

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1434

Short Title: Coastal Recreational Fishing License.

(Public)

Sponsors: Representatives Redwine, McComas (Primary Sponsors); and Luebke.

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

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 14B.

“COASTAL RECREATIONAL FISHING LICENSES.

“§ 113-174. Definitions.

As used in this Article:

(1) ‘Commission’ means the Marine Fisheries Commission.

(2) ‘CRFL’ means Coastal Recreational Fishing License.

(3) ‘Division’ means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

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

(5) ‘RCGL’ means Recreational Commercial Gear License.

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

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

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

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

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

8 **"§ 113-174.1. General provisions governing licenses.**

9 (a) License Required to Engage in Recreational Fishing. – It is unlawful for any
10 person to engage in recreational fishing without holding a license required by this Article.
11 It is unlawful for any person to engage in recreational fishing without complying with the
12 provisions of this Article and rules adopted by the Commission under this Article.

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

19 (c) Assignment and Transfer Prohibited. – Except as provided in G.S. 113-
20 174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or
21 otherwise transfer a license issued under this Article or to attempt to buy, sell, lend,
22 borrow, assign, or otherwise transfer a license issued under this Article.

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

29 (e) Licenses Available for Inspection. – It is unlawful for any person to engage in
30 recreational fishing in the State without having ready at hand for inspection all valid
31 licenses required under this Article. It is unlawful for a person to refuse to exhibit any
32 license required by this Article upon the request of an inspector or other law enforcement
33 officer authorized to enforce federal or State laws, regulations, or rules relating to marine
34 fisheries.

35 (f) Replacement Licenses. – The Division shall issue a replacement license to a
36 licensee for a license that has not been suspended or revoked. A licensee may apply for a
37 replacement license for a license that has been lost, stolen, or destroyed and shall apply
38 for a replacement license within 30 days of a change in the licensee's name or address. A
39 licensee may apply for a replacement license in person at any office of the Division or by
40 mail to the Morehead City office of the Division. A licensee may use a copy of the
41 application for a replacement license that has been filed with the Division as a temporary
42 license until the licensee receives the replacement license. The Commission may
43 establish a fee for each type of replacement license, not to exceed five dollars (\$5.00),

1 that compensates the Division for the administrative costs associated with issuing the
2 replacement license.

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

7 (h) Limitations on Eligibility. – A person is not eligible to obtain a license under
8 this Article if, at the time the person applies for the license, any other license or
9 endorsement issued to the person under this Article or Article 14A of Chapter 113 of the
10 General Statutes is suspended or revoked. A person is not eligible to obtain a license
11 under this Article if, within the three years prior to the date of application, the person has
12 been determined to be responsible for four or more violations of State laws, regulations,
13 or rules governing the management of marine and estuarine resources. An applicant shall
14 certify that the applicant has not been determined to be responsible for four or more
15 violations of State laws, regulations, or rules governing the management of marine and
16 estuarine resources during the previous three years. The Division may also consider
17 violations of federal law and regulations governing the management of marine and
18 estuarine resources in determining whether an applicant is eligible for a license.

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

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

27 **"§ 113-174.2. Coastal Recreational Fishing License.**

28 (a) License Required. – Except as otherwise provided in this Article, it is unlawful
29 for any person to engage in recreational fishing by means of recreational gear without
30 holding a CRFL issued under this section.

31 (b) Purchase. – Any license issued under this section may be purchased at
32 designated offices of the Division or from the Division by mail. A license issued under
33 subdivisions (1) through (3) of subsection (c) of this section may also be purchased
34 through a license agent authorized under G.S. 113-174.5.

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

- 37 (1) Standard CRFL. – \$7.50. This license is valid for a period of one year.
38 (2) One Week CRFL. – \$3.50. This license is valid for a period of seven
39 days.
40 (3) One Day CRFL. – \$1.00. This license is valid for a period of 24 hours.
41 (4) CRFL for SCFL and RSCFL holders. – Any person who holds a SCFL
42 or a RSCFL may obtain a CRFL to engage in recreational fishing by

- 1 means of recreational gear. A license issued under this subdivision shall
2 be issued without charge and expires on 30 June of each year.
- 3 (5) Subsistence CRFL. – An applicant for a license under this subdivision
4 shall provide documentation to the Division to demonstrate that the
5 applicant takes fish solely for the purpose of direct consumption by the
6 individual and the members of the individual's household in
7 circumstances where fish constitute a substantial portion of the diet of
8 the individual and the household. A license issued under this
9 subdivision shall be issued without charge and is valid for one year from
10 the date of issuance.
- 11 (6) Lifetime CRFL. – This license is valid for the lifetime of the licensee.
12 The fee for the Lifetime CRFL, based on the age of the prospective
13 licensee as of the date on which the application is filed with the
14 Division, is:
- 15 a. Younger than 6 years of age \$100.00
16 b. Between 6 and 11 years of age \$150.00
17 c. Between 11 and 17 years of age \$200.00
18 d. Between 17 and 65 years of age \$250.00
19 e. 65 years of age or older \$10.00
- 20 (7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License
21 and Lifetime Sportsman Combination License holders. – Any person
22 who holds a either a Lifetime Resident Comprehensive Fishing License
23 under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License
24 under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge.
25 This license is valid for the lifetime of the licensee.
- 26 (8) Permanently Handicapped or Disabled Lifetime CRFL. – An applicant
27 for a license under this subdivision shall provide documentation to the
28 Division to demonstrate that the applicant is permanently handicapped
29 or disabled. A license issued under this subdivision shall be issued
30 without charge and is valid for the lifetime of the licensee.
- 31 (9) Disabled Veteran Lifetime CRFL. – An applicant for a license under
32 this subdivision shall provide documentation to the Division to
33 demonstrate that the applicant is a fifty percent (50%) or more disabled
34 war veteran as determined by the United States Department of Veterans
35 Affairs. A license issued under this subdivision shall be issued without
36 charge and is valid for the lifetime of the licensee.
- 37 (10) Legally Blind Lifetime CRFL. – An applicant for a license under this
38 subdivision shall provide documentation to the Division to demonstrate
39 that the applicant is legally blind. A license issued under this
40 subdivision shall be issued without charge and is valid for the lifetime
41 of the licensee.
- 42 (d) Charter/Head/Dive Boat Blanket CRFL. – A person who operates a charter
43 boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL.

1 The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not
2 hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be
3 unlawful for the owner of a charter, head, or dive boat who does not hold a
4 Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not
5 hold a CRFL to engage in recreational fishing by means of recreational gear. The fee for
6 a Charter/Head/Dive Boat Blanket CRFL is:

- 7 (1) Vessel of 18 feet or less \$1.50 per foot
8 in length
9 (2) Vessel of greater than 18 feet \$2.25 per foot
10 in length but less than 38 feet
11 in length
12 (3) Vessel of 38 feet or greater \$4.50 per foot
13 in length

14 (e) Ocean Fishing Pier Blanket CRFL. – A person who owns or operates an ocean
15 fishing pier and who charges a fee to allow a person to engage in recreational fishing by
16 means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket
17 CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of
18 all parties involved in the pier operation, including the owner of the property, the owner
19 of the pier if different, and all leasehold or other corporate arrangements, and all persons
20 with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL
21 entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing
22 by means of recreational gear. The fee for an Ocean Fishing Pier Blanket CRFL is five
23 dollars (\$5.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing
24 waters beyond the mean high waterline. The length of the pier shall be measured to
25 include all extensions of the pier. It shall be unlawful for the owner or operator of an
26 ocean fishing pier who does not hold an Ocean Fishing Pier Blanket CRFL to allow any
27 person on the pier who does not hold a CRFL to engage in recreational fishing by means
28 of recreational gear. Within 30 days following a change of ownership of a pier, or a
29 change as to the manager, the manager or new manager shall secure a replacement pier
30 license as provided in G.S. 113-174.1(f).

31 (f) Exemptions. –

- 32 (1) A person who is under 16 years of age may engage in recreational
33 fishing by means of recreational gear without holding a CRFL if the
34 person is accompanied by a parent, grandparent, or guardian who holds
35 a valid CRFL or has in the person's possession a valid CRFL issued to
36 the person's parent, grandparent, or guardian.
37 (2) A person may engage in recreational fishing by means of recreational
38 gear from the shore or from a shore-based structure without holding a
39 CRFL.

40 **"§ 113-174.3. Recreational Commercial Gear License.**

41 (a) License Required. – Except as provided in subsection (e) of this section, it is
42 unlawful for any person to engage in recreational fishing by means of commercial fishing
43 equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles

1 the licensee to use authorized commercial gear to take fish for personal use subject to
2 recreational possession limits. It is unlawful for any person licensed under this section or
3 fishing under a RCGL to possess fish in excess of recreational possession limits.

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

14 (c) Purchase. – A RCGL may be purchased at designated offices of the Division
15 and from a license agent authorized under G.S. 113-174.5.

16 (d) Duration; Fees. – The RCGL shall be valid for a one-year period from the date
17 of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars
18 (\$35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall
19 be two hundred fifty dollars (\$250.00).

20 (e) Exemptions. –

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

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

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

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

41 **"§ 113-174.4. Sealife Enhancement Fund.**

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

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

1 (2) 'License revenues' means the proceeds from the sale of licenses issued
2 under G.S. 113-174.2 and G.S. 113-174.3 and interest earned from the
3 investment of license proceeds. The term includes funds realized from
4 the sale, lease, rental, or other grant of rights to real or personal property
5 acquired or produced with license revenues and federal aid project
6 reimbursements to the extent that license revenues originally funded the
7 project for which the reimbursement is made.

8 (b) Sealife Enhancement Fund Established. – The Sealife Enhancement Fund is
9 established as a special fund within the Department. The State Treasurer shall invest the
10 assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.
11 The Commission shall administer the Fund with the advice of the Sealife Enhancement
12 Advisory Committee.

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

18 (1) Resources and habitat enhancement. – Not less than twenty-five percent
19 (25%) of the moneys in the Fund shall be used for resource and habitat
20 enhancement.

21 (2) Law enforcement. – Not more than twenty-five percent (25%) of the
22 moneys in the Fund shall be used for law enforcement.

23 (3) Marine fisheries research. – Not less than twenty-five percent (25%) of
24 the moneys in the Fund shall be used for marine fisheries research,
25 including data collection and the development of Fishery Management
26 Plans.

27 (4) Grants. – Not more than ten percent (10%) of the moneys in the Fund
28 shall be distributed to fund coastal fishing programs, projects, and
29 scholarships.

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

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

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

39 (1) The Governor shall appoint seven persons each of whom holds a CRFL
40 or a RCGL at the time of appointment. A person appointed under this
41 subdivision must continue to hold a CRFL or a RCGL in order to
42 remain eligible to serve on the Advisory Committee.

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

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

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

12 **"§ 113-174.5. License agents.**

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

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

30 (c) The Department shall compensate license agents by refunding to each license
31 agent six percent (6%) of the value of each license sold by that license agent."

32 Section 2. G.S. 113-168(1) reads as rewritten:

33 "(1) 'Commercial fishing operation' means any activity preparatory to,
34 during, or subsequent to the taking of any fish, the taking of which is
35 subject to regulation by the Commission, either with the use of
36 commercial fishing equipment or gear, or by any means if the purpose
37 of the taking is to obtain fish for sale. Commercial fishing operation
38 does not include (i) the taking of fish as part of a recreational fishing
39 tournament, unless commercial fishing equipment or gear is ~~used or~~
40 used, (ii) the taking of fish under a ~~RCGL~~ RCGL, or (iii) the taking of
41 fish as provided in G.S. 113-261."

42 Section 3. G.S. 113-168.1(a) reads as rewritten:

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

5 Section 4. G.S. 113-168.1(f) reads as rewritten:

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

12 Section 5. G.S. 113-168.1(g) reads as rewritten:

13 "(g) Limitations on Eligibility. — A person is not eligible to obtain or renew a
14 license or endorsement under this Article if, at the time the person applies for the license
15 or endorsement, any other license or endorsement issued to the person under this Article
16 or Article 14B of the Chapter 113 of the General Statutes is suspended or revoked. A
17 person is not eligible to obtain a license or endorsement under this Article if, within the
18 three years prior to the date of application, the person has been determined to be
19 responsible for four or more violations of state laws, regulations, or rules governing the
20 management of marine and estuarine resources. An applicant shall certify that the
21 applicant has not been determined to be responsible for four or more violations of state
22 laws, regulations, or rules governing the management of marine and estuarine resources
23 during the previous three years. The Division may also consider violations of federal law
24 and regulations governing the management of marine and estuarine resources in
25 determining whether an applicant is eligible for a license."

26 Section 6. G.S. 113-185(a) reads as rewritten:

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

30 (1) Buoys or beach markers, placed at the owner's expense in accordance
31 with the rules adopted by the Marine Fisheries Commission, indicate
32 clearly to fishermen in vessels and on the beach the requisite distance of
33 750 feet from the pier, and

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

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

37 Section 7. G.S. 113-169.4 is repealed.

38 Section 8. G.S. 113-172 is repealed.

39 Section 9. G.S. 113-173 is repealed.

40 Section 10. Unless otherwise expressly provided, every agency to which this
41 act applies shall adopt rules to implement the provisions of this act only in accordance
42 with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent
43 act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to

1 which this act applies that is authorized to adopt rules to implement the provisions of this
2 act may adopt temporary rules to implement the provisions of this act. This section shall
3 continue in effect until all rules necessary to implement the provisions of this act have
4 become effective as either temporary rules or permanent rules.

5 Section 11. If any section or provision of this act is declared unconstitutional
6 or invalid by the courts, the unconstitutional or invalid section or provision does not
7 affect the validity of this act as a whole or any part of this act other than the part declared
8 to be unconstitutional or invalid.

9 Section 12. This act becomes effective 1 March 2001.