A BILL TO BE ENTITLED

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

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

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

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

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

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

Whereas, at a time when the State faces a severe fiscal crisis, a $15.00 annual
license for coastal recreational fishing would provide $6,000,000 to $8,000,000 per year
in new funds for protection, restoration, and enhancement of fisheries habitat; fisheries
research; public education; and enforcement of fisheries laws.
Whereas, the State requires an individual to hold a license to engage in fishing in the inland, fresh waters of the State and charges the individual $15.00 for this license, there is no logic in requiring a license to fish in inland, fresh waters, but not coastal, salt water;

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

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

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:
   a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.
   b. Except as provided in G.S. 113-261.
(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.
(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

(a) License Required to Engage in Recreational Fishing. – It is unlawful for any person to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.
(b) Sale of Fish Prohibited. – A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the
Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

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

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

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

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

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

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

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

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

§ 113-174.2. Coastal Recreational Fishing License.

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

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

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

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

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

(3) Lifetime CRFL. – This license is valid for the lifetime of the licensee.

The fee for the Lifetime CRFL, based on the age of the prospective
licensee as of the date on which the application is filed with the
Division, is:

a. Younger than six years of age $100.00
b. Between six and 11 years of age $150.00
c. Between 11 and 17 years of age $200.00
d. Between 17 and 70 years of age $250.00
e. 70 years of age or older $10.00.

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

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

(6) Legally Blind Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to 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:

(1) Vessel of 25 feet or less in length $200.00
(2) Vessel of greater than 25 feet in length $400.00.

(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 four dollars ($4.00) 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) Holds a SCFL or a RSCFL.
(3) Holds a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman License under G.S. 113-270.1D(b).

(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
counteract in recreational fishing by means of recreational gear held by a resident of that
state.

§ 113-174.3. Recreational Commercial Gear License.

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

(b) Authorized Commercial Gear. –

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

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

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

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

(e) Exemptions. –

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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 113-174.5. License agents.
(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

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

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

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

"(1) 'Commercial fishing operation' 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, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is used or used, (ii) the taking of fish under a RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

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

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

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

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

SECTION 5. G.S. 113-168.1(g) reads as rewritten:
"(g) Limitations on Eligibility. – A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

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

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

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

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

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

SECTION 7. G.S. 113-169.4 is repealed.
SECTION 8. G.S. 113-172 is repealed.
SECTION 9. G.S. 113-173 is repealed.

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

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

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

SECTION 12. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.
SECTION 13. Sections 10, 11, 12, and 13 of this act are effective when this act becomes law. All other sections of this act become effective March 1, 2004.