

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 622
HOUSE BILL 153

AN ACT TO AMEND THE LEGISLATION DEALING WITH THE GAME COMMISSION OF CURRITUCK COUNTY TO REVISE LICENSE FEES, TO PROVIDE FOR APPEALS FROM ACTIONS ON HUNTING BLIND LICENSES TO THE DISTRICT COURT, AND TO MAKE OTHER PROCEDURAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. The legislation establishing the Game Commission of Currituck County is amended as provided in this act. The text of the legislation here amended is set out in Session Laws 1957, Chapter 1436, as amended. The amendments are contained in Session Laws 1971, Chapter 1178; Session Laws 1973, Chapter 747; Session Laws 1975, Chapter 398; and Session Laws 1977, Chapter 190.

Sec. 2. Session Laws 1957, Chapter 1436, is amended by repealing Sections 3, 7, and 9.

Sec. 3. Session Laws 1957, Chapter 1436, Section 4, as amended, is amended by deleting the last sentence and inserting instead:

"To help defray the costs of enforcement of the provisions of this act, the clerk to the Game Commission shall remit to the North Carolina Wildlife Resources Commission for deposit in the Wildlife Resources Fund, out of monies received by him from the sale of hunting blind licenses, the following amounts: eleven dollars (\$11.00) of the fee for a license for a point blind, four dollars (\$4.00) of the fee for a license for a bush blind, and nine dollars (\$9.00) of the fee for a license for a float blind."

Sec. 4. Session Laws 1957, Chapter 1436, Section 5, is amended by deleting the second and third sentences and inserting instead:

"The Game Commission shall be selected and appointed by the Board of County Commissioners of Currituck County, but no member of the Game Commission shall be removed except upon the unanimous vote of all the members of the board of commissioners."

Sec. 5. Session Laws 1957, Chapter 1436, is amended in the last line of Section 6 by deleting the words "appeal to the North Carolina Wildlife Resources Commission" and inserting instead the words: "file an appeal with the district court within 10 days. The procedure governing the appeal shall substantially follow the provisions of Section 29(e)".

Sec. 6. Session Laws 1957, Chapter 1436, is amended by rewriting Section 8 as follows:

"Sec. 8. To obtain a license for either a stationary bush blind or a floating bush blind, the applicant shall apply in writing to the clerk to the Game Commission enclosing:

- (a) For a bush blind, \$15.00; and
- (b) For a float blind, \$20.00.

Of the amount remitted, the clerk to the Game Commission shall retain one dollar (\$1.00) as an issuance fee for each license issued.

Float blinds when licensed shall bear the license number or tag, and the same shall be displayed in a prominent or conspicuous place upon the blind."

Sec. 7. Session Laws 1957, Chapter 1436, Section 10, Subsection (b), as amended, is amended by rewriting the second sentence to read:

"To obtain a license for a point blind, the applicant shall apply in writing to the clerk to the Game Commission enclosing twenty-five dollars (\$25.00). Of the amount remitted, the clerk to the Game Commission shall retain two dollars (\$2.00) as an issuance fee for each license issued."

Sec. 8. Session Laws 1957, Chapter 1436, is amended in Section 15 as follows:

- (a) by deleting from the second and third lines the words "upon approval of the North Carolina Wildlife Resources Commission";
- (b) by inserting after the word "the" and before the word "license" in the third line the words "hunting blind";
- (c) by inserting after the word "the" and before the word "Commission" on the sixth line the word "Game";
- (d) by inserting after the word "the" and before the word "license" in the seventh line the words "hunting blind".

Sec. 9. Session Laws 1957, Chapter 1436, as amended, is amended by rewriting Section 18 to read as follows:

"Sec. 18. The Game Commission of Currituck County is empowered to pay the necessary fees of attorneys, surveyors, and accountants; the costs of printing license forms for hunting blind licenses to be furnished to the clerk to the Game Commission; and other necessary expenses of carrying out the duties imposed by this act. Each member shall be paid a per diem of ten dollars (\$10.00) and travel expenses of fifteen cents (15c) per mile while engaged in official business of the Game Commission. The Chairman of the Game Commission shall be paid one thousand dollars (\$1,000) per year in addition to per diem and travel for the fulfillment of his duties as chairman, in such installments as the Commission may direct. Each Game Commission member shall be paid five hundred dollars (\$500.00) per year in addition to per diem and travel in such installments as the Game Commission may direct. The clerk to the Game Commission shall receive an annual salary of five hundred dollars (\$500.00) for the performance of his duties for the Game Commission in addition to his fees for issuing licenses.

The Game Commission may accumulate an operating reserve of funds to carry out the necessary duties imposed by this act in an amount deemed necessary by the Game Commission, but not to exceed five thousand dollars (\$5,000). At the end of each fiscal year any funds held by the Game Commission in excess of the operating reserve must

be paid to the North Carolina Wildlife Resources Commission for deposit in the Wildlife Resources Fund.

Prior to the beginning of the Game Commission's fiscal year it shall file a copy of its budget for that year with the North Carolina Wildlife Resources Commission. Within 30 days following receipt of the audit report made after the close of a fiscal year, the Game Commission shall file a copy of the audit report with the Wildlife Commission."

Sec. 10. Session Laws 1957, Chapter 1436, is amended in the third line of Section 20 by deleting the phrase "(a) This paragraph" and inserting instead the words "This section".

Sec. 11. Session Laws 1957, Chapter 1436, is amended in Section 26 as follows:

(a) by deleting the first line and inserting instead: "Sec. 26. The clerk to the Game Commission";

(b) by deleting in the last line the word "secretary" and inserting instead the words "clerk to the Game Commission".

Sec. 12. Session Laws 1957, Chapter 1436, as amended, is amended by rewriting Section 29 as follows:

"Sec. 29. No blind shall be constructed or hunted from by any person unless such blind shall have been duly licensed. The procedure for the issuance of a blind license shall be as follows:

(a) All applications for blind licenses shall be made in writing and filed with the clerk to the Game Commission between August 1 and the second Wednesday in August of each year. Each application shall describe the exact proposed location of the blind by course and distance from a known natural monument susceptible of definite and exact location; the type of blind license applied for; and the name of the applicant, his age, address, and the purpose for which he intends to use the blind (for example, for personal use or as a guide). Each application shall also contain an oath by the applicant that the blind will be used personally by the applicant and his guests for hunting and will not be assigned or rented for a consideration unless the applicant be the guide accompanying such sportsman.

(b) All applications that have been filed during the period above provided shall receive consideration by the Game Commission of Currituck County at a meeting to be held at 1:00 p.m. at the Currituck County Courthouse on the Thursday following the second Wednesday in August, at which time all applications for licenses submitted shall be passed upon and granted or refused. Any applicant whose application for a license is denied shall be notified immediately by mail of the rejection of the application. Whether this notice is mailed or received, however, it is the responsibility of each applicant to determine whether his application for a blind license has been approved or rejected and, if desired, to make a timely demand for a hearing under subsection (c) upon rejection of the application.

(c) Any applicant who has been refused a hunting blind license, or any person objecting to the issuance of a license to another, shall by the fourth Wednesday in August following action on the license application notify in writing the clerk to the Game Commission that he demands a public hearing before the Game Commission on

the question of the issuance of the license, stating in detail his grounds for objection to the denial or granting of the license. The Game Commission shall conduct a public hearing on all such demands for the purpose of finding facts, hearing the arguments and contentions of the parties, and judicially passing upon the question on the first Wednesday in September of each year. The hearing shall be held at the Currituck County Courthouse, and shall convene at 7:00 p.m. If a person objecting to the issuance of a license to another has demanded a hearing, the clerk to the Game Commission shall mail by the Thursday following the fourth Wednesday in August a notice of the hearing to the person whose license application was granted. Mailing of the notice to the address given in the license application is sufficient notice of the hearing.

(d) Within one week following the hearing provided by subsection (c), the clerk to the Game Commission shall file with the Clerk of Superior Court of Currituck County a listing of all blind licenses issued without contest, all licenses issued following a hearing on the matter, all license applications denied without contest, and all license applications denied following the hearing. The listing for each action taken only after a contest in the hearing shall briefly set out the Game Commission's findings of fact and the basis for the action taken on the license application.

(e) Any party to the hearing provided by subsection (c) who is aggrieved by the decision of the Game Commission may appeal the decision to the District Court Division of the General Court of Justice sitting in Currituck County, where the matter shall be heard de novo by a district court judge. The aggrieved party shall file written notice of his appeal with the office of the Clerk of Superior Court of Currituck County by the third Wednesday in September stating the grounds for his objection to the decision of the Game Commission. Filing timely notice of appeal shall suspend the decision taken by the Game Commission pending resolution of the question by the district court, but failure to file timely notice shall bar the right to appeal. The district court shall not hold any hearing on an appeal prior to the fourth Wednesday in September following notice of the appeal. The district court shall publicly calendar the hearing so that interested persons may appear at the hearing and give evidence. These interested persons may include members of the Game Commission, if they wish to amplify the grounds for the Game Commission's decision on the matter. Following the district court's decision, it may implement its ruling with appropriate orders to the Game Commission concerning issuance of the blind license or rejection or modification of the application.

(f) The clerk to the Game Commission shall begin issuance of blind licenses as soon as feasible for those licenses as to which there is no contest; and, as to each license contested under subsection (c) or by further appeal to the district court, as soon as feasible after the proceedings with respect to each license have concluded. The license issued shall carry a number designation; name, age, and address of the licensee; and a description of the location of the blind by course and distance as set out in the approved application."

Sec. 13. All prior special and local acts dealing with the Game Commission of Currituck County other than those listed in Section 1 of this act are hereby repealed.

Sec. 14. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.