

§ 113-169.3. Licenses for fish dealers.

(a) Eligibility. – A fish dealer license shall be issued to a North Carolina resident upon receipt of a proper application at any office of the Division together with all license fees including the total number of dealer categories set forth in this section. The license shall be issued in the name of the applicant and shall include all dealer categories on the license.

(b) Application for License. – Applications shall not be accepted from persons ineligible to hold a license issued by the Division, including any applicant whose license is suspended or revoked on the date of the application. The applicant shall be provided with a copy of the application marked received. The copy shall serve as the fish dealer's license until the license issued by the Division is received, or the Division determines that the applicant is ineligible to hold a license. Where an applicant does not have an established location for transacting the fisheries business within the State, the license application shall be denied unless the applicant satisfies the Secretary that his residence, or some other office or address within the State, is a suitable substitute for an established location and that records kept in connection with licensing, sale, and purchase requirements will be available for inspection when necessary. Fish dealers' licenses are issued on a fiscal year basis upon payment of a fee as set forth herein upon proof, satisfactory to the Secretary, that the license applicant is a North Carolina resident.

(c) License Requirement. – Any person subject to the licensing requirements of this section is a fish dealer. Any person subject to the licensing requirements of this section shall obtain a separate license for each physical location conducting activities required to be licensed under this section. Except as otherwise provided in this section, it is unlawful for any person not licensed pursuant to this Article:

- (1) To buy fish for resale from any person involved in a commercial fishing operation that takes any species of fish from coastal fishing waters. For purposes of this subdivision, a retailer who purchases fish from a fish dealer shall not be liable if the fish dealer has not complied with the licensing requirements of this section;
- (2) To sell fish to the public; or
- (3) To sell to the public any species of fish under the authority of the Commission taken from coastal fishing waters.

(d) Exceptions to License Requirements. – The Commission may adopt rules to implement this subsection including rules to clarify the status of the listed classes of exempted persons, require submission of statistical data, and require that records be kept in order to establish compliance with this section. Any person not licensed pursuant to this section is exempt from the licensing requirements of this section if all fish handled within any particular licensing category meet one or more of the following requirements:

- (1) The fish are sold by persons whose dealings in fish are primarily educational, scientific, or official, and who have been issued a permit by the Division that authorizes the educational, scientific, or official agency to sell fish taken or processed in connection with research or demonstration projects;
- (2) The fish are sold by individual employees of fish dealers when transacting the business of their duly licensed employer;
- (3) The fish are shipped to a person by a dealer from without the State;
- (4) The fish are of a kind the sale of which is regulated exclusively by the Wildlife Resources Commission; or
- (5) The fish are purchased from a licensed dealer.

(e) Application Fee for New Fish Dealers. – An applicant for a new fish dealer license shall pay a nonrefundable application fee of one hundred dollars (\$100.00) in addition to the license category fees set forth in this section.

(f) License Category Fees. – Every fish dealer subject to licensing requirements shall secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:

- (1) Dealing in oysters: \$100.00.
- (2) Dealing in scallops: \$100.00.
- (3) Dealing in clams: \$100.00.
- (4) Dealing in hard or soft crabs: \$100.00.
- (5) Dealing in shrimp, including bait: \$100.00.
- (6) Dealing in finfish, including bait: \$100.00.
- (7) Operating menhaden or other fish-dehydrating or oil-extracting processing plants: \$100.00.
- (8) Consolidated license (all categories): \$600.00.

(f1) Other License Categories. – Any person subject to fish dealer licensing requirements who deals in fish not included in the categories listed in subsection (f) of this section shall secure a finfish dealer license. The Commission may adopt rules implementing and clarifying the dealer categories of this section. Bait operations shall be licensed under either the finfish or shrimp dealer license categories.

(g) Repealed by Session Laws 1998-225, s. 4.18, effective July 1, 1999.

(h) Replacement License. – If the licensee fails to comply with the requirements of G.S. 113-168.1(h), the license is revoked.

(i) Unlawful Purchase and Sale of Fish. – It is unlawful for a fish dealer to purchase, possess, or sell fish taken from coastal fishing waters in violation of this Subchapter or the rules adopted by the Commission implementing this Subchapter. It is unlawful for a fish dealer to buy or accept fish unless, at the time of the transaction:

- (1) The seller or donor presents a current and valid license to sell the type of fish being offered;
- (2) The seller or donor presents the commercial fishing vessel registration of the vessel that was used to take the fish being offered; and
- (3) The dealer records the transaction consistent with the record-keeping requirements of G.S. 113-168.2(i).

(j) Transfer Prohibited. – Any fish dealer license issued under this section is nontransferable. It is unlawful to use a fish dealer license issued to another person in the sale or attempted sale of fish or for a licensee to lend or transfer a fish dealer license for the purpose of circumventing the requirements of this section. (1997-400, s. 5.1; 1998-225, s. 4.18; 2001-213, s. 2; 2013-360, ss. 14.8(h), (i); 2014-100, s. 14.9(e).)