

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1121

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors: Representatives Redwine, Gibson (Primary Sponsors); Alexander, Hackney, Hensley, Hurley, Luebke, McLawhorn, Russell, Underhill, Wainwright, and C. Wilson.

Referred to: Environment and Natural Resources, if favorable Finance.

April 12, 2001

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

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

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

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

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

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

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

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

21 Whereas, the General Assembly finds that in order to protect coastal fishery
22 resources, it is essential that the recreational as well as the commercial fishing sectors
23 provide data on use of fishery resources for the development of scientifically valid plans
24 to manage fishery resources; and
25

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

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

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

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

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

41 (i) Cancellation. – The Division may cancel a license issued on the basis of an
42 application that contains false information supplied by the applicant. A cancelled license
43 is void from the date of issuance. A person in possession of a cancelled license shall

1 surrender the cancelled license to the Division. It is unlawful to refuse to surrender a
2 cancelled license upon demand of any authorized agent of the Division.

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

6 **"§ 113-174.2. Coastal Recreational Fishing License.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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|---|------------------------|
| <u>(1) Vessel of 18 feet or less
in length</u> | <u>\$1.50 per foot</u> |
| <u>(2) Vessel of greater than 18 feet
in length but less than 38 feet
in length</u> | <u>\$2.25 per foot</u> |
| <u>(3) Vessel of 38 feet or greater
in length</u> | <u>\$4.50 per foot</u> |

(e) Ocean Fishing Pier Blanket CRFL. – A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is one dollar (\$1.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

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

- (1) Is under 16 years of age.
- (2) Is 65 years of age or older.
- (3) Holds a SCFL or a RSCFL.

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

"§ 113-174.3. Recreational Commercial Gear License.

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

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

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

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

25 (e) Exemptions. –

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

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

37 (3) A person who is on a vessel may engage in recreational fishing by
38 means of authorized commercial gear without holding a RCGL if there
39 is another person on the vessel who holds a valid RCGL. This
40 exemption does not authorize the use of commercial gear in excess of
41 that authorized for use by the person who holds the valid RCGL or, if
42 more than one person on the vessel holds a RCGL, in excess of that
43 authorized for use by those persons.

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

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

6 **"§ 113-174.4. Sealife Enhancement Fund.**

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

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

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

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

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

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

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

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

1 and studies used in the development of a Fishery Management Plan or
2 a Coastal Habitat Protection Plan.

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

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

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

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

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

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

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

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

30 **"§ 113-174.5. License agents.**

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

38 (b) The Secretary may require license agents to enter into a contract that provides
39 for their duties and compensation, post a bond, and submit to reasonable inspections and
40 audits. If a license agent violates any provision of this Article, the rules of the
41 Commission, or the terms of the contract, the Secretary may initiate proceedings for the
42 forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to
43 renew a designation as a license agent and may impound or require the return of all
44 licenses, moneys, record books, reports, license forms and other documents, ledgers,

1 and materials pertinent or apparently pertinent to the license agency. The Secretary shall
2 report evidence of misuse of State property, including license fees, by a license agent to
3 the State Bureau of Investigation as provided by G.S. 114-15.1.

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

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

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

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

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

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

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

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

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

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

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

4 (1) Buoys or beach markers, placed at the owner's expense in accordance
5 with the rules adopted by the Marine Fisheries Commission, indicate
6 clearly to fishermen in vessels and on the beach the requisite distance
7 of 750 feet from the pier, and

8 (2) The public is allowed to fish from the pier for a reasonable fee.

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

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

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

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

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

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

18 **SECTION 11.** The Division of Marine Fisheries may issue a Lifetime CRFL
19 under G.S. 113-174.2(c)(4) without charge to a person who holds either a Lifetime
20 Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime
21 Sportsman Combination License under G.S. 113-270.1D(b).

22 **SECTION 12.** The Joint Legislative Commission on Seafood and
23 Aquaculture shall study issues related to the establishment of a unified recreational
24 fishing license for recreational fishing in both the inland and coastal fishing waters of
25 the State. The Commission shall make specific findings as to whether a unified
26 licensing system should be adopted for recreational fishing in the State and, if so, what
27 that system should be and how it should be implemented. The Commission shall present
28 its findings and recommendations, if any, to the 2002 Regular Session of the 2001
29 General Assembly.

30 **SECTION 13.** Unless otherwise expressly provided, every agency to which
31 this act applies shall adopt rules to implement the provisions of this act only in
32 accordance with the provisions of Chapter 150B of the General Statutes. This act
33 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.
34 Every agency to which this act applies that is authorized to adopt rules to implement the
35 provisions of this act may adopt temporary rules to implement the provisions of this act.
36 This section shall continue in effect until all rules necessary to implement the provisions
37 of this act have become effective as either temporary rules or permanent rules.

38 **SECTION 14.** If any section or provision of this act is declared
39 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
40 provision does not affect the validity of this act as a whole or any part of this act other
41 than the part declared to be unconstitutional or invalid.

42 **SECTION 15.** Sections 10, 10.1, 12, and 15 of this act are effective when
43 this act becomes law. All other sections of this act become effective 1 March 2003.
44 Section 11 of this act expires 31 December 2003.