

2015 -- S 0751

=====
LC001733
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO FISH AND WILDLIFE

Introduced By: Senators Sheehan, and Sosnowski

Date Introduced: March 24, 2015

Referred To: Senate Environment & Agriculture

(Environmental Management)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 20-2.1-4 and 20-2.1-5 of the General Laws in Chapter 20-2.1
2 entitled "Commercial Fishing Licenses" are hereby amended to read as follows:

3 **20-2.1-4. Licenses -- General provisions governing licenses issued.** -- (a) Licenses and
4 vessel declarations required. - It shall be unlawful for any person in Rhode Island or the waters of
5 the state: (1) to catch, harvest, or to hold or transport for sale in Rhode Island any marine finfish,
6 crustacean, or shellfish without a license issued under the provisions of this title, provided,
7 however, that marine finfish, crustaceans, or shellfish may be transported by a duly licensed
8 dealer if the marine finfish, crustaceans, or shellfish has previously been sold by a duly licensed
9 person, or (2) to engage in commercial fishing from a vessel unless the vessel has been declared a
10 commercial fishing vessel as provided in § 20-2.1-5(2) and has a decal affixed to it or is
11 displaying a plate.

12 (b) Validation of license. - No license issued under this chapter shall be valid until
13 signed by the licensee in his or her own handwriting.

14 (c) Transfer or loan of license. - Unless otherwise provided for in this title, a license
15 issued to a person under this chapter shall be good only for the person to whom it is issued; and
16 any transfer or loan of the license shall be grounds for revocation or suspension of that license
17 pursuant to § 20-2-13.

18 (d) Reporting and inspections condition of license. - All persons granted a license under
19 the provisions of this chapter are deemed to have consented to the reporting requirements

1 applicable to commercial fishing actively that are established pursuant to this title and to the
2 reasonable inspection of any boat, vessel, net, rake, bullrake, tong, dredge, trap, pot, vehicle,
3 structure, or other contrivance used regularly for the keeping or storage of fish, shellfish or
4 crustaceans, and any creel, box, locker, basket, crate, blind, fishing, or paraphernalia used in
5 conjunction with the licensed activity by persons duly authorized by the director. The provisions
6 of § 20-1-8(a)(7)(ii) shall apply to these inspections.

7 (e) Possession, inspection, and display of license. - Every person holding a license issued
8 under this chapter shall have that license in his or her possession at all times while engaged in the
9 licensed activity and shall present the license for inspection on demand by any authorized person.
10 Any person who shall refuse to present a license on demand shall be liable to the same
11 punishment as if that person were fishing without a license.

12 (f) Application for license. - Every person entitled to a license under this chapter shall
13 file an application with the director or the director's authorized agent, properly sworn to, stating
14 the name, age, occupation, place of residence, mailing address, weight, height, and color of hair
15 and eyes of the applicant for whom the license is wanted and providing any other information that
16 may be required pursuant to rule in order to effectuate the purposes of this chapter, and pay the
17 fees as provided in this chapter. All licenses issued under this chapter shall be valid only for the
18 calendar year of issuance, unless otherwise specified in this chapter or in the rules and regulations
19 adopted pursuant to this chapter. If the person will be either the owner or the operator as provided
20 in § 20-2.1-5(5) of a commercial fishing vessel, the person shall declare on the application for
21 each commercial fishing vessel, the vessel name, length, horsepower, registration number, federal
22 permit number if any, gear type(s), the principal fishery or fisheries, and average projected crew
23 size.

24 (g) Application deadline, grace period for renewals, and limitation on appeals after the
25 deadlines. - For commercial marine fishing licenses provided for in §§ 20-2.1-5 and 20-2.1-6, the
26 following provisions shall apply: (1) unless otherwise specified in this chapter, an individual
27 qualified to obtain a license must submit an application to the department of environmental
28 management no later than February 28 of each year; license application shall be deemed valid if
29 submitted to the department prior to the close of regular office hours on February 28, or if
30 postmarked by February 28; (2) unless otherwise specified in this title, no new or renewed
31 licenses shall be issued after February 28 of each year, unless an applicant has submitted an
32 application by the February 28 deadline required by this section; (3) the department shall notify
33 all license holders, in writing, regarding the December 31 expiration and the February 28 renewal
34 deadline no later than November 1 of each year; (4) for renewals of existing commercial marine

1 fishing licenses that expire on December 31 of the immediately preceding year, there shall be a
2 sixty (60) day grace period from the renewal deadline of February 28; licenses issued during the
3 grace period shall be subject to a late fee in the amount of two-hundred dollars (\$200) in addition
4 to all other applicable fees; (5) except as provided for in subsection (g)(4) [or § 20-2.1-5 \(1\)\(iv\)\(A\)](#)
5 the department shall not accept any applications submitted after February 28; and (6) there shall
6 be no right to request reconsideration by the commercial fishing license review board or appeal to
7 the department of environmental management's administrative adjudication division (AAD) for
8 the rejection of any new license applications submitted after February 28, or any license renewal
9 applications submitted after the sixty (60) day grace period, except in the case of a documented
10 medical hardship as defined herein.

11 (h) Lost or destroyed licenses and duplicate licenses. - Whoever loses or by a mistake or
12 accident destroys his or her certificate of a commercial marine fisheries license may, upon
13 application to the department accompanied by an affidavit fully setting forth the circumstances of
14 the loss, receive a duplicate certificate for the remainder of the year covered by the original
15 certificate, for a fee of ten dollars (\$10.00) for each duplicate license.

16 (i) Revocation of licenses.

17 (1) License revocation. - The license of any person who has violated the provisions of
18 this chapter, or rules adopted pursuant to the provisions of this chapter or rules and regulations
19 that pertain to commercial fishing and reporting issued pursuant to this title, may be suspended or
20 revoked by the director as the director shall determine by regulation. Any person aggrieved by an
21 order of suspension or revocation may appeal this order in accordance with the provisions of the
22 Administrative Procedures Act, chapter 35 of title 42.

23 (2) False statements and violations; cancellation of license. - Any person who willfully
24 makes a false representation as to birthplace or requirements of identification or of other facts
25 required in an application for license under this chapter, or is otherwise directly or indirectly a
26 party to a false representation, shall be punished by a fine of not more than fifty dollars (\$50.00).
27 A license obtained by any person through a false representation shall be null and void, and the
28 license shall be surrendered immediately to the director. No license shall be issued under this title
29 to this person for a period of one year from the date of imposition of a penalty under this section.

30 (3) False, altered, forged, or counterfeit licenses. - Every person who falsely makes,
31 alters, forges, or counterfeits, or who causes to be made, altered, forged, or counterfeited, a
32 license issued under this chapter or title or purporting to be a license issued under this chapter or
33 title, or who shall have in his or her possession such a license knowing it to be false, altered,
34 forged, or counterfeit, is guilty of a misdemeanor and is subject to the penalties prescribed in §

1 20-1-16.

2 (j) Expiration. - Unless otherwise specified in this title, all licenses issued under this
3 chapter shall be annual and shall expire on December 31 of each year. It shall be unlawful for any
4 person to fish commercially in Rhode Island waters on an expired license; and the application and
5 grace periods set forth in subsections (g)(1) and (g)(4) above shall not extend the validity of any
6 expired license.

7 (k) Notice of change of address. - Whenever any person holding any commercial fishing
8 license shall move from the address named in his or her last application, that person shall within
9 ten (10) days subsequent to moving notify the office of boat registration and licensing of his or
10 her former and current address.

11 **20-2.1-5. Resident licenses.** -- The director shall establish as a minimum the following
12 types of licenses set forth in this section. In addition, the director may establish any other classes
13 and types of licenses and endorsements, consistent with the provisions of this chapter and with
14 adopted management plans, that may be necessary to accomplish the purposes of this chapter:

15 (1) Types of licenses.

16 (i) Commercial fishing license. - Rhode Island residents shall be eligible to obtain a
17 commercial fishing license; the license shall allow the holder to engage in commercial fishing in
18 fisheries sectors, per endorsement at basic harvest and gear levels. The annual fee for a
19 commercial fishing license shall be fifty dollars (\$50.00) and twenty-five dollars (\$25.00) for
20 each endorsement at the basic harvest and gear levels.

21 (ii) Principal effort license. - Duly licensed persons in a fishery as of December 31 of the
22 immediately preceding year, shall be eligible to obtain a principal effort license for the fishery
23 sector for which they were licensed on December 31 of the immediately preceding year, which
24 principal effort license shall allow its holder to fish in a fishery sector at the full harvest and gear
25 levels. The annual fee for a principal effort license shall be one hundred fifty dollars (\$150).
26 Principal effort license holders, in addition to the fishery sector of their principal effort, shall be
27 eligible to obtain endorsements for the other fishery sectors at the full harvest and gear levels, if
28 and when those endorsements are made available; the annual fee for each other fishery sector
29 endorsement shall be seventy-five dollars (\$75.00). Principal effort license holders shall also be
30 eligible to obtain a commercial fishing license with endorsements except for fisheries in which
31 the license holder can fish at the full harvest and gear levels.

32 (iii) Multi-purpose license. - All multi-purpose license holders as of December 31 of the
33 immediately preceding year, shall be eligible to obtain a multi-purpose license, which shall allow
34 the holder to engage in commercial fishing in all fisheries sectors at the full harvest and gear

1 levels. At the time of application for a multi-purpose license and each annual renewal of it, the
2 applicant shall make a non-binding declaration of which fishing sectors the applicant intends to
3 place significant fishing effort during the period covered by the license. The annual fee for multi-
4 purpose license shall be three hundred dollars (\$300).

5 (iv) Special licenses.

6 (A) Student shellfish license. - A resident twenty-three (23) years or younger shall pay
7 fifty dollars (\$50.00) for a student commercial license to take shellfish upon provision of proof of
8 full-time student status. [An individual qualified to obtain a license must submit an application to](#)
9 [the department of environmental management no later than June 30 of each year; a license](#)
10 [application shall be deemed valid if submitted to the department prior to the close of regular](#)
11 [office hours on June 30, or if postmarked by June 30.](#)

12 (B) Over sixty-five (65) shellfish license. - A resident sixty-five (65) years of age and
13 over shall be eligible for a shellfish license to shellfish commercially and there shall be no fee for
14 this license.

15 (2) Vessel declaration and fees; gear endorsement and fees.

16 (i) Vessel declaration and fee. - (A) The department shall require the owner and/or the
17 operator of a commercial fishing vessel to declare the vessel on the owner/operator's commercial
18 fishing license. The declaration shall be made at the time of initial license issuance and each
19 renewal, or prior to the vessels being used for commercial fishing by the owner and/or operator if
20 the first usage of the vessel for commercial fishing occurs during the course of a year after the
21 license has been issued or renewed. If the declaration is for a vessel of less than twenty-five feet
22 (25') in length, the declaration shall be transferable to another vessel less than twenty-five feet
23 (25') in length, provided the vessel is identified as commercial fishing vessel while it is being
24 used for commercial fishing by displaying a plate as provided in § 20-2.1-4.

25 (B) The annual fee for each vessel declaration shall be twenty-five dollars (\$25.00) for
26 the first twenty-five feet (25') or under, plus fifty cents (\$0.50) per foot for each whole foot over
27 twenty-five feet (25'); this declaration fee shall entitle the holder to a decal. The holder of a valid
28 decal for a vessel twenty-five feet (25') in length or under may obtain a plate from the department
29 for display on a vessel twenty-five feet (25') in length that is being used temporarily for
30 commercial fishing; the annual fee for a plate shall be fifteen dollars (\$15.00).

31 (ii) Gear endorsements and fees.

32 (A) Shellfish dredging endorsement. - A resident of this state who holds a multipurpose
33 license and/or an appropriate shellfish license is also eligible to apply for a shellfish dredging
34 endorsement to take quahogs, mussels, and surf clams by dredges hauled by powerboat. The

1 annual fee shall be twenty dollars (\$20.00).

2 (B) Fish trap endorsements. - A person who holds a multi-purpose license and/or a
3 principal effort license for finfish is also eligible to apply for a fish trap endorsement in
4 accordance with the permitting provisions in chapter 5 of this title. The fee shall be twenty dollars
5 (\$20.00) per trap location for a three (3) year period. Applicants who possessed a valid fish trap
6 endorsement as of the immediately preceding year may obtain a fish trap endorsement for the
7 immediately following year, subject to the same terms and conditions in effect as the immediately
8 preceding year. New fish trap endorsement opportunities shall be established by the department
9 by rule, pursuant to applicable management plans and the provisions in chapter 5 of this title.

10 (C) Gill net endorsements. - A person who holds a multi-purpose license and/or a
11 principal effort license for finfish is also eligible to apply for a commercial gill net endorsement
12 in accordance with the provisions of this section. The annual fee for a commercial gill net
13 endorsement is twenty dollars (\$20.00). Applicants who possessed a gill net endorsement as of
14 the immediately preceding year may obtain a gill net endorsement for the immediately following
15 year. New gill net endorsement opportunities shall be established by the department by rule,
16 pursuant to applicable management plans.

17 (D) Miscellaneous gear endorsements. - The department may establish by rule any
18 specific gear endorsements that may be necessary or appropriate to effectuate the purposes of this
19 chapter and facilitate participation in a specific fishery with a specific type of gear; the fee for
20 such a gear endorsement shall not be greater than two hundred dollars (\$200), but may be a lesser
21 amount. This endorsement shall be issued only in a manner consistent with the general
22 requirements of this chapter, including specifically those governing residency.

23 (3) New licenses.

24 (i) Eligibility. - For new principal effort and multi-purpose licenses priority shall be
25 given to applicants who have held a lower level of license for two (2) years or more, with
26 preference to family members and crew members of a license holder who is retiring his or her
27 license.

28 (ii) Priority or preference applicants. - A new license shall be granted to
29 priority/preference applicants who have acquired vessel and or gear from a license holder who
30 has retired a license, provided that as the result of any such transaction for each license retired not
31 more than one new license may be granted, nor may the nominal effort, including the total
32 number of licenses, in a fishery subject effort or catch restrictions be increased.

33 (iii) Availability of new or additional licenses. - New principal effort and multi-purpose
34 licenses that increase the total number of licenses in the fishery may be made available by rule

1 consistent with management plan for issuance effective January 1, in any year, based on status of
2 resource and economic condition of fishery. Priority for new licenses shall be given to Rhode
3 Island residents.

4 (4) Retirement of licenses. - Issuance of license shall not be deemed to create a property
5 right such that the license can be sold or transferred by license holder; fishing licenses shall be
6 surrendered to the state upon their non-renewal, forfeiture or revocation.

7 (5) Transfer for hardship. - Notwithstanding the provisions of § 20-2.1-4(c), a license
8 may be transferred to a family member upon the incapacity or death of the license holder who has
9 actively participated in commercial fishing. The transfer shall be effective upon its registration
10 with the department. A family member shall be defined as the spouse, mother, father, brother,
11 sister, child or grandchild of the transferor. The department shall make available as necessary
12 operator permits to provide solely for the continued operation of a fishing vessel upon the illness,
13 incapacity or death of a license holder who has actively participated in commercial fishing, which
14 operator permits shall be subject at a minimum to the conditions and restrictions that applied to
15 the license holder.

16 (6) Transfer of vessels and gear. - Vessels and gear may be sold, transferred, or disposed
17 at the sole discretion of the owner; provided, however, that the subsequent level of use of the gear
18 may be restricted in Rhode Island waters in order to accomplish the purposes of a duly adopted
19 management plan or other duly adopted program to reduce effort.

20 SECTION 2. This act shall take effect upon passage.

=====
LC001733
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FISH AND WILDLIFE

- 1 This act requires applications for student shellfish licenses to be submitted no later than
- 2 June 30 of each year.
- 3 This act shall take effect upon passage.

=====
LC001733
=====