

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 1126
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/5/05
Finance Committee Substitute Adopted 4/6/05
Fourth Edition Engrossed 4/11/05
House Committee Substitute Favorable 6/28/05**

Short Title: Implement CRFL/Amend Fisheries Laws.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE COASTAL
2 RECREATIONAL FISHING LICENSE, TO EXEMPT FROM COASTAL
3 RECREATIONAL FISHING LICENSE REQUIREMENTS ONLY THOSE
4 INDIVIDUALS WHO ARE UNDER SIXTEEN YEARS OF AGE OR WHO
5 HOLD CERTAIN LICENSES ISSUED BY THE WILDLIFE RESOURCES
6 COMMISSION THAT WERE PURCHASED PRIOR TO JANUARY 1, 2005, TO
7 REPEAL THE NATURAL BAIT EXEMPTION FROM HOOK-AND-LINE
8 FISHING LICENSE REQUIREMENTS, TO PROVIDE FOR A STATEWIDE
9 SUBSISTENCE FISHING LICENSE, TO PROHIBIT THE WILDLIFE
10 RESOURCES COMMISSION FROM DISCLOSING PERSONAL IDENTIFYING
11 INFORMATION OF LICENSEES AND OTHERS UNDER CERTAIN
12 CIRCUMSTANCES, TO AMEND VARIOUS STATUTES RELATED TO THE
13 WILDLIFE RESOURCES COMMISSION, TO PROVIDE A SYSTEM OF
14 UNIFIED LICENSES UNDER WHICH INDIVIDUALS MAY FISH
15 THROUGHOUT THE STATE, TO RECONSTITUTE THE MARINE FISHERIES
16 COMMISSION, TO AUTHORIZE THE NEW MARINE FISHERIES
17 COMMISSION TO DISBURSE FISHING LICENSE REVENUES AND
18 INVESTMENT INCOME TO MANAGE THE MARINE RESOURCES OF THE
19 STATE, TO AUTHORIZE MARINE INSPECTORS TO ACCEPT
20 DEPUTIZATION FROM THE NATIONAL MARINE FISHERIES SERVICE,
21 AND TO PROVIDE MARINE INSPECTORS WITH THE SAME
22 ENFORCEMENT AUTHORITY AS WILDLIFE PROTECTORS.
23

24 The General Assembly of North Carolina enacts:

25 **PART I. AMEND FISHING LICENSE REQUIREMENTS**

26

1 Article and Articles 21 and 25A of this Chapter and with applicable rules adopted by the
2 Marine Fisheries Commission and the Wildlife Resources Commission.

3 (a2) Fourth of July Free Fishing Day. – The fourth day of July of each year is
4 declared a free fishing day to promote the sport of fishing, and no license issued under
5 this Article or Article 25A of this Chapter is required to fish in any of the public waters
6 of the State on that day. All other laws and rules pertaining to recreational fishing apply.

7 (b) Sale of Fish Prohibited. – A license issued under this Article or Article 25A
8 of this Chapter does not authorize an individual who takes or lands any species of fish
9 under the authority of the Marine Fisheries Commission to sell, offer for sale, barter, or
10 exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is
11 unlawful for any individual who takes or lands any species of fish under the authority of
12 the Marine Fisheries Commission by any means to sell, offer for sale, barter, or
13 exchange these fish for anything of value.

14 (c) Assignment and Transfer Prohibited. – It is unlawful to buy, sell, lend,
15 borrow, assign, or otherwise transfer a license issued under this Article or Article 25A
16 of this Chapter or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a
17 license issued under this Article. Article or Article 25A of this Chapter.

18 ~~(d) General Enforcement. — It is unlawful for any individual to engage in~~
19 ~~recreational fishing in coastal fishing waters in the State without providing the~~
20 ~~individual's name and residence address upon the request of an inspector or other law~~
21 ~~enforcement officer authorized to enforce federal or State laws, regulations, or rules~~
22 ~~relating to marine fisheries.~~

23 ~~(e) Enforcement for Charterboats and Headboats. — An inspector or other law~~
24 ~~enforcement officer may only verify the licensure of an individual fishing from a~~
25 ~~charterboat or headboat after the charterboat or headboat has returned to shore and the~~
26 ~~individual has disembarked from the charterboat or headboat. Except as provided in~~
27 ~~G.S. 113-174.2(d), each individual on board a charterboat or headboat engaged in~~
28 ~~recreational fishing, other than crew members who do not engage in recreational~~
29 ~~fishing, must have purchased a current SFL issued pursuant to G.S. 113-174.2. An~~
30 ~~owner, operator, or crew member of a charterboat or headboat is not responsible for the~~
31 ~~licensure of a customer fishing from a charterboat or headboat.~~

32 (f) Cancellation. Cancellation of Fraudulent License; Penalties. – The Division
33 Wildlife Resources Commission may cancel a license issued by the Commission under
34 this Article or Article 25A of this Chapter if the license was issued on the basis of false
35 information supplied by the license applicant. The Division may cancel a For Hire
36 Blanket CRFL issued under G.S. 113-174.3 or an Ocean Fishing Pier Blanket CRFL
37 issued under G.S. 113-174.4 if the license was issued on the basis of false information
38 supplied by the license applicant. A cancelled license is void from the date of issuance.
39 It is a Class 1 misdemeanor for an individual to knowingly do any of the following:

40 (1) Engage in any activity regulated under this Article with an improper,
41 false, or altered license.

42 (2) Make any false, fraudulent, or misleading statement in applying for a
43 license issued under this Article or Article 25A of this Chapter.

1 (3) Counterfeit, alter, or falsify any application or license issued under this
2 Article or Article 25A of this Chapter.

3 (g) Reporting Requirements. – A person licensed under this Article or Article
4 25A of this Chapter shall comply with the biological data sampling and survey
5 programs of the Marine Fisheries Commission and the Division.

6 (h) Replacement Licenses. – Upon receipt of a proper application together with a
7 fee of five dollars (\$5.00), the Wildlife Resources Commission or the Division may
8 issue a new license to replace one issued by the respective agency that has been lost or
9 destroyed before its expiration. The application must be on a form of the Wildlife
10 Resources Commission or the Division setting forth information in sufficient detail to
11 allow ready identification of the lost or destroyed license and ascertainment of the
12 applicant's continued entitlement to it."

13 **SECTION 1.4.** G.S. 113-174.2 reads as rewritten:

14 **"§ 113-174.2. Saltwater Coastal Recreational Fishing License.**

15 ~~(a) License Required.~~ — ~~Except as otherwise provided in this Article, it is~~
16 ~~unlawful for any individual to engage in recreational fishing in coastal fishing waters by~~
17 ~~means of recreational gear without having purchased a current SFL issued under this~~
18 ~~section. It is unlawful for any individual fishing under a SFL to possess fish in excess of~~
19 ~~recreational possession limits.~~

20 ~~(a1) Authorization to Fish in Coastal and Joint Fishing Waters.~~ – A CRFL issued
21 ~~under this section authorizes the licensee to engage in recreational fishing in coastal~~
22 ~~fishing waters, including joint fishing waters. A CRFL issued under this section does~~
23 ~~not authorize the licensee to fish in inland fishing waters.~~

24 ~~(b) Purchase; Renewal.~~ — ~~Any license issued under this section may be purchased~~
25 ~~or renewed at designated offices of the Division; from the Division by mail, electronic~~
26 ~~mail, the Internet, or telephone; or at locations designated by the North Carolina~~
27 ~~Saltwater Fishing Fund Board of Trustees.~~

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

30 ~~(1) One year SFL. Annual Resident CRFL.~~ – \$15.00. This license is valid
31 for a period of one year from the date of issuance. This license shall be
32 issued only to an individual who is a resident of the State.

33 ~~(1a) Annual Nonresident CRFL.~~ – \$30.00. This license is valid for a period
34 of one year from the date of issuance. This license shall be issued only
35 to an individual who is not a resident of the State.

36 ~~(2) Two year SFL.~~ — \$30.00. This license is valid for a period of two years
37 ~~from the date of issuance.~~

38 ~~(3) Three year SFL.~~ — \$45.00. This license is valid for a period of three
39 ~~years from the date of issuance.~~

40 ~~(4) Seven day SFL. Ten-Day Resident CRFL.~~ – \$1.00;\$5.00. This license
41 is valid for a period of ~~seven consecutive days. 10 consecutive days, as~~
42 indicated on the license. An individual may purchase this license only
43 once in any 12 month period. This license shall be issued only to an
44 individual who is a resident of the State.

- 1 (4a) Ten-Day Nonresident CRFL. – \$10.00. This license is valid for a
2 period of 10 consecutive days, as indicated on the license. This license
3 shall be issued only to an individual who is not a resident of the State.
- 4 (5) ~~Subsistence SFL. — An applicant for a license under this subdivision~~
5 ~~shall provide to the Division a certification from the Department of~~
6 ~~Health and Human Services that the individual falls below the federal~~
7 ~~poverty level. A license issued under this subdivision shall be issued~~
8 ~~without charge and is valid for a period of one year from the date of~~
9 ~~issuance.~~
- 10 (6) ~~Lifetime SFL/CRFLs. – This license is~~Except as provided in
11 ~~sub-subdivision j. of this subdivision, CRFLs issued under this~~sub-subdivision j. of this subdivision, CRFLs issued under this
12 ~~subdivision are valid for the lifetime of the licensee. The fee for the~~subdivision are valid for the lifetime of the licensee. The fee for the
13 ~~Lifetime SFL, based on the age of the prospective licensee as of the~~Lifetime SFL, based on the age of the prospective licensee as of the
14 ~~date on which the application is filed with the Division, is:~~date on which the application is filed with the Division, is:
- 15 a. ~~Younger than six years of age \$100.00~~
16 b. ~~Six years of age to younger than 11 years of age \$150.00~~
17 c. ~~11 years of age to younger than 18 years of age \$200.00~~
18 d. ~~18 years of age or older \$500.00~~
- 19 e. Infant Lifetime CRFL. – \$100.00. This license shall be issued
20 only to an individual younger than one year of age.
- 21 f. Youth Lifetime CRFL. – \$150.00. This license shall be issued
22 only to an individual who is one year of age or older but
23 younger than 12 years of age.
- 24 g. Resident Adult Lifetime CRFL. – \$250.00. This license shall be
25 issued only to an individual who is 12 years of age or older but
26 younger than 70 years of age and who is a resident of the State.
- 27 h. Nonresident Adult Lifetime CRFL. – \$500.00. This license
28 shall be issued only to an individual who is 12 years of age or
29 older and who is not a resident of the State.
- 30 i. Resident Elderly Lifetime CRFL. – \$10.00. This license shall
31 be issued only to an individual who is 70 years of age or older
32 and who is a resident of the State.
- 33 j. Resident Disabled Veteran CRFL. – \$10.00. This license shall
34 be issued only to an individual who is a resident of the State and
35 who is a fifty percent (50%) or more disabled veteran as
36 determined by the United States Department of Veterans
37 Affairs. This license remains valid for the lifetime of the
38 licensee so long as the licensee remains fifty percent (50%) or
39 more disabled.
- 40 k. Resident Totally Disabled CRFL. – \$10.00. This license shall
41 be issued only to an individual who is a resident of the State and
42 who is totally and permanently disabled as determined by the
43 Social Security Administration.

1 (d) Exemptions. – ~~An individual may engage in recreational fishing by means of~~
2 ~~recreational gear without having purchased a SFL~~is exempt from the license
3 requirements of G.S. 113-174.1(a) if the individual is either:

4 (1) Is under 16 years of age.~~18 years of age or younger and is currently~~
5 enrolled in school and is making progress toward obtaining a high
6 school diploma or its equivalent.

7 (2) Holds any of the following licenses that were purchased prior to
8 January 1, 2005:

9 a. Infant Lifetime Sportsman License issued under
10 G.S. 113-270.1D(b)(1).

11 b. Youth Lifetime Sportsman License issued under
12 G.S. 113-270.1D(b)(2).

13 c. Adult Resident Lifetime Sportsman License issued under
14 G.S. 113-270.1D(b)(3).

15 d. Nonresident Lifetime Sportsman License issued under
16 G.S. 113-270.1D(b)(4).

17 e. Age 70 Resident Lifetime Sportsman License issued under
18 G.S. 113-270.1D(b)(5).

19 f. Lifetime Resident Comprehensive Fishing License issued under
20 G.S. 113-271(d)(3).

21 g. Lifetime Combination Hunting and Fishing License for
22 Disabled Residents issued under G.S. 113-270.1C(b)(4).

23 h. Disabled Resident Sportsman License issued under
24 G.S. 113-270.1D(b)(6).

25 (3) Holds any of the following licenses:

26 a. Lifetime Fishing License for the Legally Blind issued under
27 G.S. 113-271(d)(7).

28 b. Adult Care Home Resident Fishing License issued under
29 G.S. 113-271(d)(8)."

30 **SECTION 1.5.** Article 14B of Chapter 113 of the General Statutes is
31 amended by adding two new sections to read:

32 **"§ 113-174.3. For Hire Blanket CRFL.**

33 (a) License. – A person who operates a for hire boat may purchase a For Hire
34 Blanket CRFL issued by the Division. A For Hire Blanket CRFL authorizes all
35 individuals on the for hire boat who do not hold a license issued under this Article or
36 Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters
37 that are not joint fishing waters. A For Hire Blanket CRFL does not authorize
38 individuals to engage in recreational fishing in joint fishing waters or inland fishing
39 waters. This license is valid for a period of one year from the date of issuance. The fee
40 for a For Hire Blanket CRFL is:

41 (1) Three hundred dollars (\$300.00) for a vessel captained by an
42 individual who holds a certification from the United States Coast
43 Guard to carry six or fewer passengers.

1 (2) Four hundred dollars (\$400.00) for a vessel captained by an individual
2 who holds a certification from the United States Coast Guard to carry
3 greater than six passengers.

4 (b) Implementation. – Except as provided in this section and G.S. 113-174.2(d),
5 each individual on board a for hire boat engaged in recreational fishing, other than crew
6 members who do not engage in recreational fishing, must hold a license issued under
7 this Article or Article 25A of this Chapter. An owner, operator, or crew member of a for
8 hire boat is not responsible for the licensure of a customer fishing from the boat.

9 **"§ 113-174.4. Ocean Fishing Pier Blanket CRFL.**

10 Ocean Fishing Pier Blanket CRFL. – A person who owns or operates an ocean
11 fishing pier and who charges a fee to allow a person to engage in recreational fishing
12 from the pier may purchase an Ocean Fishing Pier Blanket CRFL issued by the
13 Division. An Ocean Fishing Pier Blanket CRFL authorizes all individuals who do not
14 hold a license issued under this Article or Article 25A of this Chapter to engage in
15 recreational fishing in coastal fishing waters while on the pier. This license is valid for a
16 period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket
17 CRFL is four dollars (\$4.00) per linear foot, to the nearest foot, that the pier extends
18 into coastal fishing waters beyond the mean high waterline. The length of the pier shall
19 be measured to include all extensions of the pier."

20 **SECTION 1.6.** G.S. 113-270.1C reads as rewritten:

21 **"§ 113-270.1C. Combination hunting and inland fishing licenses.**

22 (a) The combination hunting and inland fishing licenses set forth in subsection
23 (b) of this section entitle the ~~holder~~ licensee to take, except on game lands, all wild birds
24 and wild animals, other than big game and waterfowl, by all lawful methods and in all
25 open seasons, and to fish with hook and line in all inland and joint fishing waters,
26 except public mountain trout waters. A combination hunting and inland fishing license
27 issued under this section does not entitle the licensee to engage in recreational fishing in
28 coastal fishing waters that are not joint fishing waters.

29 (b) Combination hunting and inland fishing licenses issued by the Wildlife
30 Resources Commission are:

31 (1) Resident Annual Combination Hunting and Inland Fishing License –
32 \$20.00. This license shall be issued only to an individual resident of
33 the State.

34 (2), (3) Repealed by Session Laws 1997-326, s. 2.

35 ~~(4) Lifetime Combination Hunting and Fishing License for Disabled~~
36 ~~Residents – \$10.00. This license shall be issued only to (i) an~~
37 ~~individual resident of the State who is a fifty percent (50%) or more~~
38 ~~disabled veteran as determined by the United States Department of~~
39 ~~Veterans Affairs, remaining valid for the lifetime of the individual so~~
40 ~~long as the individual remains fifty percent (50%) or more disabled; or~~
41 ~~(ii) an individual resident of the State who is totally disabled,~~
42 ~~remaining valid for the lifetime of the individual so long as the~~
43 ~~individual remains totally disabled. For purposes of this section,~~
44 ~~"totally disabled" means physically incapable of being gainfully~~

1 employed. The application form for this license, to be provided by the
2 ~~Wildlife Resources Commission~~, allows a person to apply only for the
3 ~~fishing privileges conveyed by the license. This license entitles the~~
4 ~~holder to fish in public mountain trout waters as provided in~~
5 ~~G.S. 113-272(a).~~

6 (5) Resident Disabled Veteran Lifetime Combination Hunting and Inland
7 Fishing License – \$10.00. This license shall be issued only to an
8 individual who is a resident of the State and who is a fifty percent
9 (50%) or more disabled veteran as determined by the United States
10 Department of Veterans Affairs. This license remains valid for the
11 lifetime of the licensee so long as the licensee remains fifty percent
12 (50%) or more disabled. This license entitles the licensee to fish in
13 public mountain trout waters as provided in G.S. 113-272(a).

14 (6) Resident Totally Disabled Lifetime Combination Hunting and Inland
15 Fishing License – \$10.00. This license shall be issued only to an
16 individual who is a resident of the State and who is totally and
17 permanently disabled as determined by the Social Security
18 Administration. This license remains valid for the lifetime of the
19 licensee. This license entitles the licensee to fish in public mountain
20 trout waters as provided in G.S. 113-272(a)."

21 **SECTION 1.7.** G.S. 113-270.1D reads as rewritten:

22 "**§ 113-270.1D. Sportsman licenses.**

23 (a) Annual Sportsman License – \$40.00. This license shall be issued only to an
24 individual resident of the State and entitles the ~~holder~~-licensee to take all wild animals
25 and wild birds, including waterfowl, by all lawful methods in all open seasons,
26 including the use of game lands, and to fish with hook and line for all fish in all inland
27 and joint fishing waters, including public mountain trout waters. An annual sportsman
28 license issued under this subsection does not entitle the licensee to engage in
29 recreational fishing in coastal fishing waters that are not joint fishing waters.

30 (b) Lifetime Sportsman Licenses. ~~Lifetime~~-Except as provided in subdivision (7)
31 of this subsection, lifetime sportsman licenses are valid for the lifetime of the holders
32 licensees. ~~and Lifetime sportsman licenses~~ entitle the holders-licensees to take all wild
33 animals and wild birds by all lawful methods in all open seasons, including the use of
34 game lands, and to fish with hook and line for all fish in all inland and joint fishing
35 waters, including public mountain trout waters. A lifetime sportsman license issued
36 under this subsection does not entitle the licensee to engage in recreational fishing in
37 coastal fishing waters that are not joint fishing waters. Lifetime sportsman licenses
38 issued by the Wildlife Resources Commission are:

- 39 (1) Infant Lifetime Sportsman License – \$200.00. This license shall be
40 issued only to an individual under one year of age.
- 41 (2) Youth Lifetime Sportsman License – \$350.00. This license shall be
42 issued only to an individual under 12 years of age.
- 43 (3) Adult Resident Lifetime Sportsman License – \$500.00. This license
44 shall be issued only to an individual resident of the State.

- 1 (4) Nonresident Lifetime Sportsman License – \$1,000. This license shall
2 be issued only to an individual nonresident of the State.
- 3 (5) Age 70 Resident Lifetime Sportsman License – \$10.00. This license
4 shall be issued only to an individual resident of the State who is at
5 least 70 years of age.
- 6 ~~(6) Disabled Resident Sportsman License—\$100.00. This license shall be~~
7 ~~issued only to (i) an individual resident of the State who is a fifty~~
8 ~~percent (50%) or more disabled veteran as determined by the United~~
9 ~~States Department of Veterans Affairs, remaining valid for the lifetime~~
10 ~~of the individual so long as the individual remains fifty percent (50%)~~
11 ~~or more disabled; or (ii) an individual resident of the State who is~~
12 ~~totally disabled, remaining valid for the lifetime of the individual so~~
13 ~~long as the individual remains totally disabled. For purposes of this~~
14 ~~section, "totally disabled" means physically incapable of being~~
15 ~~gainfully employed.~~
- 16 (7) Resident Disabled Veteran Lifetime Sportsman License – \$100.00.
17 This license shall be issued only to an individual who is a resident of
18 the State and who is a fifty percent (50%) or more disabled veteran as
19 determined by the United States Department of Veterans Affairs. This
20 license remains valid for the lifetime of the licensee so long as the
21 licensee remains fifty percent (50%) or more disabled.
- 22 (8) Resident Totally Disabled Lifetime Sportsman License – \$100.00.
23 This license shall be issued only to an individual who is a resident of
24 the State and who is totally and permanently disabled as determined by
25 the Social Security Administration."

26 **SECTION 1.8.** G.S. 113-271 reads as rewritten:

27 **"§ 113-271. Hook-and-line licenses in inland and joint fishing waters.**

28 (a) An inland hook-and-line fishing license issued under this section entitles the
29 licensee to fish with hook and line in inland fishing waters and joint fishing waters. An
30 inland hook-and-line fishing license issued under this section does not entitle the
31 licensee to engage in recreational fishing in coastal fishing waters that are not joint
32 fishing waters. An inland hook-and-line fishing license issued under subdivision (1),
33 (3), (6a), (6b), (6c), or (9) of subsection (d) of this section entitles the licensee All the
34 hook-and-line fishing licenses set forth in subdivisions (1), (3), (7), and (9) of
35 subsection (d) of this section entitle the holder to fish with hook and line in public
36 mountain trout waters.

37 (b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 684, s. 4.

38 (c) Repealed by Session Laws 1979, c. 830, s. 1.

39 (d) The hook-and-line fishing licenses issued by the Wildlife Resources
40 Commission are as follows:

- 41 (1) Resident Annual Comprehensive Inland Fishing License – \$20.00.
42 This license shall be issued only to an individual resident of the State.
- 43 (2) Resident State Inland Fishing License – \$15.00. This license shall be
44 issued only to an individual resident of the State.

- 1 (3) Lifetime Resident Comprehensive Inland Fishing License – \$250.00.
2 This license shall be issued only to an individual resident of the State
3 and is valid for the lifetime of the ~~holder~~.licensee.
- 4 (4) Resident County Inland Fishing License – \$10.00. This license shall be
5 issued only to an individual resident of the State and is valid only
6 within the county of residence of the ~~license holder~~.licensee.
- 7 (5) Nonresident State Inland Fishing License – \$30.00. This license shall
8 be issued to an individual nonresident of the State.
- 9 (6) Short-Term Inland Fishing Licenses. Short-term inland fishing licenses
10 are valid only for the date or consecutive dates indicated on the
11 licenses. Short-term inland fishing licenses issued by the Wildlife
12 Resources Commission are:
- 13 a. Resident ~~one day~~10-day Inland Fishing License – \$5.00. This
14 license shall be issued only to a resident of the State.
- 15 b. Nonresident ~~one day~~10-day Inland Fishing License – \$10.00.
16 This license shall be issued only to a nonresident of the State.
- 17 c. ~~Nonresident three day~~ — \$15.00. ~~This license shall be issued~~
18 ~~only to a nonresident of the State.~~
- 19 (6a) Age 70 Resident Lifetime Inland Fishing License – \$10.00. This
20 license shall be issued only to an individual resident of the State who is
21 at least 70 years of age.
- 22 (6b) Resident Disabled Veteran Lifetime Inland Fishing License – \$10.00.
23 This license shall be issued only to an individual who is a resident of
24 the State and who is a fifty percent (50%) or more disabled veteran as
25 determined by the United States Department of Veterans Affairs. This
26 license remains valid for the lifetime of the licensee so long as the
27 licensee remains fifty percent (50%) or more disabled.
- 28 (6c) Resident Totally Disabled Lifetime Inland Fishing License – \$10.00.
29 This license shall be issued only to an individual who is a resident of
30 the State and who is totally and permanently disabled as determined by
31 the Social Security Administration. This license remains valid for the
32 lifetime of the licensee.
- 33 (7) ~~Lifetime Fishing License for the Legally Blind~~ — ~~No charge~~. This
34 ~~license shall be issued only to an individual resident of the State who~~
35 ~~has been certified by the Department of Health and Human Services as~~
36 ~~a person whose vision with glasses is insufficient for use in ordinary~~
37 ~~occupations for which sight is essential. This license is valid for the~~
38 ~~life of the individual so long as he remains legally blind.~~
- 39 (8) ~~Adult Care Home Resident Fishing License~~ — ~~No charge~~. This license
40 ~~shall be issued only to an individual resident of the State who resides~~
41 ~~in an adult care home as defined in G.S. 131D-2(a)(3) or~~
42 ~~G.S. 131E-101(4). This license is valid for the life of the individual so~~
43 ~~long as the individual remains a resident of an adult care home.~~

1 (9) Special Guest Inland Fishing License – \$50.00. This license shall be
2 issued only to the owner or lessee of private property bordering inland
3 or joint fishing waters, including public mountain trout waters, and
4 entitles ~~persons~~individuals to fish from the shore or any pier or dock
5 originating from the property without any additional fishing license.
6 This license is applicable only to private property and private docks
7 and piers and is not valid for any public property, pier, or dock nor for
8 any private property, pier, or dock operated for any commercial
9 purpose whatsoever. The guest fishing license shall not be in force
10 unless displayed on the premises of the property and only entitles
11 fishing without additional license to ~~persons~~individuals fishing from
12 the licensed property and then only when fishing within the private
13 property lines. The guest fishing license is not transferable as to person
14 or location."

15 **SECTION 1.9.** G.S. 113-272.3(c) reads as rewritten:

16 "(c) Lifetime licenses are issued from the Wildlife Resources Commission
17 headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime
18 Sportsman License must be accompanied by a certified copy of the birth ~~certificate~~
19 certificate, adoption order containing the date of birth, or other proof of age satisfactory
20 to the Commission, of the individual to be named as the ~~license holder~~licensee."

21 **SECTION 1.10.** G.S. 113-275(c1) reads as rewritten:

22 "(c1) Upon receipt of a proper application together with a fee of ~~two~~five dollars
23 ~~(\$2.00),(\$5.00),~~ the Wildlife Resources Commission may issue a new license or permit
24 to replace one that has been lost or destroyed before its expiration. The application must
25 be on a form of the Wildlife Resources Commission setting forth information in
26 sufficient detail to allow ready identification of the lost or destroyed license or permit
27 and ascertainment of the applicant's continued entitlement to it."

28 **SECTION 1.11.** G.S. 113-276(e) is repealed.

29 **SECTION 1.12.** G.S. 113-276(j) reads as rewritten:

30 "(j) A migrant farm worker who has in his possession a temporary certification of
31 his status as such by the Rural Employment Service of the North Carolina Employment
32 Security Commission on a form provided by the Wildlife Resources Commission is
33 entitled to the privileges of a resident of the State and of the county indicated on such
34 certification during the term thereof for the purposes ~~of:~~of

35 (1) ~~Purchasing~~purchasing and using the resident fishing licenses provided
36 by G.S. 113-271(d)(2), (4), and ~~(6)a.;~~and(6)a.

37 (2) ~~Utilizing the natural bait exemption in subsection (e) above.~~"

38 **SECTION 1.13.** G.S. 113-276(m) reads as rewritten:

39 "(m) ~~Notwithstanding any other provision of law, the~~ The fourth day of July of
40 each year is declared a free fishing day to promote the sport of fishing and no
41 hook-and-line fishing license is required to fish in any of the public waters of the State
42 on ~~this~~that day. All other laws and rules pertaining to hook-and-line fishing ~~still~~apply."

43 **SECTION 1.14.** G.S. 113-276 is amended by adding a new subsection to
44 read:

1 "(n) The Wildlife Resources Commission may adopt rules to exempt individuals
2 who participate in organized fishing events held in inland or joint fishing waters from
3 recreational fishing license requirements for the specified time and place of the event
4 when the purpose of the event is consistent with the conservation objectives of the
5 Commission."

6 **SECTION 1.15.** G.S. 113-296(b) reads as rewritten:

7 "(b) In order to be eligible for participation in the Disabled Sportsman Program
8 established by this section, ~~a person~~ an individual must be able to certify through
9 competent medical evidence one of the following disabilities:

- 10 (1) ~~Amputation of~~ Missing fifty percent (50%) or more of one or more
11 limbs;limbs, whether by amputation or natural causes.
12 (2) Paralysis of one or more ~~limbs;limbs.~~
13 (3) Dysfunction of one or more limbs rendering the ~~person~~ individual
14 unable to perform the tasks of grasping and lifting with the hands and
15 arms or unable to walk without mechanical assistance, other than a
16 ~~eane;cane.~~
17 (4) Disease, injury, or defect confining the ~~person~~ individual to a
18 wheelchair, walker, or ~~erutches;crutches.~~
19 (5) Legal ~~deafness; or~~ deafness.
20 (6) Legal blindness, for purposes of participation in disabled fishing only.

21 The disability must be permanent, and ~~a person~~ an individual loses eligibility to
22 participate in the Disabled Sportsman Program when the specified disability ceases to
23 exist."

24 **SECTION 1.16.** Subchapter IV of Chapter 113 of the General Statutes is
25 amended by adding a new Article to read:

26 "Article 25A.

27 "Unified Licenses.

28 "**§ 113-351. Unified hunting and fishing licenses; subsistence license waiver.**

29 (a) Definitions. – The definitions set out in G.S. 113-174 apply to this Article.

30 (b) General Provisions Governing Licenses and Waivers. – The general
31 provisions governing licenses set out in G.S. 113-174.1 apply to licenses and waivers
32 issued under this section.

33 (c) Types of Unified Hunting and Fishing Licenses; Fees; Duration. – The
34 Wildlife Resources Commission shall issue the following Unified Hunting and Fishing
35 Licenses:

- 36 (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing
37 License. – \$55.00. This license is valid for a period of one year from
38 the date of issuance. This license shall be issued only to an individual
39 who is a resident of the State. This license authorizes the licensee to
40 take all wild animals and wild birds, including waterfowl, by all lawful
41 methods in all open seasons, including the use of game lands; to fish
42 with hook and line for all fish in all inland fishing waters and joint
43 fishing waters, including public mountain trout waters; and to engage
44 in recreational fishing in coastal fishing waters.

- 1 (2) Annual Resident Unified Inland/Coastal Recreational Fishing License.
2 – \$35.00. This license is valid for a period of one year from the date of
3 issuance. This license shall be issued only to an individual who is a
4 resident of the State. This license authorizes the licensee to fish with
5 hook and line for all fish in all inland fishing waters and joint fishing
6 waters, including public mountain trout waters, and to engage in
7 recreational fishing in coastal fishing waters.
- 8 (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses. –
9 Except as provided in sub-subdivision f. of this subdivision, a license
10 issued under this subdivision is valid for the lifetime of the licensee. A
11 license issued under this subdivision authorizes the licensee to take all
12 wild animals and wild birds, including waterfowl, by all lawful
13 methods in all open seasons, including the use of game lands; to fish
14 with hook and line for all fish in all inland fishing waters and joint
15 fishing waters, including public mountain trout waters; and to engage
16 in recreational fishing in coastal fishing waters.
- 17 a. Infant Lifetime Unified Sportsman/Coastal Recreational Fishing
18 License. – \$275.00. This license shall be issued only to an
19 individual who is younger than one year of age.
- 20 b. Youth Lifetime Unified Sportsman/Coastal Recreational
21 Fishing License. – \$450.00. This license shall be issued only to
22 an individual who is one year of age or older but younger than
23 12 years of age.
- 24 c. Resident Adult Lifetime Unified Sportsman/Coastal
25 Recreational Fishing License. – \$675.00. This license shall be
26 issued only to an individual who is 12 years of age or older but
27 younger than 70 years of age and who is a resident of the State.
- 28 d. Nonresident Adult Lifetime Unified Sportsman/Coastal
29 Recreational Fishing License. – \$1,350. This license shall be
30 issued only to an individual who is 12 years of age or older and
31 who is not a resident of the State.
- 32 e. Resident Elderly Lifetime Unified Sportsman/Coastal
33 Recreational Fishing License. – \$20.00. This license shall be
34 issued only to an individual who is 70 years of age or older and
35 who is a resident of the State.
- 36 f. Resident Disabled Veteran Lifetime Unified Sportsman/Coastal
37 Recreational Fishing License. – \$110.00. This license shall be
38 issued only to an individual who is a resident of the State and
39 who is a fifty percent (50%) or more disabled veteran as
40 determined by the United States Department of Veterans
41 Affairs. This license remains valid for the lifetime of the
42 licensee so long as the licensee remains fifty percent (50%) or
43 more disabled.

1 g. Resident Totally Disabled Lifetime Unified Sportsman/Coastal
2 Recreational Fishing License. – \$110.00. This license shall be
3 issued only to an individual who is a resident of the State and
4 who is totally and permanently disabled as determined by the
5 Social Security Administration.

6 (4) Lifetime Unified Inland/Coastal Recreational Fishing Licenses. –
7 Except as provided in sub-subdivisions b. and c. of this subdivision, a
8 license issued under this subdivision is valid for the lifetime of the
9 licensee. A license issued under this subdivision authorizes the
10 licensee to fish with hook and line for all fish in all inland fishing
11 waters and joint fishing waters, including public mountain trout
12 waters, and to engage in recreational fishing in coastal fishing waters.

13 a. Lifetime Unified Inland/Coastal Recreational Fishing License. –
14 \$450.00.

15 b. Resident Legally Blind Lifetime Unified Inland/Coastal
16 Recreational Fishing License. – No charge. This license shall be
17 issued only to an individual who is a resident of the State and
18 who has been certified by the Department of Health and Human
19 Services as an individual whose vision with glasses is
20 insufficient for use in ordinary occupations for which sight is
21 essential. This license remains valid for the lifetime of the
22 licensee so long as the licensee remains legally blind.

23 c. Resident Adult Care Home Lifetime Unified Inland/Coastal
24 Recreational Fishing License. – No charge. This license shall be
25 issued only to an individual who is a resident of the State and
26 who resides in an adult care home as defined in
27 G.S. 131D-2(a)(1b) or G.S. 131E-101(1). This license remains
28 valid for the lifetime of the licensee so long as the licensee
29 remains a resident of an adult care home.

30 (d) Resident Subsistence Unified Inland/Coastal Recreational Fishing License. –
31 \$1.00. This license is valid for a period of one year from the date of issuance. This
32 license shall be issued only to an individual who is a resident of the State. This license
33 authorizes the licensee to fish with hook and line for all fish in all inland fishing waters
34 and joint fishing waters, except for public mountain trout waters, and to engage in
35 recreational fishing in coastal fishing waters. An applicant for a license issued under this
36 subsection shall provide to a designated license agent a certification from the county
37 department of social services that the applicant is currently enrolled and receives
38 benefits from at least one of the eligible social service programs listed on an application
39 developed by the Division of Marine Fisheries and the Wildlife Resources
40 Commission."

41 **SECTION 1.17.** Article 24 of Chapter 143 of the General Statutes is
42 amended by adding a new section to read:

43 **"§ 143-254.5. Disclosure of personal identifying information.**

1 (a) Personal identifying information obtained by the Commission from an
2 applicant for a license, title, permit, or registration issued by the Commission, from a
3 consumer who purchases or subscribes to a good or service offered by the Commission,
4 or from a donor in connection with any gift to the Commission is confidential under
5 G.S. 132-1.2 and shall only be disclosed by the Commission as provided in this section.

6 (b) Personal identifying information obtained from the holder of a license issued
7 under Article 14B or Article 25A of Chapter 113 of the General Statutes shall be
8 disclosed to the Division of Marine Fisheries and the Marine Fisheries Commission.

9 (c) Personal identifying information may be disclosed to any officer, employee,
10 or authorized representative of any federal, state, or local government agency if
11 disclosure is necessary to carry out a proper function of the Commission or other
12 agency.

13 (d) As used in this section, "personal identifying information" includes a person's
14 mailing address, residence address, date of birth, telephone number, electronic mail
15 address, driver license number, and social security number."

16 **SECTION 1.18.** Sections 3, 4, 9, 10, 11, and 12 of S.L. 2004-187 are
17 repealed.

18 **SECTION 1.19.** Section 15 of S.L. 2004-187 reads as rewritten:

19 "**SECTION 15.** ~~Sections 2, 3, and 4~~Section 2 of this act ~~become~~becomes effective
20 January 1, ~~2006~~2007. All other sections of this act become effective when the act
21 becomes law."

22 **SECTION 1.20.** The repeal by this act of the statutory authority of the
23 Wildlife Resources Commission to issue a type of license shall not affect the authority
24 of an individual to whom a license of that type is issued prior to the effective date of the
25 repeal to engage in the activity that the repealed license type authorizes so long as the
26 license is otherwise valid.

27 **SECTION 1.21.** G.S. 113-130(4) is amended by adding a new sub-
28 subdivision to read:

29 "f. Students. – Nonresident students attending a university, college,
30 or community college in the State."

31 **PART II. MARINE RESOURCES FUND AND MARINE RESOURCES** 32 **ENDOWMENT FUND**

33
34
35 **SECTION 2.1.** The title of Article 14C of Chapter 113 of the General
36 Statutes reads as rewritten:

37 "Article 14C.

38 ~~North Carolina Saltwater Fishing~~Marine Resources Fund and Marine Resources
39 Endowment Fund."

40 **SECTION 2.2.** G.S. 113-175 reads as rewritten:

41 "**§ 113-175. Definitions.**

42 As used in this Article:

43 (1) ~~"Board of Trustees" means the Board of Trustees of the Fund.~~

- 1 (1a) "Endowment Fund" means the North Carolina Marine Resources
2 Endowment Fund.
- 3 (1b) "Endowment investment income" means interest and other income
4 earned from the investment of the principal of the Endowment Fund.
- 5 (1c) "Endowment license revenues" means the net proceeds from the sale
6 of licenses issued under G.S. 113-174.2(c)(6) and a portion of the net
7 proceeds from the sale of licenses issued under G.S. 113-351(c)(3) and
8 (4). The apportionment of the net proceeds from the sale of licenses
9 issued under G.S. 113-351(c)(3) and (4) shall be jointly determined by
10 the Division of Marine Fisheries and the Wildlife Resources
11 Commission. In the event that the Division of Marine Fisheries and the
12 Wildlife Resources Commission cannot agree on the apportionment,
13 the Governor is authorized to determine the apportionment.
- 14 (2) ~~"Fund"~~"Marine Resources Fund" means the North Carolina Saltwater
15 Fishing~~Marine Resources~~ Fund.
- 16 (3) ~~"Investment"~~"Marine resources investment income" means interest
17 earned from the investment of license revenues and the proceeds of
18 any gifts, grants, or contributions deposited in the principal of the
19 Marine Resources Fund.
- 20 (4) ~~"License"~~"Marine resources license revenues" means the net proceeds
21 from the sale of Saltwater Fishing Licenses~~licenses~~ issued under
22 G.S. 113-174.2. Article 14B of this Chapter and a portion of the net
23 proceeds from the sale of licenses issued under Article 25A of this
24 Chapter, excluding endowment license revenues. The apportionment
25 of the net proceeds from the sale of licenses issued under Article 25A
26 of this Chapter shall be jointly determined by the Division of Marine
27 Fisheries and the Wildlife Resources Commission. In the event that the
28 Division of Marine Fisheries and the Wildlife Resources Commission
29 cannot agree on the apportionment, the Governor is authorized to
30 determine the apportionment. ~~The term includes funds realized from~~
31 ~~the sale, lease, rental, or other grant of rights to real or personal~~
32 ~~property acquired or produced with license revenues and federal aid~~
33 ~~project reimbursements to the extent that license revenues originally~~
34 ~~funded the project for which the reimbursement is made."~~

35 **SECTION 2.3.** G.S. 113-175.1 reads as rewritten:

36 **"§ 113-175.1. North Carolina ~~Saltwater Fishing Fund.~~ Marine Resources Fund.**

37 (a) There is hereby established the North Carolina ~~Saltwater Fishing~~Marine
38 Resources Fund as a nonreverting special revenue fund in the office of the State
39 Treasurer. The purpose of the Marine Resources Fund is to enhance the ~~fishery~~marine
40 resources of the ~~State for commercial and recreational fishing.~~State. ~~License revenues~~
41 ~~and the proceeds of any gifts, grants, and contributions to the State that are specifically~~
42 ~~designated for inclusion in the Fund shall be deposited in the Fund.~~ The principal of the
43 Marine Resources Fund shall consist of:

- 44 (1) Marine resources license revenues.

- 1 (2) Proceeds of any gifts, grants, and contributions to the State that are
2 specifically designated for inclusion in the Marine Resources Fund.
- 3 (3) Funds realized from the sale, lease, rental, or other grant of rights to
4 real or personal property acquired or produced from funds disbursed
5 from the Marine Resources Fund.
- 6 (4) Federal aid project reimbursements to the extent that funds disbursed
7 from the Marine Resources Fund originally funded the project for
8 which the reimbursement is made.

9 (b) The State Treasurer shall hold the Marine Resources Fund separate and apart
10 from all other moneys, funds, and accounts. The State Treasurer shall invest the assets
11 of the Marine Resources Fund in accordance with the provisions of G.S. 147-69.2 and
12 ~~G.S. 147-69.3.~~ G.S. 147-69.3 and all marine resources investment income shall be
13 deposited to the credit of the Marine Resources Fund. The State Treasurer shall disburse
14 the principal of the Marine Resources Fund and marine resources investment income
15 only upon the written direction of the Marine Fisheries Commission.

16 (c) The Marine Fisheries Commission may authorize the disbursement of the
17 principal of the Marine Resources Fund and marine resources investment income only
18 to manage, restore, develop, cultivate, conserve, and enhance the marine resources of
19 the State. Expenditure of the assets of the Marine Resources Fund shall be made
20 through the State budget accounts of the Division of Marine Fisheries in accordance
21 with the provisions of the Executive Budget Act. The Marine Resources Fund is subject
22 to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the
23 General Statutes.

24 **SECTION 2.4.** G.S. 113-175.2 is repealed.

25 **SECTION 2.5.** G.S. 113-175.3 is repealed.

26 **SECTION 2.6.** G.S. 113-175.4 is repealed.

27 **SECTION 2.7.** Article 14C of Chapter 113 of the General Statutes is
28 amended by adding three new sections to read:

29 **"§ 113-175.5. North Carolina Marine Resources Endowment Fund.**

30 (a) There is hereby established the North Carolina Marine Resources Endowment
31 Fund as a nonreverting special revenue fund in the office of the State Treasurer. The
32 purpose of the Endowment Fund is to provide the citizens and residents of the State
33 with the opportunity to invest in the future of the marine resources of the State. The
34 principal of the Endowment Fund shall consist of:

- 35 (1) Endowment license revenues.
- 36 (2) Proceeds of any gifts, grants, or contributions to the State that are
37 specifically designated for inclusion in the Endowment Fund.
- 38 (3) Proceeds of any gifts, grants, or contributions to the Marine Fisheries
39 Commission or the Division of Marine Fisheries that are not
40 specifically designated for another purpose.
- 41 (4) Funds realized from the sale, lease, rental, or other grant of rights to
42 real or personal property acquired or produced from endowment
43 investment income.

1 (5) Federal aid project reimbursements to the extent that endowment
2 investment income originally funded the project for which the
3 reimbursement is made.

4 (6) Transfers to the Endowment Fund.

5 (7) Any endowment investment income or marine resources license
6 revenue that is credited to the Endowment Fund for the purpose of
7 increasing the principal of the Endowment Fund.

8 (b) The State Treasurer shall hold the Endowment Fund separate and apart from
9 all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the
10 Endowment Fund in accordance with the provisions of G.S. 147-69.2 and
11 G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income
12 only upon the written direction of the Marine Fisheries Commission.

13 (c) Subject to the limitations set out in subsection (d) of this section, the Marine
14 Fisheries Commission may authorize the disbursement of endowment investment
15 income only to manage, protect, restore, develop, cultivate, conserve, and enhance the
16 marine resources of the State.

17 (d) The Endowment Fund is declared to constitute a special trust derived from a
18 contractual relationship between the State and the members of the public whose
19 investments contribute to the Endowment Fund. In recognition of this special trust, all
20 of the following limitations are placed on disbursement of funds held in the Endowment
21 Fund:

22 (1) Any restrictions specified by the donors on the uses of income derived
23 from gifts, grants, and voluntary contributions shall be respected but
24 shall not be binding.

25 (2) No disbursements of the endowment investment income derived from
26 the endowment license revenues generated by the sale of Infant
27 Lifetime CRFLs under G.S. 113-174.2(c)(6)e., Youth Lifetime CRFLs
28 under G.S. 113-174.2(c)(6)f., Infant Lifetime Unified
29 Sportsman/Coastal Recreational Fishing Licenses under
30 G.S. 113-351(c)(3)a., or Youth Lifetime Unified Sportsman/Coastal
31 Recreational Fishing Licenses under G.S. 113-351(c)(3)b. shall be
32 made for any purpose until the respective licensees attain the age of 16
33 years. The State Treasurer shall periodically make an actuarial
34 determination as to the amount of endowment investment income
35 within the Endowment Fund that remains encumbered by the
36 restriction of this subdivision and the amount that is free of the
37 restriction. The Executive Director of the Wildlife Resources
38 Commission shall provide the State Treasurer with the information
39 necessary to make this determination.

40 (3) No disbursement shall be made from the principal of the Endowment
41 Fund except as otherwise provided by law.

42 (e) Expenditure of the endowment investment income shall be made through the
43 State budget accounts of the Division of Marine Fisheries in accordance with the
44 provisions of the Executive Budget Act. The Endowment Fund is subject to the

1 oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General
2 Statutes.

3 **"§ 113-175.6. Marine Resources Committee.**

4 (a) The Marine Resources Committee shall consist of five members of the
5 Marine Fisheries Commission appointed by the Chair of the Marine Fisheries
6 Commission as follows:

7 (1) The Fisheries Director, shall be an ex officio voting member of the
8 Marine Resources Committee and shall serve as the Chair of the
9 Marine Resources Committee.

10 (2) One member of the Marine Fisheries appointed to the Commission
11 pursuant to subdivision (1), (2), (3), or (10) of subsection (a) of
12 G.S. 143B-289.69.

13 (3) One member of the Marine Fisheries appointed to the Commission
14 pursuant to subdivision (4), (5), (6), or (12) of subsection (a) of
15 G.S. 143B-289.69.

16 (4) One member of the Marine Fisheries appointed to the Commission
17 pursuant to subdivision (7) or (8) of subsection (a) of
18 G.S. 143B-289.69.

19 (5) One member of the Marine Fisheries appointed to the Commission
20 pursuant to subdivision (9), (11), or (13) of subsection (a) of
21 G.S. 143B-289.69.

22 (b) In making appointments to the Marine Resources Committee, the Chair of the
23 Marine Fisheries Commission shall provide for fair geographic representation on the
24 Committee.

25 (c) The Marine Resources Committee shall advise the Marine Fisheries
26 Commission on the disbursement of funds from the Marine Resources Fund pursuant to
27 G.S. 113-175.1 and on the disbursement of endowment investment income from the
28 Endowment Fund pursuant to G.S. 113-175.5.

29 **"§ 113-175.7. Report.**

30 The Chair of the Marine Fisheries Commission shall submit to the Joint Legislative
31 Commission on Seafood and Aquaculture by October 1 of each year a report on the
32 Marine Resources Fund and the Endowment Fund that shall include the source and
33 amounts of all moneys credited to each fund and the purpose and amount of all
34 disbursements from each fund during the prior fiscal year."

35 **SECTION 2.8.** The first report required pursuant to G.S. 113-175.7, as
36 enacted by Section 2.7 of this act, is due by October 1, 2006.

37 **SECTION 2.9.** The General Assembly finds that individuals who purchased
38 certain lifetime licenses issued by the Wildlife Resources Commission prior to January
39 1, 2005, had a reasonable expectation that these lifetime licenses would authorize these
40 licensees to engage in recreational fishing throughout the State and that these licensees
41 would not be required to purchase any additional license to engage in recreational
42 fishing in coastal waters during the lifetime of the licensee. In recognition of this
43 expectation, the General Assembly has provided in G.S. 113-174.2(d), as enacted by
44 Section 1.4 of this act, that the holders of these lifetime licenses are exempt from the

1 license requirement for engaging in recreational fishing in coastal fishing waters that
2 was established in S.L. 2004-187. The General Assembly further finds that, because the
3 holders of these lifetime licenses will be authorized to take marine resources from the
4 coastal fishing waters of the State under the provisions of this act, it is appropriate that a
5 portion of the revenues derived from the sale of these lifetime licenses should be
6 transferred to the Marine Resources Endowment Fund so that the endowment
7 investment income generated by the transferred license revenues will be used to
8 manage, restore, develop, cultivate, conserve, and enhance the marine resources of the
9 State. The General Assembly specifically finds that this transfer of funds is consistent
10 with the overall spirit, intent, and purpose underlying the creation of the Wildlife
11 Endowment Fund and the Marine Resources Endowment Fund. Therefore, in
12 accordance with G.S. 143-250.1(d)(3), the State Treasurer shall transfer the sum of three
13 million dollars (\$3,000,000) from the Wildlife Endowment Fund to the Marine
14 Resources Endowment Fund. This transfer shall be made in five equal installments of
15 six hundred thousand dollars (\$600,000) on the first day of March in 2006, 2007, 2008,
16 2009, and 2010.

17 **SECTION 2.10.(a)** The Wildlife Resources Commission may disburse up to
18 one million dollars (\$1,000,000) from the Wildlife Resources Fund to implement this
19 act.

20 **SECTION 2.10.(b)** The State Treasurer shall transfer a sum equal to the sum
21 of funds disbursed pursuant to subsection (a) of this section from the Marine Resources
22 Fund to the Wildlife Resources Fund on July 1, 2010.

23 **PART III. WILDLIFE RESOURCES COMMISSION LICENSE AGENTS**

24
25
26 **SECTION 3.1.(a)** The Wildlife Resources Commission shall adopt rules to
27 provide for the following:

- 28 (1) Qualifications of license agents.
- 29 (2) Duties of license agents.
- 30 (3) Methods and procedures to ensure accountability and security for
31 proceeds and unissued licenses and permits.
- 32 (4) Types and amounts of evidence that a license agent must submit to
33 relieve the agent of responsibility for losses due to occurrences beyond
34 the control of the agent.
- 35 (5) Any other reasonable requirement or condition that the Wildlife
36 Resources Commission deems necessary to expedite and control the
37 issuance of licenses and permits by license agents.

38 **SECTION 3.1.(b)** The Wildlife Resources Commission shall adopt rules to
39 authorize the Executive Director to take the following actions related to license agents:

- 40 (1) Select and appoint license agents in areas most convenient for the sale
41 of licenses and permits.
- 42 (2) Limit the number of license agents in an area if necessary for
43 efficiency of operation.

- 1 (3) Require prompt and accurate reporting and remittance of public funds
2 or documents by license agents.
- 3 (4) Conduct periodic and special audits of accounts.
- 4 (5) Suspend or terminate the authorization of any license agent found to be
5 noncompliant with rules adopted by the Wildlife Resources
6 Commission or when State funds or property are reasonably believed
7 to be in jeopardy.
- 8 (6) Require the immediate surrender of all equipment, forms, licenses,
9 permits, records, and State funds and property, issued by or belonging
10 to the Wildlife Resources Commission, in the event of the termination
11 of a license agent.

12 **SECTION 3.2.** G.S. 113-270.1 reads as rewritten:

13 **"§ 113-270.1. License agents.**

14 (a) The Wildlife Resources Commission may by rule provide for the annual
15 appointment of persons as license agents to sell licenses and permits ~~which it that the~~
16 Commission is authorized to issue by this Subchapter or by any other provisions of law.
17 To facilitate the convenience of the public, the efficiency of administration, the need to
18 keep statistics and records affecting the conservation of wildlife resources, boating,
19 water safety, and other matters within the jurisdiction of the Wildlife Resources
20 Commission, and the need to issue licenses and permits containing special restrictions,
21 the Wildlife Resources Commission may issue licenses and permits in any particular
22 category through:

- 23 (1) License agents.
- 24 (2) The Wildlife Resources Commission's headquarters.
- 25 (3) Employees of the Wildlife Resources Commission.
- 26 (4) Two or more such sources simultaneously.

27 (a1) When there are substantial reasons for differing treatment, the Wildlife
28 Resources Commission may issue a type of license or permit by one method in one
29 locality and by another method in another locality.

30 (b) License agents may deduct from the amount collected for each license or
31 permit a fee of six percent (6%).

32 (b1) When licenses or permits are to be issued by license agents as provided by
33 subsection (a) of this section, the Wildlife Resources Commission may adopt rules to
34 provide for any of the following:

- 35 (1) Qualifications of the license agents.
- 36 (2) Duties of the license agents.
- 37 (3) Methods and procedures to ensure accountability and security for
38 proceeds and unissued licenses and permits.
- 39 (4) Types and amounts of evidence that a license agent must submit to
40 relieve the agent of responsibility for losses due to occurrences beyond
41 the control of the agent.
- 42 (5) Any other reasonable requirement or condition that the Wildlife
43 Resources Commission deems necessary to expedite and control the
44 issuance of licenses and permits by license agents.

1 (b2) The Wildlife Resources Commission may adopt rules to authorize the
2 Executive Director to take any of the following actions related to license agents:

- 3 (1) Select and appoint license agents in areas most convenient for the sale
4 of licenses and permits.
5 (2) Limit the number of license agents in an area if necessary for
6 efficiency of operation.
7 (3) Require prompt and accurate reporting and remittance of public funds
8 or documents by license agents.
9 (4) Conduct periodic and special audits of accounts.
10 (5) Suspend or terminate the authorization of any license agent found to be
11 noncompliant with rules adopted by the Wildlife Resources
12 Commission or when State funds or property are reasonably believed
13 to be in jeopardy.
14 (6) Require the immediate surrender of all equipment, forms, licenses,
15 permits, records, and State funds and property, issued by or belonging
16 to the Wildlife Resources Commission, in the event of the termination
17 of a license agent.

18 (b3) The Wildlife Resources Commission is exempt from the contested case
19 provisions of Chapter 150B of the General Statutes with respect to determinations of
20 whether to authorize or terminate the authority of a person to sell licenses and permits
21 as a license agent of the Wildlife Resources Commission.

22 (b4) If any check or bank account draft of any license agent for the issuance of
23 licenses or permits shall be returned by the banking facility upon which the same is
24 drawn for lack of funds, the license agent shall be liable to the Commission for a
25 penalty of five percent (5%) of the amount of the check or bank account draft, but in no
26 event shall the penalty be less than five dollars (\$5.00) or more than two hundred dollars
27 (\$200.00). License agents shall be assessed a penalty of twenty-five percent (25%) of
28 their issuing fee on all remittances to the Commission after the fifteenth day of the
29 month immediately following the month of sale.

30 ~~(c) The Wildlife Resources Commission may provide qualifications and~~
31 ~~standards concerning license agents and delegate to the Executive Director the task of~~
32 ~~appointment and supervision. Annual appointments run from May 1 to April 30 each~~
33 ~~year. The Wildlife Resources Commission may require license agents to post bonds,~~
34 ~~keep records and make reports concerning licenses and receipts, be subject to such~~
35 ~~audits and inspections as may be necessary, and pay a penalty of five percent (5%) on~~
36 ~~any worthless checks given the Wildlife Resources Commission. The minimum penalty~~
37 ~~for a worthless check, however, is five dollars (\$5.00), and the maximum penalty is two~~
38 ~~hundred dollars (\$200.00). The Wildlife Resources Commission shall require license~~
39 ~~agents to pay penalties of twenty five percent (25%) of the agents' fees on any license~~
40 ~~fees remitted to the Commission after the fifteenth day of the month immediately~~
41 ~~following the month of sale.~~

42 ~~(d) The Wildlife Resources Commission may make rules in implementing the~~
43 ~~authority granted in subsection (c), but it need not set out in its rules details as to forms~~
44 ~~of license, records and accounting procedures, and other reasonable requirements that~~

1 may be administratively promulgated by employees of the Wildlife Resources
2 Commission in implementation of the purposes of this Article in order for such
3 administrative requirements to be deemed validly required. It is a Class 1 misdemeanor
4 for a license agent:agent to do any of the following:

- 5 (1) ~~To withhold~~Withhold or misappropriate funds from the sale of
6 ~~licenses;~~licenses or permits.
- 7 (2) ~~To falsify~~Falsify records of licenses sold;or permits sold.
- 8 (3) ~~Wilfully~~Willfully and knowingly ~~to~~assist or allow a person to obtain
9 a license or permit for which he is ineligible;the person is ineligible.
- 10 (4) ~~Wilfully to~~Willfully issue a backdated license;license or permit.
- 11 (5) ~~Wilfully on records or licenses to~~Willfully include false information or
12 omit material information as ~~to;~~on records, licenses, or permits
13 regarding either:
 - 14 a. A person's entitlement to a particular license; ~~or~~license or
15 permit.
 - 16 b. The applicability or term of a particular license; ~~or~~license or
17 permit.
- 18 (6) ~~To refuse to return all consigned licenses, or to remit the net value of~~
19 ~~consigned licenses sold or unaccounted for, upon demand from an~~
20 ~~authorized employee of the Wildlife Resources Commission.~~Charge or
21 accept any additional fee, remuneration, or other item of value in
22 association with any activity set out in subdivisions (1) through (5) of
23 this subsection.

24 (e) ~~The Executive Director may temporarily suspend, revoke, or refuse to renew~~
25 ~~a person's appointment as a license agent if he fails in a timely manner to submit~~
26 ~~required reports, remit moneys due the Wildlife Resources Commission, or otherwise~~
27 ~~comply with the qualifications and standards set by the Wildlife Resources Commission~~
28 ~~or with reasonable administrative directives of the Executive Director. The temporary~~
29 ~~suspension is effective immediately upon communication of that fact to the license~~
30 ~~agent or his representative handling the licenses. The communication as to suspension~~
31 ~~must state the grounds for suspension and that the license agent may request a hearing~~
32 ~~within five working days if he contests the grounds for suspension. If not in writing, the~~
33 ~~communication must be followed by written notice of suspension containing the same~~
34 ~~information. By personal service of an impoundment order upon a license agent or his~~
35 ~~representative handling the licenses, an employee or agent of the Wildlife Resources~~
36 ~~Commission may enter the premises and impound all licenses, moneys, record books,~~
37 ~~reports, license forms, and other documents, ledgers, and materials pertinent or~~
38 ~~apparently pertinent to the license agency being suspended. The Executive Director~~
39 ~~must make the impounded property, or copies of it, available to the licensee during the~~
40 ~~period of temporary suspension.~~

41 (f) ~~If a hearing is requested, it is before the Executive Director or his designee to~~
42 ~~be held at Raleigh or some other place convenient to the parties specified by the~~
43 ~~Executive Director. The temporary suspension remains in effect until the hearing, and~~
44 ~~after the hearing may be rescinded or continued in effect, as the facts warrant, in the~~

1 discretion of the Executive Director. A temporary suspension may not last longer than
2 30 days, but additional suspensions may be imposed if at the end of the suspension
3 period the license agent is still not in compliance with appropriate standards,
4 qualifications, and administrative directives. A license agent may at any time after a
5 hearing appeal his suspension to the Wildlife Resources Commission.

6 (g) Notice of revocation or nonrenewal of the appointment may be sent the
7 license agent in lieu of or in addition to temporary suspension. The notice must state the
8 grounds for termination of the appointment and the license agent's right to a hearing if
9 he has not previously been afforded one. If the appointment is to be revoked, the notice
10 must state the effective date and hour of revocation. If the appointment is not to be
11 renewed, the notice must state that the appointment expires at midnight on April 30. If
12 he has not been previously afforded a hearing, a license agent is entitled to a hearing
13 within 14 days before the Executive Director or his designee to be held at Raleigh or
14 some other place convenient to the parties specified by the Executive Director. After the
15 hearing, the Executive Director, applying appropriate standards, must take the action
16 with respect to the appointment as license agent that the facts warrant. If the Executive
17 Director upholds the decision to terminate the appointment, a license agent may appeal
18 his termination to the Wildlife Resources Commission. Pending the hearing and any
19 appeal from it, the termination is held in abeyance, but no license sales may be made
20 once the license agent's bond has expired.

21 (h) Upon termination of the appointment, the former agent must return to the
22 Wildlife Resources Commission all record books, reports, license forms, moneys, and
23 other property pertaining to the license agency, and must allow agents of the Wildlife
24 Resources Commission to conduct necessary inspections and audits required in
25 terminating the license agency. Each day's refusal after termination to return, upon
26 demand, the record books, reports, license forms, moneys, and other property pertaining
27 to the license agency is a separate offense. Each instance of refusal, after termination, to
28 allow agents of the Wildlife Resources Commission to conduct necessary inspections
29 and audits during regular business hours is a separate offense. A violation of this
30 subsection is a Class 2 misdemeanor. Before termination, violations by license agents
31 are punishable under G.S. 113-135, subsection (d) above, or other provision of this
32 Subchapter, as appropriate.

33 (i) No person denied appointment or whose appointment was terminated under
34 this section is eligible to apply again for an appointment as a license agent for two
35 years. Upon application, the executive director may not grant the appointment as license
36 agent unless the applicant produces clear evidence, convincing to the Executive
37 Director, that he meets all standards and qualifications and will comply with all
38 requirements of statutes, rules, and reasonable administrative directives pertaining to
39 license agents.

40 (j) The Executive Director or his designee holding any hearing under this section
41 must keep a written record of evidence considered and findings made. Upon appeal to
42 the Wildlife Resources Commission, the commission chairman or other presiding
43 officer must cause such a written record of evidence and findings to be made and kept.
44 Hearings and appeals under this section are internal matters concerning license agents of

1 ~~the Wildlife Resources Commission and are not governed by the North Carolina~~
2 ~~Administrative Procedure Act."~~

3 **SECTION 3.3.** G.S. 150B-1(e) is amended by adding a new subdivision to
4 read:

5 "(e) Exemptions From Contested Case Provisions. – The contested case
6 provisions of this Chapter apply to all agencies and all proceedings not expressly
7 exempted from the Chapter. The contested case provisions of this Chapter do not apply
8 to the following:

9 ...

10 (15) The Wildlife Resources Commission with respect to determinations of
11 whether to authorize or terminate the authority of a person to sell
12 licenses and permits as a license agent of the Wildlife Resources
13 Commission."

15 **PART IV. ESTABLISH NEW MARINE FISHERIES COMMISSION**

16
17 **SECTION 4.1.** Part 5D of Article 7 of Chapter 143B of the General Statutes
18 is repealed.

19 **SECTION 4.2.** Article 7 of Chapter 143B of the General Statutes is
20 amended by adding a new Part to read:

21 "Part 5E. Marine Fisheries Commission.

22 **"§ 143B-289.65. Definitions.**

23 (a) As used in this Part:

24 (1) "Commission" means the Marine Fisheries Commission.

25 (2) "Department" means the Department of Environment and Natural
26 Resources.

27 (3) "Fisheries Director" means the Director of the Division of Marine
28 Fisheries of the Department of Environment and Natural Resources.

29 (4) "Secretary" means the Secretary of Environment and Natural
30 Resources.

31 (b) The definitions set out in G.S. 113-129 and G.S. 113-130 shall apply
32 throughout this Part.

33 **"§ 143B-289.66. Marine Fisheries Commission – creation; purposes.**

34 (a) There is hereby created the Marine Fisheries Commission in the Department
35 of Environment and Natural Resources.

36 (b) The functions, purposes, and duties of the Commission are to:

37 (1) Manage, restore, develop, cultivate, conserve, protect, and regulate the
38 marine and estuarine resources within its jurisdiction, as described in
39 G.S. 113-132.

40 (2) Implement the laws relating to coastal fisheries, coastal fishing,
41 shellfish, crustaceans, and other marine and estuarine resources
42 enacted by the General Assembly by the adoption of rules and policies,
43 to provide a sound, constructive, comprehensive, continuing, and
44 economical coastal fisheries program directed by citizens who are

1 knowledgeable in the protection, restoration, proper use, and
2 management of marine and estuarine resources.

3 (3) Implement management measures regarding ocean and marine
4 fisheries in the Atlantic Ocean consistent with the authority conferred
5 on the State by the United States.

6 (4) Advise the State regarding ocean and marine fisheries within the
7 jurisdiction of the Atlantic States Marine Fisheries Compact, the South
8 Atlantic Fishery Management Council, the Mid-Atlantic Fishery
9 Management Council, and other similar organizations established to
10 manage or regulate fishing in the Atlantic Ocean.

11 **"§ 143B-289.67. Marine Fisheries Commission – powers and duties.**

12 (a) The Commission shall adopt rules to be followed in the management,
13 protection, preservation, and enhancement of the marine and estuarine resources within
14 its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries
15 resources. The Commission shall have the power and duty:

16 (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms
17 of marine and estuarine resources in coastal fishing waters with respect
18 to:

19 a. Time, place, character, or dimensions of any methods or
20 equipment that may be employed in taking fish.

21 b. Seasons for taking fish.

22 c. Size limits on and maximum quantities of fish that may be
23 taken, possessed, bailed to another, transported, bought, sold, or
24 given away.

25 (2) To provide fair regulation of commercial and recreational fishing
26 groups in the interest of the public.

27 (3) To adopt rules and take all steps necessary to develop and improve
28 mariculture, including the cultivation, harvesting, and marketing of
29 shellfish and other marine resources in the State, involving the use of
30 public grounds and private beds as provided in G.S. 113-201.

31 (4) To close areas of public bottoms under coastal fishing waters for such
32 time as may be necessary in any program of propagation of shellfish as
33 provided in G.S. 113-204.

34 (5) In the interest of conservation of the marine and estuarine resources of
35 the State, to institute an action in the superior court to contest the claim
36 of title or claimed right of fishery in any navigable waters of the State
37 registered with the Department as provided in G.S. 113-206(d).

38 (6) To make reciprocal agreements with other jurisdictions respecting any
39 of the matters governed in this Subchapter as provided by
40 G.S. 113-223.

41 (7) To adopt relevant provisions of federal laws and regulations as State
42 rules pursuant to G.S. 113-228.

43 (8) To delegate to the Fisheries Director the authority by proclamation to
44 suspend or implement, in whole or in part, a particular rule of the

- 1 Commission that may be affected by variable conditions as provided in
2 G.S. 113-221.1.
- 3 (9) To comment on and otherwise participate in the determination of
4 permit applications received by State agencies that may have an effect
5 on the marine and estuarine resources of the State.
- 6 (10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to
7 establish a Priority List to determine the order in which Fishery
8 Management Plans are developed, to establish a Schedule for the
9 development and adoption of each Fishery Management Plan, and to
10 establish guidance criteria as to the contents of Fishery Management
11 Plans.
- 12 (11) To approve Coastal Habitat Protection Plans as provided in
13 G.S. 143B-279.8.
- 14 (12) Except as may otherwise be provided, to make the final agency
15 decision in all contested cases involving matters within the jurisdiction
16 of the Commission.
- 17 (13) To adopt rules to define fishing gear as either recreational gear or
18 commercial gear.
- 19 (14) To authorize the disbursement of the assets of the Marine Resources
20 Fund established pursuant to G.S. 113-175.1 to manage, protect,
21 restore, develop, cultivate, conserve, and enhance the marine resources
22 of the State.
- 23 (15) To authorize the disbursement of the endowment investment income of
24 the Marine Resources Endowment Fund established pursuant to
25 G.S. 113-175.5 to manage, protect, restore, develop, cultivate,
26 conserve, and enhance the marine resources of the State.
- 27 (b) The Commission shall have the power and duty to establish standards and
28 adopt rules:
- 29 (1) To implement the provisions of Subchapter IV of Chapter 113 as
30 provided in G.S. 113-134.
- 31 (2) To manage the disposition of confiscated property as set forth in
32 G.S. 113-137.
- 33 (3) To govern all license requirements prescribed in Article 14A of
34 Chapter 113 of the General Statutes.
- 35 (4) To regulate the importation and exportation of fish, and equipment that
36 may be used in taking or processing fish, as necessary to enhance the
37 conservation of marine and estuarine resources of the State as provided
38 in G.S. 113-170.
- 39 (5) To regulate the possession, transportation, and disposition of seafood,
40 as provided in G.S. 113-170.4.
- 41 (6) To regulate the disposition of the young of edible fish, as provided by
42 G.S. 113-185.
- 43 (7) To manage the leasing of public grounds for mariculture, including
44 oysters and clam production, as provided in G.S. 113-202.

1 (8) To govern the utilization of private fisheries, as provided in
2 G.S. 113-205.

3 (9) To impose further restrictions upon the throwing of fish offal in any
4 coastal fishing waters, as provided in G.S. 113-265.

5 (10) To regulate the location and utilization of artificial reefs in coastal
6 waters.

7 (11) To regulate the placement of nets and other sports or commercial
8 fishing apparatus in coastal fishing waters with regard to navigational
9 or recreational safety as well as from a conservation standpoint.

10 (c) The Commission is authorized to authorize, license, prohibit, prescribe, or
11 restrict:

12 (1) The opening and closing of coastal fishing waters, except as to inland
13 game fish, whether entirely or only as to the taking of particular
14 classes of fish, use of particular equipment, or as to other activities.

15 (2) The possession, cultivation, transportation, importation, exportation,
16 sale, purchase, acquisition, and disposition of all marine and estuarine
17 resources and all related equipment, implements, vessels, and
18 conveyances as necessary to carry out its duties.

19 (d) The Commission may adopt rules required by the federal government for
20 grants-in-aid for coastal resource purposes that may be made available to the State by
21 the federal government. This section is to be liberally construed in order that the State
22 and its citizens may benefit from federal grants-in-aid.

23 (e) The Commission may regulate participation in a fishery that is subject to a
24 federal fishery management plan if that plan imposes a quota on the State for the harvest
25 or landing of fish in the fishery. If the Commission regulates participation in a fishery
26 under this subsection, the Division may issue a license to participate in the fishery to a
27 person who:

28 (1) Held a valid license issued by the Division to harvest, land, or sell fish
29 during at least two of the three license years immediately preceding the
30 date adopted by the Commission to determine participation in the
31 fishery; and

32 (2) Participated in the fishery during at least two of those license years by
33 landing in the State at least the minimum number of pounds of fish
34 adopted by the Commission to determine participation in the fishery.

35 (f) The Commission may adopt rules to implement or comply with a fishery
36 management plan adopted by the Atlantic States Marine Fisheries Commission or
37 adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens
38 Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding
39 G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at
40 any time within six months of the adoption or amendment of a fishery management plan
41 or the notification of a change in management measures needed to remain in compliance
42 with a fishery management plan.

43 (g) The Commission shall adopt rules as provided in this Chapter. All rules
44 adopted by the Commission shall be enforced by the Department.

1 (h) As a quasi-judicial agency, the Commission, in accordance with Article IV,
2 Section 3 of the Constitution of North Carolina, has those judicial powers reasonably
3 necessary to accomplish the purposes for which it was created.

4 (i) Personal identifying information obtained by the Commission or Division
5 from the Wildlife Resources Commission pursuant to G.S. 143-254.5(b), from an
6 applicant for a license issued under G.S. 113-174.3 or G.S. 113-174.4, or from a person
7 complying with a biological data sampling or survey program under G.S. 113-174.1 is
8 confidential under G.S. 132-1.2 and shall only be disclosed as provided in this section.
9 The Commission or Division may disclose personal identifying information to any
10 officer, employee, or authorized representative of any federal, state, or local government
11 agency if disclosure is necessary to carry out a proper function of the Commission,
12 Division, or other agency. As used in this section, "personal identifying information"
13 includes a person's mailing address, residence address, date of birth, telephone number,
14 electronic mail address, driver license number, and social security number.

15 (j) The Commission may adopt rules to exempt individuals who participate in
16 organized fishing events held in coastal or joint fishing waters from recreational fishing
17 license requirements for the specified time and place of the event when the purpose of
18 the event is consistent with the conservation objectives of the Commission.

19 **"§ 143B-289.68. Marine Fisheries Commission – quasi-judicial powers;**
20 **procedures.**

21 (a) With respect to those matters within its jurisdiction, the Commission shall
22 exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the
23 General Statutes. This section and any rules adopted by the Commission shall govern
24 the following proceedings:

25 (1) Exceptions to recommended decisions in contested cases shall be filed
26 with the Secretary within 30 days of the receipt by the Secretary of the
27 official record from the Office of Administrative Hearings, unless
28 additional time is allowed by the Chair of the Commission.

29 (2) Oral arguments by the parties may be allowed by the Chair of the
30 Commission upon request of the parties.

31 (3) Deliberations of the Commission shall be conducted in its public
32 meeting unless the Commission determines that consultation with its
33 counsel should be held in a closed session pursuant to
34 G.S. 143-318.11.

35 (b) The final agency decision in contested cases that arise from civil penalty
36 assessments shall be made by the Commission. In the evaluation of each violation, the
37 Commission shall recognize that harm to the marine and estuarine resources within its
38 jurisdiction, as described in G.S. 113-132, arising from the violation of a statute or rule
39 enacted or adopted to protect those resources may be immediately observed through
40 damaged resources or may be incremental or cumulative with no damage that can be
41 immediately observed or documented. Penalties up to the maximum authorized may be
42 based on any one or combination of the following factors:

43 (1) The degree and extent of harm to the marine and estuarine resources
44 within the jurisdiction of the Commission, as described in

1 G.S. 113-132; to the public health; or to private property resulting
2 from the violation.

3 (2) The frequency and gravity of the violation.

4 (3) The cost of rectifying the damage.

5 (4) Whether the violation was committed willfully or intentionally.

6 (5) The prior record of the violator in complying or failing to comply with
7 programs over which the Commission has regulatory authority.

8 (6) The cost to the State of the enforcement procedures.

9 (c) The Chair shall appoint a Committee on Civil Penalty Remissions from the
10 members of the Commission. No member of the Committee on Civil Penalty
11 Remissions may hear or vote on any matter in which the member has an economic
12 interest. The Committee on Civil Penalty Remissions shall make the final agency
13 decision on remission requests. In determining whether a remission request will be
14 approved, the Committee shall consider the recommendation of the Secretary and the
15 following factors:

16 (1) Whether one or more of the civil penalty assessment factors in
17 subsection (b) of this section were wrongly applied to the detriment of
18 the petitioner.

19 (2) Whether the violator promptly abated continuing environmental
20 damage resulting from the violation.

21 (3) Whether the violation was inadvertent.

22 (4) Whether the violator had been assessed civil penalties for any previous
23 violations.

24 (5) Whether payment of the civil penalty will prevent payment for the
25 remaining necessary remedial actions.

26 (d) The Committee on Civil Penalty Remissions may remit the entire amount of
27 the penalty only when the violator has not been assessed civil penalties for previous
28 violations and when payment of the civil penalty will prevent payment for the
29 remaining necessary remedial actions.

30 (e) If any civil penalty has not been paid within 30 days after the final agency
31 decision or court order has been served on the violator, the Secretary of Environment
32 and Natural Resources shall request the Attorney General to institute a civil action in the
33 superior court of any county in which the violator resides or has his or its principal place
34 of business to recover the amount of the assessment.

35 (f) The Secretary may delegate his powers and duties under this section to the
36 Fisheries Director.

37 **"§ 143B-289.69. Marine Fisheries Commission – members; appointment; term;**
38 **oath; ethical standards; removal; compensation; staff.**

39 (a) Members, Selection. – The Commission shall consist of 14 members as
40 follows:

41 (1) One person appointed by the Governor who is actively engaged in, or
42 recently retired from, commercial fishing as demonstrated by currently
43 or recently deriving at least fifty percent (50%) of annual earned
44 income from taking and selling fishery resources in coastal fishing

- 1 waters of the State. The spouse of a commercial fisherman who meets
2 the criteria of this subdivision may be appointed under this
3 subdivision.
- 4 (2) One person appointed by the Governor who is actively engaged in, or
5 recently retired from, commercial fishing as demonstrated by currently
6 or recently deriving at least fifty percent (50%) of annual earned
7 income from taking and selling fishery resources in coastal fishing
8 waters of the State. The spouse of a commercial fisherman who meets
9 the criteria of this subdivision may be appointed under this
10 subdivision.
- 11 (3) One person appointed by the Governor who is actively engaged in, or
12 recently retired from, commercial fishing as demonstrated by currently
13 or recently deriving at least fifty percent (50%) of annual earned
14 income from taking and selling fishery resources in coastal fishing
15 waters of the State. The spouse of a commercial fisherman who meets
16 the criteria of this subdivision may be appointed under this
17 subdivision.
- 18 (4) One person appointed by the Governor who is actively engaged in
19 recreational fishing in the coastal fishing waters of the State. An
20 appointee under this subdivision may not derive more than ten percent
21 (10%) of annual earned income from sports fishing activities.
- 22 (5) One person appointed by the Governor who is actively engaged in
23 recreational fishing in the coastal fishing waters of the State. An
24 appointee under this subdivision may not derive more than ten percent
25 (10%) of annual earned income from sports fishing activities.
- 26 (6) One person appointed by the Governor who is actively engaged in
27 recreational fishing in the coastal fishing waters of the State. An
28 appointee under this subdivision may not derive more than ten percent
29 (10%) of annual earned income from sports fishing activities.
- 30 (7) One person appointed by the Governor who is a fisheries scientist
31 having special training and expertise in marine and estuarine fisheries
32 biology, ecology, population dynamics, water quality, habitat
33 protection, or similar knowledge. A person appointed under this
34 subdivision may not receive more than ten percent (10%) of annual
35 earned income from either the commercial or recreational fishing
36 industries, including the processing and distribution of seafood.
- 37 (8) One person appointed by the Governor who is a fisheries scientist
38 having special training and expertise in marine and estuarine fisheries
39 biology, ecology, population dynamics, water quality, habitat
40 protection, or similar knowledge. A person appointed under this
41 subdivision may not receive more than ten percent (10%) of annual
42 earned income from either the commercial or recreational fishing
43 industries, including the processing and distribution of seafood.

- 1 (9) One person appointed by the Governor who has general knowledge of
2 and experience related to subjects and persons regulated by the
3 Commission.
- 4 (10) One person appointed by the General Assembly upon the
5 recommendation of the President Pro Tempore of the Senate who is
6 actively engaged in, or recently retired from, commercial fishing as
7 demonstrated by currently or recently deriving at least fifty percent
8 (50%) of annual earned income from taking and selling fishery
9 resources in coastal fishing waters of the State. The spouse of a
10 commercial fisherman who meets the criteria of this subdivision may
11 be appointed under this subdivision.
- 12 (11) One person appointed by the General Assembly upon the
13 recommendation of the President Pro Tempore of the Senate who has
14 general knowledge of and experience related to subjects and persons
15 regulated by the Commission.
- 16 (12) One person appointed by the General Assembly upon the
17 recommendation of the Speaker of the House of Representatives who
18 is actively engaged in recreational fishing in the coastal fishing waters
19 of the State. An appointee under this subdivision may not derive more
20 than ten percent (10%) of annual earned income from sports fishing
21 activities.
- 22 (13) One person appointed by the General Assembly upon the
23 recommendation of the Speaker of the House of Representatives who
24 has general knowledge of and experience related to subjects and
25 persons regulated by the Commission.
- 26 (14) The Fisheries Director shall serve as an ex officio, nonvoting member
27 of the Commission.

28 (b) Residential Qualifications. – For purposes of providing regional
29 representation on the Commission, the following four regions of the State are
30 designated: (i) Northeast Coastal Region comprised of Bertie, Camden, Chowan,
31 Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank,
32 Perquimans, Tyrrell, and Washington Counties; (ii) Central Coastal Region comprised
33 of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties; (iii) Southeast
34 Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow,
35 and Pender Counties; and (iv) Inland Region comprised of the counties not included the
36 three coastal regions. The Governor shall appoint at least two members from each of the
37 four regions of the State. The members appointed pursuant to subdivisions (10) and (11)
38 of subsection (a) of this section shall not be from the same region of the State. The
39 members appointed pursuant to subdivisions (12) and (13) of subsection (a) of this
40 section shall not be from the same region of the State.

41 (c) Additional Considerations. – In making appointments to the Commission, the
42 appointing entities shall provide for appropriate representation of women and minorities
43 on the Commission.

1 (d) Terms. – The term of office of appointed members of the Commission is
2 three years. A member may be reappointed to any number of successive three-year
3 terms. Upon the expiration of a three-year term, a member shall continue to serve until a
4 successor is appointed and duly qualified as provided by G.S. 128-7. The term of
5 members appointed under subdivisions (1), (4), (7), (8), and (9) of subsection (a) of this
6 section shall expire on 30 June of years evenly divisible by three. The term of members
7 appointed under subdivisions (2), (5), (11), and (13) of subsection (a) of this section
8 shall expire on 30 June of years that precede by one year those years that are evenly
9 divisible by three. The term of members appointed under subdivisions (3), (6), (10), and
10 (12) of subsection (a) of this section shall expire on 30 June of years that follow by one
11 year those years that are evenly divisible by three.

12 (e) Vacancies. – An appointment to fill a vacancy shall be for the unexpired
13 balance of the term.

14 (f) Oath of Office. – Each member of the Commission, before assuming the
15 duties of office, shall take an oath of office as provided in Chapter 11 of the General
16 Statutes.

17 (g) Ethical Standards. –

18 (1) Disclosure statements. – Any person under consideration for
19 appointment to the Commission shall provide both a financial
20 disclosure statement and a potential bias disclosure statement to the
21 Governor. A financial disclosure statement shall include statements of
22 the nominee's financial interests in and related to State fishery
23 resources use, licenses issued by the Division of Marine Fisheries held
24 by the nominee or any business in which the nominee has a financial
25 interest, and uses made by the nominee or by any business in which
26 the nominee has a financial interest of the regulated resources. A
27 potential bias disclosure statement shall include a statement of the
28 nominee's membership or other affiliation with, including offices held
29 in, societies, organizations, or advocacy groups pertaining to the
30 management and use of the State's coastal fishery resources.
31 Disclosure statements shall be treated as public records under Chapter
32 132 of the General Statutes and shall be updated on an annual basis.

33 (2) Voting/conflict of interest. – A member of the Commission shall not
34 vote on any issue before the Commission that would have a
35 "significant and predictable effect" on the member's financial interest.
36 For purposes of this subdivision, "significant and predictable effect"
37 means there is or may be a close causal link between the decision of
38 the Commission and an expected disproportionate financial benefit to
39 the member that is shared only by a minority of persons within the
40 same industry sector or gear group. A member of the Commission
41 shall also abstain from voting on any petition submitted by an
42 advocacy group of which the member is an officer or sits as a member
43 of the advocacy group's board of directors. A member of the
44 Commission shall not use the member's official position as a member

1 of the Commission to secure any special privilege or exemption of
2 substantial value for any person. No member of the Commission shall,
3 by the member's conduct, create an appearance that any person could
4 improperly influence the member in the performance of the member's
5 official duties.

6 (3) Regular attendance. – It shall be the duty of each member of the
7 Commission to regularly attend meetings of the Commission.

8 (h) Removal. – The Governor may remove, as provided in G.S. 143B-13, any
9 member of the Commission for misfeasance, malfeasance, or nonfeasance.

10 (i) Office May Be Held Concurrently With Others. – The office of member of
11 the Commission may be held concurrently with any other elected or appointed office, as
12 authorized by Article VI, Section 9, of the Constitution of North Carolina.

13 (j) Compensation. – Members of the Commission who are State officers or
14 employees shall receive no per diem compensation for serving on the Commission, but
15 shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the
16 Commission who are full-time salaried public officers or employees other than State
17 officers or employees shall receive no per diem compensation for serving on the
18 Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6
19 in the same manner as State officers or employees. All other Commission members
20 shall receive per diem compensation and reimbursement in accordance with the
21 compensation rate established in G.S. 93B-5.

22 (k) Staff. – All clerical and other services required by the Commission shall be
23 supplied by the Fisheries Director and the Department.

24 (l) Legal Services. – The Attorney General shall: (i) act as attorney for the
25 Commission; (ii) at the request of the Commission, initiate actions in the name of the
26 Commission; and (iii) represent the Commission in any appeal or other review of any
27 order of the Commission.

28 **"§ 143B-289.70. Marine Fisheries Commission – officers; organization; seal.**

29 (a) The Governor shall appoint a member of the Commission to serve as Chair.
30 The Chair shall serve at the pleasure of the Governor. The Commission shall elect one
31 of its members to serve as Vice-Chair. The Vice-Chair shall serve a one-year term
32 beginning 1 July and ending 30 June of the following year. The Vice-Chair may serve
33 any number of consecutive terms.

34 (b) The Chair shall guide and coordinate the activities of the Commission in
35 fulfilling its duties as set out in this Article. The Chair shall report to and advise the
36 Governor and the Secretary on the activities of the Commission, on marine and
37 estuarine conservation matters, and on all marine fisheries matters.

38 (c) The Commission shall determine its organization and procedure in
39 accordance with the provisions of this Article. The provisions of the most recent edition
40 of Robert's Rules of Order shall govern any procedural matter for which no other
41 provision has been made.

42 (d) The Commission may adopt a common seal and may alter it as necessary.

43 **"§ 143B-289.71. Marine Fisheries Commission – meetings; quorum.**

1 (a) The Commission shall meet at least once each calendar quarter and may hold
2 additional meetings at any time and place within the State at the call of the Chair or
3 upon the written request of at least four members. The Commission shall hold at least
4 one meeting each calendar year in each region designated in G.S. 143B-289.69.

5 (b) (1) Eight members of the Commission shall constitute a quorum for the
6 transaction of business.

7 (2) A quorum of the Commission may transact business only if one
8 member, other than the Chair, appointed pursuant to subdivision (1),
9 (2), (3), or (10) of G.S. 143B-289.69(a) and one member, other than
10 the Chair, appointed pursuant to subdivision (4), (5), (6), or (12) of
11 G.S. 143B-289.69(a) are present.

12 (c) If the Commission is unable to transact business because the requirements of
13 subdivision (2) of subsection (b) of this section are not met, the Chair shall call another
14 meeting of the Commission within 30 days and shall place on the agenda for that
15 meeting every matter with respect to which the Commission was unable to transact
16 business. Seven members of the Commission shall constitute a quorum for the
17 transaction of business at a meeting called under this subsection. The requirements of
18 subdivision (2) of subsection (b) of this section shall not apply to a meeting called under
19 this subsection.

20 **"§ 143B-289.72. Marine Fisheries Commission – advisory committees established;**
21 **members; selection; duties.**

22 (a) The Commission shall be assisted in the performance of its duties by four
23 standing advisory committees and four regional advisory committees. Each standing
24 and regional advisory committee shall consist of no more than 11 members. The Chair
25 of the Commission shall designate one member of each advisory committee to serve as
26 Chair of the committee. Members shall serve staggered three-year terms as determined
27 by the Commission. The Commission shall establish other policies and procedures for
28 standing and regional advisory committees that are consistent with those governing the
29 Commission as set out in this Part.

30 (b) The Chair of the Commission shall appoint the following standing advisory
31 committees:

32 (1) The Finfish Committee, which shall consider matters concerning
33 finfish.

34 (2) The Crustacean Committee, which shall consider matters concerning
35 shrimp and crabs.

36 (3) The Shellfish Committee, which shall consider matters concerning
37 oysters, clams, scallops, and other molluscan shellfish.

38 (4) The Habitat and Water Quality Committee, which shall consider
39 matters concerning habitat and water quality that may affect coastal
40 fisheries resources.

41 (c) Each standing advisory committee shall be composed of commercial and
42 recreational fishermen, scientists, and other persons who have expertise in the matters to
43 be considered by the advisory committee to which they are appointed. In making
44 appointments to advisory committees, the Chair of the Commission shall ensure that

1 both commercial and recreational fishing interests are fairly represented and shall
2 consider for appointment persons who are recommended by groups representing
3 commercial fishing interests, recreational fishing interests, environmental protection and
4 conservation interests, and other groups interested in coastal fisheries management.

5 (d) Each standing advisory committee shall review all matters referred to the
6 committee by the Commission and shall make findings and recommendations on these
7 matters. A standing advisory committee may, on its own motion, make findings and
8 recommendations as to any matter related to its subject area. The Commission, in the
9 performance of its duties, shall consider all findings and recommendations submitted by
10 standing advisory committees.

11 (e) The Chair of the Commission shall appoint a regional advisory committee for
12 each of the four regions designated in G.S. 143B-289.69(b). In making appointments to
13 regional advisory committees, the Chair of the Commission shall ensure that both
14 commercial and recreational fishing interests are fairly represented.

15 **"§ 143B-289.73. Conservation Fund; Commission may accept gifts.**

16 (a) The Commission may accept gifts, donations, or contributions from any
17 sources. These funds shall be held in a separate account and used solely for the purposes
18 of marine and estuarine conservation and management. These funds shall be
19 administered by the Commission and shall be used for marine and estuarine resources
20 management, including education about the importance of conservation, in a manner
21 consistent with marine and estuarine conservation management principles.

22 (b) The Commission is hereby authorized to issue and sell appropriate emblems
23 by which to identify recipients thereof as contributors to a special marine and estuarine
24 resources Conservation Fund that shall be made available to the Commission for
25 conservation, protection, enhancement, preservation, and perpetuation of marine and
26 estuarine species that may be endangered or threatened with extinction and for
27 education about these issues. The special Conservation Fund is subject to oversight of
28 the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.
29 Emblems of different sizes, shapes, types, or designs may be used to recognize
30 contributions in different amounts, but no emblem shall be issued for a contribution
31 amounting in value to less than five dollars (\$5.00).

32 **"§ 143B-289.74. Article subject to Chapter 113.**

33 Nothing in this Part shall be construed to affect the jurisdictional division between
34 the Marine Fisheries Commission and the Wildlife Resources Commission contained in
35 Subchapter IV of Chapter 113 of the General Statutes or in any way to alter or abridge
36 the powers and duties of the two agencies conferred in that Subchapter.

37 **"§ 143B-289.75. Jurisdictional questions.**

38 In the event of any question arising between the Wildlife Resources Commission
39 and the Marine Fisheries Commission or between the Department of Environment and
40 Natural Resources and the Marine Fisheries Commission as to any duty, responsibility,
41 or authority imposed upon any of these bodies by law or with respect to conflict
42 involving rules or administrative practices, the question or conflict shall be resolved by
43 the Governor, whose decision shall be binding."

44 **SECTION 4.3.** G.S. 113-128(5a) reads as rewritten:

1 "(5a) Marine Fisheries Commission. – The Marine Fisheries Commission of the
2 Department as established by Part ~~5D-5E~~ of Article 7 of Chapter 143B of the General
3 Statutes."

4 **SECTION 4.4.** G.S. 113-136(b) reads as rewritten:

5 "(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of
6 the Department set out in this Subchapter, Part ~~5D-5E~~ of Article 7 of Chapter 143B of
7 the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of
8 Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the
9 Department which it directs inspectors to enforce. In addition, inspectors have
10 jurisdiction over all offenses involving property of or leased to or managed by the
11 Department in connection with the conservation of marine and estuarine resources."

12 **SECTION 4.5.** G.S. 120-123(53) reads as rewritten:

13 "(53) The North Carolina Marine Fisheries Commission as established by
14 ~~G.S. 143B-289.51~~. G.S. 143B-289.66."

15 **SECTION 4.6.** G.S. 113-182.1(a) reads as rewritten:

16 "(a) The Department shall prepare proposed Fishery Management Plans for
17 adoption by the Marine Fisheries Commission for all commercially or recreationally
18 significant species or fisheries that comprise State marine or estuarine resources.
19 Proposed Fishery Management Plans shall be developed in accordance with the Priority
20 List, Schedule, and guidance criteria established by the Marine Fisheries Commission
21 under ~~G.S. 143B-289.52~~. G.S. 143B-289.67."

22 **SECTION 4.7.** G.S. 113-182.1(c1) reads as rewritten:

23 "(c1) The Department shall consult with the regional advisory committees
24 established pursuant to ~~G.S. 143B-289.57(e)~~ G.S. 143B-289.72(e) regarding the
25 preparation of each Fishery Management Plan. Before submission of a plan for review
26 by the Joint Legislative Commission on Seafood and ~~Aquaculture or the Environmental~~
27 ~~Review Commission, Aquaculture,~~ the Department shall review any comment or
28 recommendation regarding the plan that a regional advisory committee submits to the
29 Department within the time limits established in the Schedule for the development and
30 adoption of Fishery Management Plans ~~established by G.S. 143B-289.52~~ adopted
31 pursuant to G.S. 143B-289.67. The Commission shall consult with the regional advisory
32 committees regarding the development of any temporary management measure that the
33 Commission determines to be necessary to ensure the viability of the species or fishery
34 while the plan is being developed and regarding the development of any management
35 measure to implement the plan. Before the Commission adopts a temporary
36 management measure or a management measure to implement a plan, the Commission
37 shall review any comment or recommendation regarding the management measure that
38 a regional advisory committee submits to the Commission."

39 **SECTION 4.8.** G.S. 113-191(d) reads as rewritten:

40 "(d) In determining the amount of the penalty, the Secretary shall consider the
41 factors set out in ~~G.S. 143B-289.53(b)~~ G.S. 143B-289.68(b). The procedures set out in
42 ~~G.S. 143B-289.53~~ G.S. 143B-289.68 shall apply to civil penalty assessments that are
43 presented to the Commission for final agency decision."

44 **SECTION 4.9.** G.S. 113-191(f) reads as rewritten:

1 (f) Requests for remission of civil penalties shall be filed with the Secretary.
2 Remission requests shall not be considered unless filed within 30 days of receipt of the
3 notice of assessment. Remission requests must be accompanied by a waiver of the right
4 to a contested case hearing pursuant to Chapter 150B of the General Statutes and a
5 stipulation of the facts on which the assessment was based. Consistent with the
6 limitations in ~~G.S. 143B-289.53(e)~~, G.S. 143B-289.68(c), remission requests may be
7 resolved by the Secretary and the violator. If the Secretary and the violator are unable to
8 resolve the request, the Secretary shall deliver remission requests and his recommended
9 action to the Committee on Civil Penalty Remissions of the Marine Fisheries
10 Commission appointed pursuant to ~~G.S. 143B-289.53(e)~~, G.S. 143B-289.68(c)."

11 **SECTION 4.10.** G.S. 113-200(e1) reads as rewritten:

12 (e1) Grants Committee. – The Grants Committee shall consist of eleven members
13 as follows:

- 14 (1) Three employees of the Sea Grant College Program, appointed by the
15 Director of the Sea Grant College Program.
- 16 (2) Two employees of the Division of Marine Fisheries, appointed by the
17 Fisheries Director.
- 18 (3) Two members of the Marine Fisheries Commission, appointed by the
19 Chair of the Marine Fisheries Commission.
- 20 (4) One member of the Northeast Regional Advisory Committee
21 established pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e),
22 appointed by the Northeast Regional Advisory Committee.
- 23 (5) One member of the Central Regional Advisory Committee established
24 pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e), appointed by
25 the Central Regional Advisory Committee.
- 26 (6) One member of the Southeast Regional Advisory Committee
27 established pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e),
28 appointed by the Southeast Regional Advisory Committee.
- 29 (7) One member of the Inland Regional Advisory Committee established
30 pursuant to ~~G.S. 143B-289.57(e)~~, G.S. 143B-289.72(e), appointed by
31 the Inland Regional Advisory Committee."

32 **SECTION 4.11.** The records, personnel, property, unexpended balances of
33 appropriations, allocations, and other funds, including the functions of budgeting and
34 purchasing, heretofore vested in the Marine Fisheries Commission created under Part
35 5D of Article 7 of Chapter 143B of the General Statutes, repealed by Section 4.1 of this
36 act, are transferred to the Marine Fisheries Commission created under Part 5E of Article
37 7 of Chapter 143B of the General Statutes, as enacted by Section 4.2 of this act. All
38 rules, decisions, and actions, heretofore adopted, made, or taken by the Marine Fisheries
39 Commission created under Part 5 of Article 7 of Chapter 143B of the General Statutes,
40 repealed by Section 1 of Chapter 641 of the 1987 Session Laws; all rules, decisions, and
41 actions, heretofore adopted, made, or taken by the Marine Fisheries Commission created
42 under Part 5A of Article 7 of Chapter 143B of the General Statutes, repealed by Section
43 6.3 of S.L. 1997-400; and all rules, decisions, and actions, heretofore adopted, made, or
44 taken by the Marine Fisheries Commission created under Part 5D of Article 7 of

1 Chapter 143B of the General Statutes, repealed by Section 4.1 of this act, that have not
2 been heretofore repealed or rescinded shall continue in effect until repealed or rescinded
3 by the Marine Fisheries Commission created under Part 5E of Article 7 of Chapter 143B
4 of the General Statutes, as enacted by Section 4.2 of this act.

5 **SECTION 4.12.** In order to establish a schedule of staggered terms of three
6 years for the Marine Fisheries Commission, the terms of members of the Commission
7 initially filling positions established by subdivisions (1), (4), (7), (8), and (9) of
8 subsection (a) of G.S. 143B-289.69, as enacted by Section 4.2 of this act, shall begin on
9 the date the member is appointed and duly qualified and shall expire on June 30, 2010;
10 the terms of members of the Commission initially filling positions established by
11 subdivisions (2), (5), (11), and (13) of subsection (a) of G.S. 143B-289.69, as enacted
12 by Section 4.2 of this act, shall begin on the date the member is appointed and duly
13 qualified and shall expire on June 30, 2009; the terms of members of the Commission
14 initially filling positions established by subdivisions (3), (6), (10), and (12) of
15 subsection (a) of G.S. 143B-289.69, as enacted by Section 4.2 of this act, shall begin on
16 the date the member is appointed and duly qualified and shall expire on June 30, 2008.

17 18 **PART V. ENFORCEMENT OF MARINE RESOURCES LAWS**

19
20 **SECTION 5.1.(a)** G.S. 113-134.1 reads as rewritten:

21 "**§ 113-134.1. Jurisdiction over marine fisheries resources in Atlantic**
22 **Ocean.Ocean; delegation of law enforcement powers from the National**
23 **Marine Fisheries Service.**

24 (a) The Marine Fisheries Commission is directed to exercise all regulatory
25 authority over the conservation of marine fisheries resources in the Atlantic Ocean to
26 the seaward extent of the State jurisdiction over the resources as now or hereafter
27 defined. Marine fisheries inspectors may enforce these regulations and all other
28 provisions of law applicable under the authority granted in this section in the same
29 manner and with the same powers elsewhere granted them as enforcement officers.

30 (b) If authorized by the Fisheries Director or a designee of the Fisheries Director,
31 an inspector may accept delegation of law enforcement powers from the National
32 Marine Fisheries Service of the United States Department of Commerce over matters
33 within the jurisdiction of the Service. For purposes of this subsection, the office of
34 inspector may be held concurrently with any other elected or appointed office, as
35 authorized by Section 9 of Article VI of the Constitution of North Carolina."

36 **SECTION 5.1.(b)** If the Division of Marine Fisheries of the Department of
37 Environment and Natural Resources enters into a Joint Enforcement Agreement with
38 the National Marine Fisheries Service of the United States Department of Commerce,
39 the Division shall, within six months of entering into the Agreement, report to the Joint
40 Legislative Commission on Seafood and Aquaculture and the House of Representatives
41 and Senate Appropriations Subcommittees on Natural and Economic Resources on the
42 provisions of the Agreement. The Division of Marine Fisheries shall also report on the
43 implementation of the Agreement to the Joint Legislative Commission on Seafood and
44 Aquaculture and the House of Representatives and Senate Appropriations

1 Subcommittees on Natural and Economic Resources no later than November 1 of each
2 year.

3 **SECTION 5.2.** G.S. 113-136(d1) reads as rewritten:

4 "(d1) In addition to law enforcement authority granted elsewhere, an inspector or a
5 protector has the authority to enforce criminal laws under either of the following
6 circumstances:

7 (1) When the inspector or protector has probable cause to believe that a
8 person committed a criminal offense in his—the presence of the
9 inspector or protector and at the time of the violation the inspector or
10 protector is engaged in the enforcement of laws otherwise within his
11 jurisdiction; or the jurisdiction of the inspector or protector.

12 (2) When the inspector or protector is asked to provide temporary
13 assistance by the head of a State or local law enforcement agency or
14 his—the designee of the head of a State or local law enforcement agency
15 and the request is within the scope of the agency's subject matter
16 jurisdiction. When acting pursuant to this subdivision an inspector or
17 protector shall not be considered an officer, employee, or agent for the
18 State or local law enforcement agency or designee asking for
19 temporary assistance.

20 (d2) While—When acting pursuant to this subsection, a subsection (d1) of this
21 section, an inspector or protector shall have the same powers invested in law
22 enforcement officers by statute or common law. When acting pursuant to (2) of this
23 subsection a protector shall not be considered an officer, employee, or agent for the state
24 or local law enforcement agency or designee asking for temporary assistance. Nothing
25 in this subsection (d1) of this section shall be construed to expand the authority of
26 inspectors or protectors to initiate or conduct an independent investigation into
27 violations of criminal laws outside the scope of their subject matter or territorial
28 jurisdiction."

30 **PART VI. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES**

31
32 **SECTION 6.1.** The headings to the parts of this act are a convenience to the
33 reader and are for reference only. The headings do not expand, limit, or define the text
34 of this act.

35 **SECTION 6.2.** If any section or provision of this act is declared
36 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
37 provision does not affect the validity of this act as a whole or any part of this act other
38 than the part declared to be unconstitutional or invalid.

39 **SECTION 6.3.** Sections 1.13, 1.14, 1.17, 1.18, 1.19, 1.20, 5.1, 6.1, 6.2, and
40 6.3 of this act are effective when this act becomes law. Section 2.10 of this act becomes
41 effective July 1, 2005. Sections 1.9, 1.10, 1.15, 1.21, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8,
42 2.9, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, and 5.2 of this act become
43 effective January 1, 2006. Section 3.3 of this act becomes effective January 1, 2006,
44 and applies to determinations made on or after that date. Sections 1.1, 1.2, 1.3, 1.4, 1.5,

1 1.6, 1.7, 1.8, 1.11, 1.12, and 1.16 of this act become effective January 1, 2007. Section
2 3.1 of this act is effective when this act becomes law and expires on the date that all
3 rules adopted by the Wildlife Resources Commission pursuant to Section 3.1 become
4 effective. The Chair of the Wildlife Resources Commission shall notify the Revisor of
5 Statutes when all rules adopted by the Wildlife Resources Commission pursuant to
6 Section 3.1 of this act become effective. Section 3.2 of this act becomes effective on
7 the date that all rules adopted by the Wildlife Resources Commission pursuant to
8 Section 3.1 of this act become effective, except that G.S. 113-270.1(b3) and (b4)
9 become effective January 1, 2006.