection.~~

5 ~~(e) The Executive Director may temporarily suspend, revoke, or refuse to renew~~
6 ~~a person's appointment as a license agent if he fails in a timely manner to submit~~
7 ~~required reports, remit moneys due the Wildlife Resources Commission, or otherwise~~
8 ~~comply with the qualifications and standards set by the Wildlife Resources Commission~~
9 ~~or with reasonable administrative directives of the Executive Director. The temporary~~
10 ~~suspension is effective immediately upon communication of that fact to the license~~
11 ~~agent or his representative handling the licenses. The communication as to suspension~~
12 ~~must state the grounds for suspension and that the license agent may request a hearing~~
13 ~~within five working days if he contests the grounds for suspension. If not in writing, the~~
14 ~~communication must be followed by written notice of suspension containing the same~~
15 ~~information. By personal service of an impoundment order upon a license agent or his~~
16 ~~representative handling the licenses, an employee or agent of the Wildlife Resources~~
17 ~~Commission may enter the premises and impound all licenses, moneys, record books,~~
18 ~~reports, license forms, and other documents, ledgers, and materials pertinent or~~
19 ~~apparently pertinent to the license agency being suspended. The Executive Director~~
20 ~~must make the impounded property, or copies of it, available to the licensee during the~~
21 ~~period of temporary suspension.~~

22 ~~(f) If a hearing is requested, it is before the Executive Director or his designee to~~
23 ~~be held at Raleigh or some other place convenient to the parties specified by the~~
24 ~~Executive Director. The temporary suspension remains in effect until the hearing, and~~
25 ~~after the hearing may be rescinded or continued in effect, as the facts warrant, in the~~
26 ~~discretion of the Executive Director. A temporary suspension may not last longer than~~
27 ~~30 days, but additional suspensions may be imposed if at the end of the suspension~~
28 ~~period the license agent is still not in compliance with appropriate standards,~~
29 ~~qualifications, and administrative directives. A license agent may at any time after a~~
30 ~~hearing appeal his suspension to the Wildlife Resources Commission.~~

31 ~~(g) Notice of revocation or nonrenewal of the appointment may be sent the~~
32 ~~license agent in lieu of or in addition to temporary suspension. The notice must state the~~
33 ~~grounds for termination of the appointment and the license agent's right to a hearing if~~
34 ~~he has not previously been afforded one. If the appointment is to be revoked, the notice~~
35 ~~must state the effective date and hour of revocation. If the appointment is not to be~~
36 ~~renewed, the notice must state that the appointment expires at midnight on April 30. If~~
37 ~~he has not been previously afforded a hearing, a license agent is entitled to a hearing~~
38 ~~within 14 days before the Executive Director or his designee to be held at Raleigh or~~
39 ~~some other place convenient to the parties specified by the Executive Director. After the~~
40 ~~hearing, the Executive Director, applying appropriate standards, must take the action~~
41 ~~with respect to the appointment as license agent that the facts warrant. If the Executive~~
42 ~~Director upholds the decision to terminate the appointment, a license agent may appeal~~
43 ~~his termination to the Wildlife Resources Commission. Pending the hearing and any~~

1 appeal from it, the termination is held in abeyance, but no license sales may be made
2 once the license agent's bond has expired.

3 (h) Upon termination of the appointment, the former agent must return to the
4 Wildlife Resources Commission all record books, reports, license forms, moneys, and
5 other property pertaining to the license agency, and must allow agents of the Wildlife
6 Resources Commission to conduct necessary inspections and audits required in
7 terminating the license agency. Each day's refusal after termination to return, upon
8 demand, the record books, reports, license forms, moneys, and other property pertaining
9 to the license agency is a separate offense. Each instance of refusal, after termination, to
10 allow agents of the Wildlife Resources Commission to conduct necessary inspections
11 and audits during regular business hours is a separate offense. A violation of this
12 subsection is a Class 2 misdemeanor. Before termination, violations by license agents
13 are punishable under G.S. 113-135, subsection (d) above, or other provision of this
14 Subchapter, as appropriate.

15 (i) No person denied appointment or whose appointment was terminated under
16 this section is eligible to apply again for an appointment as a license agent for two
17 years. Upon application, the executive director may not grant the appointment as license
18 agent unless the applicant produces clear evidence, convincing to the Executive
19 Director, that he meets all standards and qualifications and will comply with all
20 requirements of statutes, rules, and reasonable administrative directives pertaining to
21 license agents.

22 (j) The Executive Director or his designee holding any hearing under this section
23 must keep a written record of evidence considered and findings made. Upon appeal to
24 the Wildlife Resources Commission, the commission chairman or other presiding
25 officer must cause such a written record of evidence and findings to be made and kept.
26 Hearings and appeals under this section are internal matters concerning license agents of
27 the Wildlife Resources Commission and are not governed by the North Carolina
28 Administrative Procedure Act."

29 **SECTION 3.3.** G.S. 150B-1(e) is amended by adding a new subdivision to
30 read:

31 "(e) Exemptions From Contested Case Provisions. – The contested case
32 provisions of this Chapter apply to all agencies and all proceedings not expressly
33 exempted from the Chapter. The contested case provisions of this Chapter do not apply
34 to the following:

35 ...

36 (15) The Wildlife Resources Commission with respect to determinations of
37 whether to authorize or terminate the authority of a person to sell
38 licenses and permits as a license agent of the Wildlife Resources
39 Commission."

40 **PART IV. ESTABLISH NEW MARINE FISHERIES COMMISSION**

41 **SECTION 4.1.** Part 5D of Article 7 of Chapter 143B of the General Statutes
42 is repealed.
43
44

1 **SECTION 4.2.** Article 7 of Chapter 143B of the General Statutes is
2 amended by adding a new Part to read:

3 "Part 5E. Marine Fisheries Commission.

4 **"§ 143B-289.65. Definitions.**

5 (a) As used in this Part:

6 (1) "Commission" means the Marine Fisheries Commission.

7 (2) "Department" means the Department of Environment and Natural
8 Resources.

9 (3) "Fisheries Director" means the Director of the Division of Marine
10 Fisheries of the Department of Environment and Natural Resources.

11 (4) "Secretary" means the Secretary of Environment and Natural
12 Resources.

13 (b) The definitions set out in G.S. 113-129 and G.S. 113-130 shall apply
14 throughout this Part.

15 **"§ 143B-289.66. Marine Fisheries Commission – creation; purposes.**

16 (a) There is hereby created the Marine Fisheries Commission in the Department
17 of Environment and Natural Resources.

18 (b) The functions, purposes, and duties of the Commission are to:

19 (1) Manage, restore, develop, cultivate, conserve, protect, and regulate the
20 marine and estuarine resources within its jurisdiction, as described in
21 G.S. 113-132.

22 (2) Implement the laws relating to coastal fisheries, coastal fishing,
23 shellfish, crustaceans, and other marine and estuarine resources
24 enacted by the General Assembly by the adoption of rules and policies,
25 to provide a sound, constructive, comprehensive, continuing, and
26 economical coastal fisheries program directed by citizens who are
27 knowledgeable in the protection, restoration, proper use, and
28 management of marine and estuarine resources.

29 (3) Implement management measures regarding ocean and marine
30 fisheries in the Atlantic Ocean consistent with the authority conferred
31 on the State by the United States.

32 (4) Advise the State regarding ocean and marine fisheries within the
33 jurisdiction of the Atlantic States Marine Fisheries Compact, the South
34 Atlantic Fishery Management Council, the Mid-Atlantic Fishery
35 Management Council, and other similar organizations established to
36 manage or regulate fishing in the Atlantic Ocean.

37 **"§ 143B-289.67. Marine Fisheries Commission – powers and duties.**

38 (a) The Commission shall adopt rules to be followed in the management,
39 protection, preservation, and enhancement of the marine and estuarine resources within
40 its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries
41 resources. The Commission shall have the power and duty:

42 (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms
43 of marine and estuarine resources in coastal fishing waters with respect
44 to:

- 1 a. Time, place, character, or dimensions of any methods or
2 equipment that may be employed in taking fish.
3 b. Seasons for taking fish.
4 c. Size limits on and maximum quantities of fish that may be
5 taken, possessed, bailed to another, transported, bought, sold, or
6 given away.
7 (2) To provide fair regulation of commercial and recreational fishing
8 groups in the interest of the public.
9 (3) To adopt rules and take all steps necessary to develop and improve
10 mariculture, including the cultivation, harvesting, and marketing of
11 shellfish and other marine resources in the State, involving the use of
12 public grounds and private beds as provided in G.S. 113-201.
13 (4) To close areas of public bottoms under coastal fishing waters for such
14 time as may be necessary in any program of propagation of shellfish as
15 provided in G.S. 113-204.
16 (5) In the interest of conservation of the marine and estuarine resources of
17 the State, to institute an action in the superior court to contest the claim
18 of title or claimed right of fishery in any navigable waters of the State
19 registered with the Department as provided in G.S. 113-206(d).
20 (6) To make reciprocal agreements with other jurisdictions respecting any
21 of the matters governed in this Subchapter as provided by
22 G.S. 113-223.
23 (7) To adopt relevant provisions of federal laws and regulations as State
24 rules pursuant to G.S. 113-228.
25 (8) To delegate to the Fisheries Director the authority by proclamation to
26 suspend or implement, in whole or in part, a particular rule of the
27 Commission that may be affected by variable conditions as provided in
28 G.S. 113-221.1.
29 (9) To comment on and otherwise participate in the determination of
30 permit applications received by State agencies that may have an effect
31 on the marine and estuarine resources of the State.
32 (10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to
33 establish a Priority List to determine the order in which Fishery
34 Management Plans are developed, to establish a Schedule for the
35 development and adoption of each Fishery Management Plan, and to
36 establish guidance criteria as to the contents of Fishery Management
37 Plans.
38 (11) To approve Coastal Habitat Protection Plans as provided in
39 G.S. 143B-279.8.
40 (12) Except as may otherwise be provided, to make the final agency
41 decision in all contested cases involving matters within the jurisdiction
42 of the Commission.
43 (13) To adopt rules to define fishing gear as either recreational gear or
44 commercial gear.

- 1 (14) To authorize the disbursement of the assets of the Marine Resources
2 Fund established pursuant to G.S. 113-175.1 to manage, protect,
3 restore, develop, cultivate, conserve, and enhance the marine resources
4 of the State.
- 5 (15) To authorize the disbursement of the endowment investment income of
6 the Marine Resources Endowment Fund established pursuant to
7 G.S. 113-175.5 to manage, protect, restore, develop, cultivate,
8 conserve, and enhance the marine resources of the State.
- 9 (b) The Commission shall have the power and duty to establish standards and
10 adopt rules:
- 11 (1) To implement the provisions of Subchapter IV of Chapter 113 as
12 provided in G.S. 113-134.
- 13 (2) To manage the disposition of confiscated property as set forth in
14 G.S. 113-137.
- 15 (3) To govern all license requirements prescribed in Article 14A of
16 Chapter 113 of the General Statutes.
- 17 (4) To regulate the importation and exportation of fish, and equipment that
18 may be used in taking or processing fish, as necessary to enhance the
19 conservation of marine and estuarine resources of the State as provided
20 in G.S. 113-170.
- 21 (5) To regulate the possession, transportation, and disposition of seafood,
22 as provided in G.S. 113-170.4.
- 23 (6) To regulate the disposition of the young of edible fish, as provided by
24 G.S. 113-185.
- 25 (7) To manage the leasing of public grounds for mariculture, including
26 oysters and clam production, as provided in G.S. 113-202.
- 27 (8) To govern the utilization of private fisheries, as provided in
28 G.S. 113-205.
- 29 (9) To impose further restrictions upon the throwing of fish offal in any
30 coastal fishing waters, as provided in G.S. 113-265.
- 31 (10) To regulate the location and utilization of artificial reefs in coastal
32 waters.
- 33 (11) To regulate the placement of nets and other sports or commercial
34 fishing apparatus in coastal fishing waters with regard to navigational
35 or recreational safety as well as from a conservation standpoint.
- 36 (c) The Commission is authorized to authorize, license, prohibit, prescribe, or
37 restrict:
- 38 (1) The opening and closing of coastal fishing waters, except as to inland
39 game fish, whether entirely or only as to the taking of particular
40 classes of fish, use of particular equipment, or as to other activities.
- 41 (2) The possession, cultivation, transportation, importation, exportation,
42 sale, purchase, acquisition, and disposition of all marine and estuarine
43 resources and all related equipment, implements, vessels, and
44 conveyances as necessary to carry out its duties.

1 (d) The Commission may adopt rules required by the federal government for
2 grants-in-aid for coastal resource purposes that may be made available to the State by
3 the federal government. This section is to be liberally construed in order that the State
4 and its citizens may benefit from federal grants-in-aid.

5 (e) The Commission may regulate participation in a fishery that is subject to a
6 federal fishery management plan if that plan imposes a quota on the State for the harvest
7 or landing of fish in the fishery. If the Commission regulates participation in a fishery
8 under this subsection, the Division may issue a license to participate in the fishery to a
9 person who:

10 (1) Held a valid license issued by the Division to harvest, land, or sell fish
11 during at least two of the three license years immediately preceding the
12 date adopted by the Commission to determine participation in the
13 fishery; and

14 (2) Participated in the fishery during at least two of those license years by
15 landing in the State at least the minimum number of pounds of fish
16 adopted by the Commission to determine participation in the fishery.

17 (f) The Commission may adopt rules to implement or comply with a fishery
18 management plan adopted by the Atlantic States Marine Fisheries Commission or
19 adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens
20 Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding
21 G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at
22 any time within six months of the adoption or amendment of a fishery management plan
23 or the notification of a change in management measures needed to remain in compliance
24 with a fishery management plan.

25 (g) The Commission shall adopt rules as provided in this Chapter. All rules
26 adopted by the Commission shall be enforced by the Department.

27 (h) As a quasi-judicial agency, the Commission, in accordance with Article IV,
28 Section 3 of the Constitution of North Carolina, has those judicial powers reasonably
29 necessary to accomplish the purposes for which it was created.

30 (i) Personal identifying information obtained by the Commission or Division
31 from the Wildlife Resources Commission pursuant to G.S. 143-254.5(b), from an
32 applicant for a license issued under G.S. 113-174.3 or G.S. 113-174.4, or from a person
33 complying with a biological data sampling or survey program under G.S. 113-174.1 is
34 confidential under G.S. 132-1.2 and shall only be disclosed as provided in this section.
35 The Commission or Division may disclose personal identifying information to any
36 officer, employee, or authorized representative of any federal, state, or local government
37 agency if disclosure is necessary to carry out a proper function of the Commission,
38 Division, or other agency. As used in this section, "personal identifying information"
39 includes a person's mailing address, residence address, date of birth, telephone number,
40 electronic mail address, driver license number, and social security number.

41 (j) The Commission may adopt rules to exempt individuals who participate in
42 organized fishing events held in coastal or joint fishing waters from recreational fishing
43 license requirements for the specified time and place of the event when the purpose of
44 the event is consistent with the conservation objectives of the Commission.

1 "§ 143B-289.68. Marine Fisheries Commission – quasi-judicial powers;
2 procedures.

3 (a) With respect to those matters within its jurisdiction, the Commission shall
4 exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the
5 General Statutes. This section and any rules adopted by the Commission shall govern
6 the following proceedings:

7 (1) Exceptions to recommended decisions in contested cases shall be filed
8 with the Secretary within 30 days of the receipt by the Secretary of the
9 official record from the Office of Administrative Hearings, unless
10 additional time is allowed by the Chair of the Commission.

11 (2) Oral arguments by the parties may be allowed by the Chair of the
12 Commission upon request of the parties.

13 (3) Deliberations of the Commission shall be conducted in its public
14 meeting unless the Commission determines that consultation with its
15 counsel should be held in a closed session pursuant to
16 G.S. 143-318.11.

17 (b) The final agency decision in contested cases that arise from civil penalty
18 assessments shall be made by the Commission. In the evaluation of each violation, the
19 Commission shall recognize that harm to the marine and estuarine resources within its
20 jurisdiction, as described in G.S. 113-132, arising from the violation of a statute or rule
21 enacted or adopted to protect those resources may be immediately observed through
22 damaged resources or may be incremental or cumulative with no damage that can be
23 immediately observed or documented. Penalties up to the maximum authorized may be
24 based on any one or combination of the following factors:

25 (1) The degree and extent of harm to the marine and estuarine resources
26 within the jurisdiction of the Commission, as described in
27 G.S. 113-132; to the public health; or to private property resulting
28 from the violation.

29 (2) The frequency and gravity of the violation.

30 (3) The cost of rectifying the damage.

31 (4) Whether the violation was committed willfully or intentionally.

32 (5) The prior record of the violator in complying or failing to comply with
33 programs over which the Commission has regulatory authority.

34 (6) The cost to the State of the enforcement procedures.

35 (c) The Chair shall appoint a Committee on Civil Penalty Remissions from the
36 members of the Commission. No member of the Committee on Civil Penalty
37 Remissions may hear or vote on any matter in which the member has an economic
38 interest. The Committee on Civil Penalty Remissions shall make the final agency
39 decision on remission requests. In determining whether a remission request will be
40 approved, the Committee shall consider the recommendation of the Secretary and the
41 following factors:

42 (1) Whether one or more of the civil penalty assessment factors in
43 subsection (b) of this section were wrongly applied to the detriment of
44 the petitioner.

1 (2) Whether the violator promptly abated continuing environmental
2 damage resulting from the violation.

3 (3) Whether the violation was inadvertent.

4 (4) Whether the violator had been assessed civil penalties for any previous
5 violations.

6 (5) Whether payment of the civil penalty will prevent payment for the
7 remaining necessary remedial actions.

8 (d) The Committee on Civil Penalty Remissions may remit the entire amount of
9 the penalty only when the violator has not been assessed civil penalties for previous
10 violations and when payment of the civil penalty will prevent payment for the
11 remaining necessary remedial actions.

12 (e) If any civil penalty has not been paid within 30 days after the final agency
13 decision or court order has been served on the violator, the Secretary of Environment
14 and Natural Resources shall request the Attorney General to institute a civil action in the
15 superior court of any county in which the violator resides or has his or its principal place
16 of business to recover the amount of the assessment.

17 (f) The Secretary may delegate his powers and duties under this section to the
18 Fisheries Director.

19 **"§ 143B-289.69. Marine Fisheries Commission – members; appointment; term;**
20 **oath; ethical standards; removal; compensation; staff.**

21 (a) Members, Selection. – The Commission shall consist of 14 members as
22 follows:

23 (1) One person appointed by the Governor who is actively engaged in, or
24 recently retired from, commercial fishing as demonstrated by currently
25 or recently deriving at least fifty percent (50%) of annual earned
26 income from taking or selling fishery resources from the coastal
27 fishing waters of the State. The spouse of a commercial fisherman who
28 meets the criteria of this subdivision may be appointed under this
29 subdivision.

30 (2) One person appointed by the Governor who is actively engaged in, or
31 recently retired from, commercial fishing as demonstrated by currently
32 or recently deriving at least fifty percent (50%) of annual earned
33 income from taking or selling fishery resources from the coastal
34 fishing waters of the State. The spouse of a commercial fisherman who
35 meets the criteria of this subdivision may be appointed under this
36 subdivision.

37 (3) One person appointed by the Governor who is actively engaged in, or
38 recently retired from, commercial fishing as demonstrated by currently
39 or recently deriving at least fifty percent (50%) of annual earned
40 income from taking or selling fishery resources from the coastal
41 fishing waters of the State. The spouse of a commercial fisherman who
42 meets the criteria of this subdivision may be appointed under this
43 subdivision.

- 1 (4) One person appointed by the Governor who is actively engaged in
2 recreational fishing in the coastal fishing waters of the State. An
3 appointee under this subdivision may not derive more than ten percent
4 (10%) of annual earned income from sports fishing activities.
- 5 (5) One person appointed by the Governor who is actively engaged in
6 recreational fishing in the coastal fishing waters of the State. An
7 appointee under this subdivision may not derive more than ten percent
8 (10%) of annual earned income from sports fishing activities.
- 9 (6) One person appointed by the Governor who is actively engaged in
10 recreational fishing in the coastal fishing waters of the State. An
11 appointee under this subdivision may not derive more than ten percent
12 (10%) of annual earned income from sports fishing activities.
- 13 (7) One person appointed by the Governor who is a fisheries scientist
14 having special training and expertise in marine and estuarine fisheries
15 biology, ecology, population dynamics, water quality, habitat
16 protection, or similar knowledge. A person appointed under this
17 subdivision may not receive more than ten percent (10%) of annual
18 earned income from either the commercial or recreational fishing
19 industries, including the processing and distribution of seafood.
- 20 (8) One person appointed by the Governor who is a fisheries scientist
21 having special training and expertise in marine and estuarine fisheries
22 biology, ecology, population dynamics, water quality, habitat
23 protection, or similar knowledge. A person appointed under this
24 subdivision may not receive more than ten percent (10%) of annual
25 earned income from either the commercial or recreational fishing
26 industries, including the processing and distribution of seafood.
- 27 (9) One person appointed by the Governor who has general knowledge of
28 and experience related to subjects and persons regulated by the
29 Commission.
- 30 (10) One person appointed by the General Assembly upon the
31 recommendation of the President Pro Tempore of the Senate who is
32 actively engaged in, or recently retired from, commercial fishing as
33 demonstrated by currently or recently deriving at least fifty percent
34 (50%) of annual earned income from taking or selling fishery
35 resources from the coastal fishing waters of the State. The spouse of a
36 commercial fisherman who meets the criteria of this subdivision may
37 be appointed under this subdivision.
- 38 (11) One person appointed by the General Assembly upon the
39 recommendation of the President Pro Tempore of the Senate who has
40 general knowledge of and experience related to subjects and persons
41 regulated by the Commission.
- 42 (12) One person appointed by the General Assembly upon the
43 recommendation of the Speaker of the House of Representatives who
44 is actively engaged in recreational fishing in the coastal fishing waters

1 of the State. An appointee under this subdivision may not derive more
2 than ten percent (10%) of annual earned income from sports fishing
3 activities.

4 (13) One person appointed by the General Assembly upon the
5 recommendation of the Speaker of the House of Representatives who
6 has general knowledge of and experience related to subjects and
7 persons regulated by the Commission.

8 (14) The Fisheries Director shall serve as an ex officio, nonvoting member
9 of the Commission.

10 (b) Residential Qualifications. – For purposes of providing regional
11 representation on the Commission, the following four regions of the State are
12 designated: (i) Northeast Coastal Region comprised of Bertie, Camden, Chowan,
13 Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank,
14 Perquimans, Tyrrell, and Washington Counties; (ii) Central Coastal Region comprised
15 of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties; (iii) Southeast
16 Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow,
17 and Pender Counties; and (iv) Inland Region comprised of the counties not included in
18 the three coastal regions. The Governor shall appoint at least two members from each of
19 the four regions of the State. The members appointed pursuant to subdivisions (10) and
20 (11) of subsection (a) of this section shall not be from the same region of the State. The
21 members appointed pursuant to subdivisions (12) and (13) of subsection (a) of this
22 section shall not be from the same region of the State.

23 (c) Additional Considerations. – In making appointments to the Commission, the
24 appointing entities shall provide for appropriate representation of women and minorities
25 on the Commission.

26 (d) Terms. – The term of office of appointed members of the Commission is
27 three years. A member may be reappointed to any number of successive three-year
28 terms. Upon the expiration of a three-year term, a member shall continue to serve until a
29 successor is appointed and duly qualified as provided by G.S. 128-7. The term of
30 members appointed under subdivisions (1), (4), (7), (8), and (9) of subsection (a) of this
31 section shall expire on 30 June of years evenly divisible by three. The term of members
32 appointed under subdivisions (2), (5), (11), and (13) of subsection (a) of this section
33 shall expire on 30 June of years that precede by one year those years that are evenly
34 divisible by three. The term of members appointed under subdivisions (3), (6), (10), and
35 (12) of subsection (a) of this section shall expire on 30 June of years that follow by one
36 year those years that are evenly divisible by three.

37 (e) Vacancies. – An appointment to fill a vacancy shall be for the unexpired
38 balance of the term.

39 (f) Oath of Office. – Each member of the Commission, before assuming the
40 duties of office, shall take an oath of office as provided in Chapter 11 of the General
41 Statutes.

42 (g) Ethical Standards. –

43 (1) Disclosure statements. – Any person under consideration for
44 appointment to the Commission shall provide both a financial

1 disclosure statement and a potential bias disclosure statement to the
2 Governor. A financial disclosure statement shall include statements of
3 the nominee's financial interests in and related to State fishery
4 resources use, licenses issued by the Division of Marine Fisheries held
5 by the nominee or any business in which the nominee has a financial
6 interest, and uses made by the nominee or by any business in which
7 the nominee has a financial interest of the regulated resources. A
8 potential bias disclosure statement shall include a statement of the
9 nominee's membership or other affiliation with, including offices held
10 in, societies, organizations, or advocacy groups pertaining to the
11 management and use of the State's coastal fishery resources.
12 Disclosure statements shall be treated as public records under Chapter
13 132 of the General Statutes and shall be updated on an annual basis.

14 (2) Voting/conflict of interest. – A member of the Commission shall not
15 vote on any issue before the Commission that would have a
16 "significant and predictable effect" on the member's financial interest.
17 For purposes of this subdivision, "significant and predictable effect"
18 means there is or may be a close causal link between the decision of
19 the Commission and an expected disproportionate financial benefit to
20 the member that is shared only by a minority of persons within the
21 same industry sector or gear group. A member of the Commission
22 shall also abstain from voting on any petition submitted by an
23 advocacy group of which the member is an officer or sits as a member
24 of the advocacy group's board of directors. A member of the
25 Commission shall not use the member's official position as a member
26 of the Commission to secure any special privilege or exemption of
27 substantial value for any person. No member of the Commission shall,
28 by the member's conduct, create an appearance that any person could
29 improperly influence the member in the performance of the member's
30 official duties.

31 (3) Regular attendance. – It shall be the duty of each member of the
32 Commission to regularly attend meetings of the Commission.

33 (h) Removal. – The Governor may remove, as provided in G.S. 143B-13, any
34 member of the Commission for misfeasance, malfeasance, or nonfeasance.

35 (i) Office May Be Held Concurrently With Others. – The office of member of
36 the Commission may be held concurrently with any other elected or appointed office, as
37 authorized by Article VI, Section 9, of the Constitution of North Carolina.

38 (j) Compensation. – Members of the Commission who are State officers or
39 employees shall receive no per diem compensation for serving on the Commission but
40 shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the
41 Commission who are full-time salaried public officers or employees other than State
42 officers or employees shall receive no per diem compensation for serving on the
43 Commission but shall be reimbursed for their expenses in accordance with G.S. 138-6
44 in the same manner as State officers or employees. All other Commission members

1 shall receive per diem compensation and reimbursement in accordance with the
2 compensation rate established in G.S. 93B-5.

3 (k) Staff. – All clerical and other services required by the Commission shall be
4 supplied by the Fisheries Director and the Department.

5 (l) Legal Services. – The Attorney General shall: (i) act as attorney for the
6 Commission; (ii) at the request of the Commission, initiate actions in the name of the
7 Commission; and (iii) represent the Commission in any appeal or other review of any
8 order of the Commission.

9 **"§ 143B-289.70. Marine Fisheries Commission – officers; organization; seal.**

10 (a) The Governor shall appoint a member of the Commission to serve as Chair.
11 The Chair shall serve at the pleasure of the Governor. The Commission shall elect one
12 of its members to serve as Vice-Chair. The Vice-Chair shall serve a one-year term
13 beginning 1 July and ending 30 June of the following year. The Vice-Chair may serve
14 any number of consecutive terms.

15 (b) The Chair shall guide and coordinate the activities of the Commission in
16 fulfilling its duties as set out in this Article. The Chair shall report to and advise the
17 Governor and the Secretary on the activities of the Commission, on marine and
18 estuarine conservation matters, and on all marine fisheries matters.

19 (c) The Commission shall determine its organization and procedure in
20 accordance with the provisions of this Article. The provisions of the most recent edition
21 of Robert's Rules of Order shall govern any procedural matter for which no other
22 provision has been made.

23 (d) The Commission may adopt a common seal and may alter it as necessary.

24 **"§ 143B-289.71. Marine Fisheries Commission – meetings; quorum.**

25 (a) The Commission shall meet at least once each calendar quarter and may hold
26 additional meetings at any time and place within the State at the call of the Chair or
27 upon the written request of at least four members. The Commission shall hold at least
28 one meeting each calendar year in each region designated in G.S. 143B-289.69.

29 (b) (1) Eight members of the Commission shall constitute a quorum for the
30 transaction of business.

31 (2) A quorum of the Commission may transact business only if one
32 member, other than the Chair, appointed pursuant to subdivision (1),
33 (2), (3), or (10) of G.S. 143B-289.69(a) and one member, other than
34 the Chair, appointed pursuant to subdivision (4), (5), (6), or (12) of
35 G.S. 143B-289.69(a) are present.

36 (c) If the Commission is unable to transact business because the requirements of
37 subdivision (2) of subsection (b) of this section are not met, the Chair shall call another
38 meeting of the Commission within 30 days and shall place on the agenda for that
39 meeting every matter with respect to which the Commission was unable to transact
40 business. Seven members of the Commission shall constitute a quorum for the
41 transaction of business at a meeting called under this subsection. The requirements of
42 subdivision (2) of subsection (b) of this section shall not apply to a meeting called under
43 this subsection.

1 **"§ 143B-289.72. Marine Fisheries Commission – advisory committees established;**
2 **members; selection; duties.**

3 (a) The Commission shall be assisted in the performance of its duties by four
4 standing advisory committees and four regional advisory committees. Each standing
5 and regional advisory committee shall consist of no more than 11 members. The Chair
6 of the Commission shall designate one member of each advisory committee to serve as
7 Chair of the committee. Members shall serve staggered three-year terms as determined
8 by the Commission. The Commission shall establish other policies and procedures for
9 standing and regional advisory committees that are consistent with those governing the
10 Commission as set out in this Part.

11 (b) The Chair of the Commission shall appoint the following standing advisory
12 committees:

13 (1) The Finfish Committee, which shall consider matters concerning
14 finfish.

15 (2) The Crustacean Committee, which shall consider matters concerning
16 shrimp and crabs.

17 (3) The Shellfish Committee, which shall consider matters concerning
18 oysters, clams, scallops, and other molluscan shellfish.

19 (4) The Habitat and Water Quality Committee, which shall consider
20 matters concerning habitat and water quality that may affect coastal
21 fisheries resources.

22 (c) Each standing advisory committee shall be composed of commercial and
23 recreational fishermen, scientists, and other persons who have expertise in the matters to
24 be considered by the advisory committee to which they are appointed. In making
25 appointments to advisory committees, the Chair of the Commission shall ensure that
26 both commercial and recreational fishing interests are fairly represented and shall
27 consider for appointment persons who are recommended by groups representing
28 commercial fishing interests, recreational fishing interests, environmental protection and
29 conservation interests, and other groups interested in coastal fisheries management.

30 (d) Each standing advisory committee shall review all matters referred to the
31 committee by the Commission and shall make findings and recommendations on these
32 matters. A standing advisory committee may, on its own motion, make findings and
33 recommendations as to any matter related to its subject area. The Commission, in the
34 performance of its duties, shall consider all findings and recommendations submitted by
35 standing advisory committees.

36 (e) The Chair of the Commission shall appoint a regional advisory committee for
37 each of the four regions designated in G.S. 143B-289.69(b). In making appointments to
38 regional advisory committees, the Chair of the Commission shall ensure that both
39 commercial and recreational fishing interests are fairly represented.

40 **"§ 143B-289.73. Conservation Fund; Commission may accept gifts.**

41 (a) The Commission may accept gifts, donations, or contributions from any
42 sources. These funds shall be held in a separate account and used solely for the purposes
43 of marine and estuarine conservation and management. These funds shall be
44 administered by the Commission and shall be used for marine and estuarine resources

1 management, including education about the importance of conservation, in a manner
2 consistent with marine and estuarine conservation management principles.

3 (b) The Commission is hereby authorized to issue and sell appropriate emblems
4 by which to identify recipients thereof as contributors to a special marine and estuarine
5 resources Conservation Fund that shall be made available to the Commission for
6 conservation, protection, enhancement, preservation, and perpetuation of marine and
7 estuarine species that may be endangered or threatened with extinction and for
8 education about these issues. The special Conservation Fund is subject to oversight of
9 the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.
10 Emblems of different sizes, shapes, types, or designs may be used to recognize
11 contributions in different amounts, but no emblem shall be issued for a contribution
12 amounting in value to less than five dollars (\$5.00).

13 **"§ 143B-289.74. Article subject to Chapter 113.**

14 Nothing in this Part shall be construed to affect the jurisdictional division between
15 the Marine Fisheries Commission and the Wildlife Resources Commission contained in
16 Subchapter IV of Chapter 113 of the General Statutes or in any way to alter or abridge
17 the powers and duties of the two agencies conferred in that Subchapter.

18 **"§ 143B-289.75. Jurisdictional questions.**

19 In the event of any question arising between the Wildlife Resources Commission
20 and the Marine Fisheries Commission or between the Department of Environment and
21 Natural Resources and the Marine Fisheries Commission as to any duty, responsibility,
22 or authority imposed upon any of these bodies by law or with respect to conflict
23 involving rules or administrative practices, the question or conflict shall be resolved by
24 the Governor, whose decision shall be binding."

25 **SECTION 4.3.** G.S. 113-128(5a) reads as rewritten:

26 "(5a) Marine Fisheries Commission. – The Marine Fisheries Commission of the
27 Department as established by Part ~~5D~~5E of Article 7 of Chapter 143B of the General
28 Statutes."

29 **SECTION 4.4.** G.S. 113-136(b) reads as rewritten:

30 "(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of
31 the Department set out in this Subchapter, Part ~~5D~~5E of Article 7 of Chapter 143B of
32 the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of
33 Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the
34 Department which it directs inspectors to enforce. In addition, inspectors have
35 jurisdiction over all offenses involving property of or leased to or managed by the
36 Department in connection with the conservation of marine and estuarine resources."

37 **SECTION 4.5.** G.S. 120-123(53) reads as rewritten:

38 "(53) The North Carolina Marine Fisheries Commission as established by
39 ~~G.S. 143B-289.51~~G.S. 143B-289.66."

40 **SECTION 4.6.** G.S. 113-182.1(a) reads as rewritten:

41 "(a) The Department shall prepare proposed Fishery Management Plans for
42 adoption by the Marine Fisheries Commission for all commercially or recreationally
43 significant species or fisheries that comprise State marine or estuarine resources.
44 Proposed Fishery Management Plans shall be developed in accordance with the Priority

1 List, Schedule, and guidance criteria established by the Marine Fisheries Commission
2 under ~~G.S. 143B-289.52~~. G.S. 143B-289.67."

3 **SECTION 4.7.** G.S. 113-182.1(c1) reads as rewritten:

4 "(c1) The Department shall consult with the regional advisory committees
5 established pursuant to ~~G.S. 143B-289.57(e)~~G.S. 143B-289.72(e) regarding the
6 preparation of each Fishery Management Plan. Before submission of a plan for review
7 by the Joint Legislative Commission on Seafood and ~~Aquaculture or the Environmental~~
8 ~~Review Commission, Aquaculture~~, the Department shall review any comment or
9 recommendation regarding the plan that a regional advisory committee submits to the
10 Department within the time limits established in the Schedule for the development and
11 adoption of Fishery Management Plans ~~established by G.S. 143B-289.52~~ adopted
12 pursuant to G.S. 143B-289.67. The Commission shall consult with the regional advisory
13 committees regarding the development of any temporary management measure that the
14 Commission determines to be necessary to ensure the viability of the species or fishery
15 while the plan is being developed and regarding the development of any management
16 measure to implement the plan. Before the Commission adopts a temporary
17 management measure or a management measure to implement a plan, the Commission
18 shall review any comment or recommendation regarding the management measure that
19 a regional advisory committee submits to the Commission."

20 **SECTION 4.8.** G.S. 113-191(d) reads as rewritten:

21 "(d) In determining the amount of the penalty, the Secretary shall consider the
22 factors set out in ~~G.S. 143B-289.53(b)~~G.S. 143B-289.68(b). The procedures set out in
23 ~~G.S. 143B-289.53~~G.S. 143B-289.68 shall apply to civil penalty assessments that are
24 presented to the Commission for final agency decision."

25 **SECTION 4.9.** G.S. 113-191(f) reads as rewritten:

26 "(f) Requests for remission of civil penalties shall be filed with the Secretary.
27 Remission requests shall not be considered unless filed within 30 days of receipt of the
28 notice of assessment. Remission requests must be accompanied by a waiver of the right
29 to a contested case hearing pursuant to Chapter 150B of the General Statutes and a
30 stipulation of the facts on which the assessment was based. Consistent with the
31 limitations in ~~G.S. 143B-289.53(e)~~G.S. 143B-289.68(c), remission requests may be
32 resolved by the Secretary and the violator. If the Secretary and the violator are unable to
33 resolve the request, the Secretary shall deliver remission requests and his recommended
34 action to the Committee on Civil Penalty Remissions of the Marine Fisheries
35 Commission appointed pursuant to ~~G.S. 143B-289.53(e)~~G.S. 143B-289.68(c)."

36 **SECTION 4.10.** G.S. 113-200(e1) reads as rewritten:

37 "(e1) Grants Committee. – The Grants Committee shall consist of eleven members
38 as follows:

- 39 (1) Three employees of the Sea Grant College Program, appointed by the
40 Director of the Sea Grant College Program.
- 41 (2) Two employees of the Division of Marine Fisheries, appointed by the
42 Fisheries Director.
- 43 (3) Two members of the Marine Fisheries Commission, appointed by the
44 Chair of the Marine Fisheries Commission.

- 1 (4) One member of the Northeast Regional Advisory Committee
2 established pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e),
3 appointed by the Northeast Regional Advisory Committee.
4 (5) One member of the Central Regional Advisory Committee established
5 pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e), appointed by
6 the Central Regional Advisory Committee.
7 (6) One member of the Southeast Regional Advisory Committee
8 established pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e),
9 appointed by the Southeast Regional Advisory Committee.
10 (7) One member of the Inland Regional Advisory Committee established
11 pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e), appointed by
12 the Inland Regional Advisory Committee."

13 **SECTION 4.11.** The records, personnel, property, unexpended balances of
14 appropriations, allocations, and other funds, including the functions of budgeting and
15 purchasing, heretofore vested in the Marine Fisheries Commission created under Part
16 5D of Article 7 of Chapter 143B of the General Statutes, repealed by Section 4.1 of this
17 act, are transferred to the Marine Fisheries Commission created under Part 5E of Article
18 7 of Chapter 143B of the General Statutes, as enacted by Section 4.2 of this act. All
19 rules, decisions, and actions, heretofore adopted, made, or taken by the Marine Fisheries
20 Commission created under Part 5 of Article 7 of Chapter 143B of the General Statutes,
21 repealed by Section 1 of Chapter 641 of the 1987 Session Laws; all rules, decisions, and
22 actions, heretofore adopted, made, or taken by the Marine Fisheries Commission created
23 under Part 5A of Article 7 of Chapter 143B of the General Statutes, repealed by Section
24 6.3 of S.L. 1997-400; and all rules, decisions, and actions, heretofore adopted, made, or
25 taken by the Marine Fisheries Commission created under Part 5D of Article 7 of
26 Chapter 143B of the General Statutes, repealed by Section 4.1 of this act, that have not
27 been heretofore repealed or rescinded shall continue in effect until repealed or rescinded
28 by the Marine Fisheries Commission created under Part 5E of Article 7 of Chapter 143B
29 of the General Statutes, as enacted by Section 4.2 of this act.

30 **SECTION 4.12.** In order to establish a schedule of staggered terms of three
31 years for the Marine Fisheries Commission, the terms of members of the Commission
32 initially filling positions established by subdivisions (1), (4), (7), (8), and (9) of
33 subsection (a) of G.S. 143B-289.69, as enacted by Section 4.2 of this act, shall begin on
34 the date the member is appointed and duly qualified and shall expire on June 30, 2010;
35 the terms of members of the Commission initially filling positions established by
36 subdivisions (2), (5), (11), and (13) of subsection (a) of G.S. 143B-289.69, as enacted
37 by Section 4.2 of this act, shall begin on the date the member is appointed and duly
38 qualified and shall expire on June 30, 2009; the terms of members of the Commission
39 initially filling positions established by subdivisions (3), (6), (10), and (12) of
40 subsection (a) of G.S. 143B-289.69, as enacted by Section 4.2 of this act, shall begin on
41 the date the member is appointed and duly qualified and shall expire on June 30, 2008.
42

43 **PART V. ENFORCEMENT OF MARINE RESOURCES LAWS**

44

1 **SECTION 5.1.(a)** G.S. 113-134.1 reads as rewritten:

2 "**§ 113-134.1. Jurisdiction over marine fisheries resources in Atlantic**
3 **Ocean; delegation of law enforcement powers from the National**
4 **Marine Fisheries Service.**

5 (a) The Marine Fisheries Commission is directed to exercise all regulatory
6 authority over the conservation of marine fisheries resources in the Atlantic Ocean to
7 the seaward extent of the State jurisdiction over the resources as now or hereafter
8 defined. Marine fisheries inspectors may enforce these regulations and all other
9 provisions of law applicable under the authority granted in this section in the same
10 manner and with the same powers elsewhere granted them as enforcement officers.

11 (b) If authorized by the Fisheries Director or a designee of the Fisheries Director,
12 an inspector may accept delegation of law enforcement powers from the National
13 Marine Fisheries Service of the United States Department of Commerce over matters
14 within the jurisdiction of the Service. For purposes of this subsection, the office of
15 inspector may be held concurrently with any other elected or appointed office, as
16 authorized by Section 9 of Article VI of the Constitution of North Carolina."

17 **SECTION 5.1.(b)** If the Division of Marine Fisheries of the Department of
18 Environment and Natural Resources enters into a Joint Enforcement Agreement with
19 the National Marine Fisheries Service of the United States Department of Commerce,
20 the Division shall, within six months of entering into the Agreement, report to the Joint
21 Legislative Commission on Seafood and Aquaculture and the House of Representatives
22 and Senate Appropriations Subcommittees on Natural and Economic Resources on the
23 provisions of the Agreement. The Division of Marine Fisheries shall also report on the
24 implementation of the Agreement to the Joint Legislative Commission on Seafood and
25 Aquaculture and the House of Representatives and Senate Appropriations
26 Subcommittees on Natural and Economic Resources no later than November 1 of each
27 year.

28 **SECTION 5.2.** G.S. 113-136(d1) reads as rewritten:

29 "(d1) In addition to law enforcement authority granted elsewhere, an inspector or a
30 protector has the authority to enforce criminal laws under either of the following
31 circumstances:

32 (1) When the inspector or protector has probable cause to believe that a
33 person committed a criminal offense in ~~his~~ the presence of the
34 inspector or protector and at the time of the violation the inspector or
35 protector is engaged in the enforcement of laws otherwise within his
36 jurisdiction; or the jurisdiction of the inspector or protector.

37 (2) When the inspector or protector is asked to provide temporary
38 assistance by the head of a State or local law enforcement agency or
39 ~~his~~ the designee of the head of a State or local law enforcement agency
40 and the request is within the scope of the agency's subject matter
41 jurisdiction. When acting pursuant to this subdivision, an inspector or
42 protector shall not be considered an officer, employee, or agent for the
43 State or local law enforcement agency or designee asking for
44 temporary assistance.

1 ~~(d2) While~~ When acting pursuant to ~~this subsection, a subsection (d1) of this~~
2 section, an inspector or protector shall have the same powers invested in law
3 enforcement officers by statute or common law. ~~When acting pursuant to (2) of this~~
4 ~~subsection a protector shall not be considered an officer, employee, or agent for the state~~
5 ~~or local law enforcement agency or designee asking for temporary assistance.~~ Nothing
6 in ~~this subsection (d1) of this section~~ shall be construed to expand the authority of
7 inspectors or protectors to initiate or conduct an independent investigation into
8 violations of criminal laws outside the scope of their subject matter or territorial
9 jurisdiction."
10

11 **PART VI. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES**

12
13 **SECTION 6.1.** The headings to the parts of this act are a convenience to the
14 reader and are for reference only. The headings do not expand, limit, or define the text
15 of this act.

16 **SECTION 6.2.** If any section or provision of this act is declared
17 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
18 provision does not affect the validity of this act as a whole or any part of this act other
19 than the part declared to be unconstitutional or invalid.

20 **SECTION 6.3.** Sections 1.11, 1.12, 1.15, 1.16, 1.17, 1.18, 5.1, 6.1, 6.2, and
21 6.3 of this act are effective when this act becomes law. Section 2.10 of this act becomes
22 effective July 1, 2005. Sections 1.9, 1.10, 1.13, 1.19, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8,
23 2.9, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, and 5.2 of this act become
24 effective January 1, 2006. Section 3.3 of this act becomes effective January 1, 2006,
25 and applies to determinations made on or after that date. Sections 1.1, 1.2, 1.3, 1.4, 1.5,
26 1.6, 1.7, 1.8, and 1.14 of this act become effective January 1, 2007. Section 3.1 of this
27 act is effective when this act becomes law and expires on the date that all rules adopted
28 by the Wildlife Resources Commission pursuant to Section 3.1 become effective. The
29 Chair of the Wildlife Resources Commission shall notify the Revisor of Statutes when
30 all rules adopted by the Wildlife Resources Commission pursuant to Section 3.1 of this
31 act become effective. Section 3.2 of this act becomes effective on the date that all rules
32 adopted by the Wildlife Resources Commission pursuant to Section 3.1 of this act
33 become effective, except that G.S. 113-270.1(b3) and (b4) become effective January 1,
34 2006.