

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH30154-SBf-10* (3/6)

Short Title: Coastal Recreational Fishing License/Fund. (Public)

Sponsors: Representatives Gibson and McComas (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

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

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

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

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

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

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

25 Whereas, at a time when the State faces a severe fiscal crisis, a \$15.00 annual
26 license for coastal recreational fishing would provide \$6,000,000 to \$8,000,000 per year

1 in new funds for protection, restoration, and enhancement of fisheries habitat; fisheries
2 research; public education; and enforcement of fisheries laws.

3 Whereas, the State requires an individual to hold a license to engage in
4 fishing in the inland, fresh waters of the State and charges the individual \$15.00 for this
5 license, there is no logic in requiring a license to fish in inland, fresh waters, but not
6 coastal, salt water;

7 Whereas, North Carolina is the only coastal state between Texas and
8 Delaware that is not benefiting from a system for licensing coastal recreational fishing;
9 and

10 Whereas, the establishment of a system for licensing coastal recreational
11 fishing and the revenue that such a license would generate for the protection,
12 restoration, and enhancement of the marine resources of the State offer the best hope for
13 the long-term health of the coastal tourism, boating, and fishing industries of North
14 Carolina; Now, therefore,

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** Chapter 113 of the General Statutes is amended by adding a
17 new Article to read:

18 "Article 14B.

19 "Coastal Recreational Fishing Licenses.

20 **"§ 113-174. Definitions.**

21 As used in this Article:

22 (1) 'Commission' means the Marine Fisheries Commission.

23 (2) 'CRFL' means Coastal Recreational Fishing License.

24 (3) 'Division' means the Division of Marine Fisheries in the Department of
25 Environment and Natural Resources.

26 (4) 'North Carolina resident' means a person who is a resident within the
27 meaning of G.S. 113-130(4).

28 (5) 'RCGL' means Recreational Commercial Gear License.

29 (6) 'Recreational fishing' means any activity preparatory to, during, or
30 subsequent to the taking of any fish, the taking of which is subject to
31 regulation by the Commission, by any means:

32 a. That does not constitute a commercial fishing operation as
33 defined in G.S. 113-168.

34 b. Except as provided in G.S. 113-261.

35 (7) 'RSCFL' means Retired Standard Commercial Fishing License issued
36 pursuant to G.S. 113-168.3.

37 (8) 'SCFL' means Standard Commercial Fishing License issued pursuant
38 to G.S. 113-168.2.

39 **"§ 113-174.1. General provisions governing licenses.**

40 (a) License Required to Engage in Recreational Fishing. – It is unlawful for any
41 person to engage in recreational fishing in coastal fishing waters without holding a
42 license required by this Article. It is unlawful for any person to engage in recreational
43 fishing without complying with the provisions of this Article and rules adopted by the
44 Commission under this Article.

1 **(b) Sale of Fish Prohibited.** – A license issued under this Article does not
2 authorize a person who takes or lands any species of fish under the authority of the
3 Commission to sell, offer for sale, barter, or exchange the fish for anything of value.
4 Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands
5 any species of fish under the authority of the Commission by any means to sell, offer for
6 sale, barter, or exchange these fish for anything of value.

7 **(c) Assignment and Transfer Prohibited.** – Except as provided in G.S.
8 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a
9 license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or
10 otherwise transfer a license issued under this Article.

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

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

23 **(f) Replacement Licenses.** – The Division shall issue a replacement license to a
24 licensee for a license that has not been suspended or revoked. A licensee may apply for
25 a replacement license for a license that has been lost, stolen, or destroyed and shall
26 apply for a replacement license within 30 days of a change in the licensee's name or
27 address. A licensee may apply for a replacement license in person at any office of the
28 Division or by mail to the Morehead City office of the Division. A licensee may use a
29 copy of the application for a replacement license that has been filed with the Division as
30 a temporary license until the licensee receives the replacement license. The Commission
31 may establish a fee for each type of replacement license, not to exceed five dollars
32 (\$5.00), that compensates the Division for the administrative costs associated with
33 issuing the replacement license.

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

38 **(h) Limitations on Eligibility.** – A person is not eligible to obtain a license under
39 G.S. 113-174.3 if, at the time the person applies for the license, any other license or
40 endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113
41 of the General Statutes is suspended or revoked. A person is not eligible to obtain a
42 license under G.S. 113-174.3 if, within the three years prior to the date of application,
43 the person has been determined to be responsible for four or more violations of State
44 laws, regulations, or rules governing the management of marine and estuarine resources.

1 An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not
2 been determined to be responsible for four or more violations of State laws, regulations,
3 or rules governing the management of marine and estuarine resources during the
4 previous three years. The Division may also consider violations of federal law and
5 regulations governing the management of marine and estuarine resources in determining
6 whether an applicant is eligible for a license.

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

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

15 **§ 113-174.2. Coastal Recreational Fishing License.**

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

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

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

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

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

31 (3) Lifetime CRFL. – This license is valid for the lifetime of the licensee.
32 The fee for the Lifetime CRFL, based on the age of the prospective
33 licensee as of the date on which the application is filed with the
34 Division, is:

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

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

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

38 d. Between 17 and 70 years of age \$250.00

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

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

1 (g) If a state that requires a license to engage in recreational fishing by means of
2 recreational gear recognizes through statute, rule, or reciprocal agreement the validity of
3 a CRFL within its boundaries, North Carolina shall recognize the validity of a license to
4 engage in recreational fishing by means of recreational gear held by a resident of that
5 state.

6 **"§ 113-174.3. Recreational Commercial Gear License.**

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

14 (b) Authorized Commercial Gear. –

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

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

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

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

41 (e) Exemptions. –

42 (1) A person who is under 16 years of age may engage in recreational
43 fishing by means of authorized commercial gear without holding a
44 RCGL if the person is accompanied by a parent, grandparent, or

1 guardian who holds a valid RCGL or if the person has in the person's
2 possession a valid RCGL issued to the person's parent, grandparent, or
3 guardian.

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

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

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

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

21 **"§ 113-174.4. Marine Resources Restoration Fund.**

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

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

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

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

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

42 (1) Resource and habitat enhancement. – Not less than twenty-five percent
43 (25%) of the moneys in the Fund shall be used for resource and habitat
44 enhancement, including, but not limited to, artificial reef construction,

1 restoration and enhancement of submerged aquatic vegetation,
2 acquisition of land or an interest in land that provides for the
3 preservation of critical fisheries habitat, and studies used in the
4 development of a Fishery Management Plan or a Coastal Habitat
5 Protection Plan.

6 (2) Marine fisheries research. – Not less than twenty-five percent (25%) of
7 the moneys in the Fund shall be used for marine fisheries research,
8 including, but not limited to, life history studies of commercially or
9 recreationally significant marine and estuarine species or fisheries,
10 sampling and statistical studies, data collection and analysis, fisheries
11 habitat studies, commercial and recreational discard mortality studies,
12 and studies used in the development of a Fishery Management Plan or
13 a Coastal Habitat Protection Plan.

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

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

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

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

26 (d) Marine Resources Restoration Advisory Committee. – The Marine Resources
27 Restoration Advisory Committee shall advise the Commission on expenditure of license
28 revenues from the Fund. The Advisory Committee shall consist of nine members as
29 follows:

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

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

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

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

1 **"§ 113-174.5. License agents.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 **SECTION 11.** Unless otherwise expressly provided, every agency to which
33 this act applies shall adopt rules to implement the provisions of this act only in
34 accordance with the provisions of Chapter 150B of the General Statutes. This act
35 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.
36 Every agency to which this act applies that is authorized to adopt rules to implement the
37 provisions of this act may adopt temporary rules to implement the provisions of this act.
38 This section shall continue in effect until all rules necessary to implement the provisions
39 of this act have become effective as either temporary rules or permanent rules.

40 **SECTION 12.** If any section or provision of this act is declared
41 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
42 provision does not affect the validity of this act as a whole or any part of this act other
43 than the part declared to be unconstitutional or invalid.

1 **SECTION 13.** Sections 10, 11, 12, and 13 of this act are effective when this
2 act becomes law. All other sections of this act become effective March 1, 2004.