

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**HOUSE BILL 831\***  
**Committee Substitute Favorable 5/20/03**  
**Committee Substitute #2 Favorable 7/9/03**  
**Committee Substitute #3 Favorable 7/17/03**

Short Title: Coastal Recreational Fishing License.

(Public)

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Sponsors:

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Referred to:

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April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

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

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

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

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

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

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

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

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls; and

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



1        (b) Sale of Fish Prohibited. – A license issued under this Article does not  
2 authorize an individual 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 individual who takes or  
5 lands any species of fish under the authority of the Commission by any means to sell,  
6 offer for 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 individual to  
18 engage in recreational fishing in coastal fishing waters in the State without having ready  
19 at hand for inspection all licenses required under this Article. It is unlawful for an  
20 individual to refuse to exhibit any license required by this Article upon the request of an  
21 inspector or other law enforcement officer authorized to enforce federal or State laws,  
22 regulations, or 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 individual to hold any license  
35 issued under this Article to the individual as a North Carolina resident if that individual  
36 holds any commercial or recreational fishing license issued by another state to the  
37 individual as a resident of that state.

38        (h) Limitations on Eligibility. – An individual is not eligible to obtain a license  
39 under this Article if, at the time the individual applies for the license, any other license  
40 or endorsement issued to the individual under this Article is suspended or revoked. An  
41 individual is not eligible to obtain a license under this Article if, within the three years  
42 prior to the date of application, the individual has been determined to be responsible for  
43 four or more violations of State laws, regulations, or rules governing the management of  
44 marine and estuarine resources. An applicant for a license under this Article shall certify

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

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

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

14 (k) Confidentiality of Information. – Information collected pursuant to this  
15 Article, including the names and addresses of licensed individuals, is confidential and is  
16 not a public record under Chapter 132 of the General Statutes.

17 **"§ 113-174.2. Coastal Recreational Fishing License.**

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

23 (b) Purchase; Renewal. – Any license issued under this section may be purchased  
24 at designated offices of the Division or from the Division by mail. A license issued  
25 under subdivisions (1) and (2) of subsection (c) of this section may also be purchased  
26 through a license agent authorized under G.S. 113-174.4. Any license issued under this  
27 section may be renewed by mail.

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

30 (1) Standard CRFL. – \$10.00. This license is valid for a period of one year  
31 from the date of issuance.

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

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

37 a. Younger than 18 years of age \$150.00

38 b. 18 years of age to younger than 62 years of age \$200.00

39 (4) Disabled Individual CRFL. – An applicant for a license under this  
40 subdivision shall provide documentation to the Division to  
41 demonstrate that the applicant is disabled as determined by a licensed  
42 medical doctor. A license issued under this subdivision shall be issued  
43 without charge and is valid for the lifetime of the individual so long as  
44 the individual remains disabled.

1           (5) Disabled Veteran CRFL. – An applicant for a license under this  
2 subdivision shall provide documentation to the Division to  
3 demonstrate that the applicant is a fifty percent (50%) or more disabled  
4 veteran as determined by the United States Department of Veterans  
5 Affairs. A license issued under this subdivision shall be issued without  
6 charge and is valid for the lifetime of the individual so long as the  
7 individual remains fifty percent (50%) or more disabled.

8           (6) Legally Blind Lifetime CRFL. – An applicant for a license under this  
9 subdivision shall provide documentation to the Division to  
10 demonstrate that the applicant is legally blind. A license issued under  
11 this subdivision shall be issued without charge and is valid for the  
12 lifetime of the licensee.

13       (d) Exemptions. – An individual may engage in recreational fishing by means of  
14 recreational gear without holding a CRFL if the individual:

15           (1) Is under 16 years of age.

16           (2) Is 62 years of age or older.

17           (3) Holds a SCFL or a RSCFL.

18           (4) Holds a Lifetime Resident Comprehensive Fishing License under G.S.  
19 113-271(d)(3) or a Lifetime Sportsman License under G.S.  
20 113-270.1D(b).

21           (5) Is fishing from a public bridge.

22           (6) Is fishing from the shore.

23       (e) Notwithstanding the fee for the Standard CRFL specified in subdivision (1)  
24 of subsection (c) of this section, if the Commission finds that a state has established a  
25 coastal recreational fishing license fee that exceeds the fee for the Standard CRFL, the  
26 Commission may increase the fee for the Standard CRFL applicable to residents of that  
27 state to an amount equal to the fee a North Carolina resident is required to pay for a  
28 coastal recreational fishing license in that state. The action of the Commission to  
29 increase a fee pursuant to this subsection is not subject to the provisions of Article 2A of  
30 Chapter 150B of the General Statutes. The action of the Commission to increase a fee  
31 pursuant to this subsection becomes effective on the date specified by the Commission.

32       (f) Fees collected under this section shall be credited to the General Fund.

33 **§ 113-174.3. Recreational Commercial Gear License.**

34       (a) License Required. – Except as provided in subsection (e) of this section, it is  
35 unlawful for any individual to engage in recreational fishing by means of commercial  
36 fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL  
37 entitles the licensee to use authorized commercial gear to take fish for personal use  
38 subject to recreational size and possession limits. It is unlawful for any individual  
39 licensed under this section or fishing under a RCGL to possess fish in excess of  
40 recreational size or possession limits.

41       (b) Authorized Commercial Gear. –

42           (1) The Commission shall adopt rules authorizing the use of a limited  
43 amount of commercial fishing equipment or gear for recreational  
44 fishing under a RCGL. The Commission may authorize the limited use

1 of commercial gear on a uniform basis in all coastal fishing waters or  
2 may vary the limited use of commercial gear within specified areas of  
3 the coastal fishing waters. The Commission shall periodically evaluate  
4 and revise the authorized use of commercial gear for recreational  
5 fishing. Authorized commercial gear shall be identified by visible  
6 colored tags or other means specified by the Commission in order to  
7 distinguish between commercial gear used in a commercial fishing  
8 operation as defined in G.S. 113-168 and commercial gear used for  
9 recreational purposes.

10 (2) An individual who holds a RCGL may use up to 100 yards of gill net  
11 to take fish for recreational purposes. Two individuals who each hold a  
12 RCGL and who are fishing from a single vessel may use up to a  
13 combined 200 yards of gill net to take fish for recreational purposes.  
14 No more than 200 yards of gill net may be used to take fish for  
15 recreational purposes from a single vessel regardless of the number of  
16 individuals aboard the vessel who hold a RCGL.

17 (c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the  
18 Division and from a license agent authorized under G.S. 113-174.4. A RCGL may be  
19 renewed by mail.

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

24 (e) Exemptions. –

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

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

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

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

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

6 **"§ 113-174.4. License agents.**

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

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

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

26 **"§ 113-174.5. Report.**

27           The Chair of the Board of Trustees shall submit to the Joint Legislative Commission  
28           on Seafood and Aquaculture and the Joint Legislative Commission on Governmental  
29           Operations by September 30 of each year a report on the Fund that shall include the  
30           source and amounts of all moneys credited to the Fund and the purpose and amount of  
31           all expenditures from the Fund during the prior fiscal year."

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.** The catch line of G.S. 113-168.1 reads as rewritten:

43 **"§ 113-168.1. General provisions governing commercial licenses and**  
44 **endorsements."**

1           **SECTION 4.** G.S. 113-168.1(a) reads as rewritten:

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

7           **SECTION 5.** G.S. 113-168.1(f) reads as rewritten:

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

14           **SECTION 6.** G.S. 113-172 is repealed.

15           **SECTION 7.** G.S. 113-173 is repealed.

16           **SECTION 8.** G.S. 143B-289.52(a) is amended by adding a new subdivision  
17 to read:

18           "(13) To adopt rules to define fishing gear as either recreational gear or  
19           commercial gear for purposes of implementing Article 14B of Chapter  
20           113 of the General Statutes."

21           **SECTION 9.** In order to provide for a system of staggered three-year terms  
22 for members of the Board of Trustees of the Marine Resources Restoration Fund  
23 established by G.S. 113-175.2, as enacted by Section 1 of this act, the following  
24 provisions shall apply:

- 25           (1) The term of the member initially appointed to serve in the position  
26 established by G.S. 113-175.2(1) shall be four years and three months  
27 and shall expire on July 1, 2009.
- 28           (2) The term of the member initially appointed to serve in the position  
29 established by G.S. 113-175.2(2) shall be two years and three months  
30 and shall expire on July 1, 2007.
- 31           (3) The term of the member initially appointed to serve in the position  
32 established by G.S. 113-175.2(3) shall be three years and three months  
33 and shall expire on July 1, 2008.
- 34           (4) The term of the member initially appointed to serve in the position  
35 established by G.S. 113-175.2(4) shall be four years and three months  
36 and shall expire on July 1, 2009.
- 37           (5) The term of the member initially appointed to serve in the position  
38 established by G.S. 113-175.2(5) shall be two years and three months  
39 and shall expire on July 1, 2007.
- 40           (6) The term of the member initially appointed to serve in the position  
41 established by G.S. 113-175.2(6) shall be three years and three months  
42 and shall expire on July 1, 2008.

1           (7) The term of the member initially appointed to serve in the position  
2           established by G.S. 113-175.2(7) shall be four years and three months  
3           and shall expire on July 1, 2009.

4           **SECTION 10.** The first report required by G.S. 113-175.4, as enacted by  
5 Section 1 of this act, shall be submitted by September 30, 2005.

6           **SECTION 11.** Of the funds appropriated to the Department of Environment  
7 and Natural Resources by S.L. 2003-284, the Department may use up to one million one  
8 hundred thousand dollars (\$1,100,000) for the 2003-2004 fiscal year and up to two  
9 million dollars (\$2,000,000) for the 2004-2005 fiscal year to implement the provisions  
10 of this act.

11           **SECTION 12.** Notwithstanding G.S. 113-175.3, as enacted by Section 1 of  
12 this act, during the 2003-2004 fiscal year and the 2004-2005 fiscal year, the Secretary of  
13 Environment and Natural Resources may disburse moneys from the Marine Resources  
14 Restoration Fund to pay for costs incurred in implementing the provisions of this act.

15           **SECTION 13.** Unless otherwise expressly provided, every agency to which  
16 this act applies shall adopt rules to implement the provisions of this act only in  
17 accordance with the provisions of Chapter 150B of the General Statutes. This act  
18 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.  
19 Every agency to which this act applies that is authorized to adopt rules to implement the  
20 provisions of this act may adopt temporary rules to implement the provisions of this act.  
21 This section shall continue in effect until all rules necessary to implement the provisions  
22 of this act have become effective as either temporary rules or permanent rules.

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

27           **SECTION 15.** Sections 8, 11, 12, 13, 14, and 15 of this act are effective  
28 when this act becomes law. All other sections of this act become effective March 1,  
29 2005.