

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 297*
Committee Substitute Favorable 4/14/93

Short Title: Marine Fisheries Endorsement to Sell.

(Public)

Sponsors:

Referred to:

February 25, 1993

A BILL TO BE ENTITLED

AN ACT TO REQUIRE AN ENDORSEMENT TO SELL FISH TAKEN FROM
COASTAL FISHING WATERS, TO CONSOLIDATE THE VESSEL FISHING
LICENSE, AND TO AMEND OTHER MARINE FISHERIES STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-152 reads as rewritten:

**"§ 113-152. ~~Licensing of~~ Consolidated license for vessels, equipment and operations;
fees.**

(a) Consolidated Vessel License. – In order to promote efficiency and cost-effectiveness, the Marine Fisheries Commission may adopt rules to authorize the Division to issue a consolidated vessel license. The fee for each individual license or endorsement issued through the consolidated license shall be paid when the application for the consolidated license is submitted.

(a1) Vessel License Requirements. – The following vessels are subject to the vessel licensing requirements of this section:

- (1) All vessels engaged in commercial fishing operations in coastal fishing waters;
- (2) All North Carolina vessels engaged in commercial fishing operations without the State which result in landing ~~and selling~~ fish in North Carolina. North Carolina vessels are those which have their primary situs in North Carolina. Motorboats with North Carolina numbers under the provisions of Chapter 75A of the General Statutes are

1 deemed to have their primary situs in North Carolina: documented
2 vessels which list a North Carolina port as home port are deemed to
3 have their primary situs in North Carolina; and

4 (3) All nonresident vessels engaged in commercial fishing operations
5 within the State ~~or engaged in commercial fishing operations without~~
6 ~~the State that result in landing and selling fish in North Carolina. State.~~

7 'Commercial fishing operations' are all operations preparatory to, during, and
8 subsequent to the taking of fish:

9 (1) With the use of commercial fishing equipment; or

10 (2) By any means, if a primary purpose of the taking is to sell the fish.

11 Commercial fishing operations also ~~includes~~ include taking people fishing for hire.

12 It is unlawful for the owner of a vessel subject to licensing requirements to permit it
13 to engage in commercial fishing operations without having first procured the
14 appropriate licenses including vessel, gear, or other license required by the Commission.
15 It is unlawful for anyone to command such a vessel engaged in commercial fishing
16 operations without complying with the provisions of this section and of rules made
17 under the authority of this Article. It is unlawful for anyone to command such a vessel
18 engaged in commercial fishing operations that does not meet the license requirements of
19 this Article or of rules made under the authority of the Article, or without making
20 reasonably certain that all persons on board are in compliance with the provisions of this
21 Article and rules made under the authority of this Article. It is unlawful to participate in
22 any commercial fishing operation in connection with which there is a vessel subject to
23 licensing requirements not meeting the licensing requirements under the provisions of
24 this Article or of rules made under the authority of this Article.

25 Nothing in this section shall require the licensing of any vessel used solely for
26 oystering, scalloping, or clamming by a person not required to have an oyster, scallop,
27 and clam license under the provisions of G.S. 113-154. Spears or gigs shall not be
28 deemed commercial fishing equipment unless used in an operation the purpose of which
29 is the taking of fish for commercial purposes.

30 (b) License Format/Consolidated License. – Any license that may be required by
31 this section is to be issued in the name of the owner of the vessel. The format of the
32 license shall include the name of the owner of the vessel, date of birth, social security
33 number, expiration date of the license, vessel identification, other license endorsements,
34 and any other information the Division deems necessary to accomplish the purposes of
35 this Subchapter. The license shall be issued on a card made of hard plastic or metal
36 capable of being used to make imprints. It is unlawful for the individual or corporate
37 owner of a licensed vessel or any persons with the authority to authorize the use of a
38 licensed vessel to permit any individual who is not eligible to have the license issued to
39 him in his own right to command such licensed vessel for the purpose of engaging in
40 commercial fishing operations. It is unlawful for such an ineligible person to command
41 a licensed vessel for such purposes. The license application for a menhaden vessel must
42 state the name of the person in command of the vessel. Upon change in command of a
43 menhaden vessel, the owner must notify the Secretary within 30 days. Upon change in

1 ownership of any licensed vessel, the new owner must notify the Secretary within 30
2 days.

3 (b1) Replacement/Consolidated Vessel License. – A replacement vessel license
4 for a lost or destroyed license, including all endorsements, may be issued by the Marine
5 Fisheries Commission upon receipt of a proper application together with a five dollar
6 (\$5.00) fee. A replacement vessel license including all endorsements shall only be
7 obtained from the Morehead City offices of the Division of Marine Fisheries. The
8 Division shall not accept an application for a replacement license unless the Division
9 determined that the applicant's current license has not been suspended or revoked. A
10 copy of an application duly filed with the Division shall serve as the license until the
11 replacement license has been received. The Marine Fisheries Commission may provide
12 by rule for the replacement of lost, obliterated, destroyed, or otherwise illegible license
13 plates or decals upon tender of the original license receipt or upon other evidence that
14 the Marine Fisheries Commission deems sufficient. ~~The Department may charge a fee of~~
15 ~~fifty cents (50¢) for replacement of a plate or decal.~~

16 (c) Vessel License Fees. – Licenses are issued upon a fiscal year basis for vessels
17 of various lengths (length measured straight through the cabin and along the deck, from
18 end to end, excluding the sheer) and types as follows for the fees indicated:

- 19 (1) Vessels, without motors, regardless of length when used in connection
20 with other licensed vessels, no license required.
- 21 (2) Vessels with or without motors not over 18 feet in length, one dollar
22 (\$1.00) per foot.
- 23 (3) Vessels with or without motors over 18 feet but not over 38 feet in
24 length, one dollar and fifty cents (\$1.50) per foot.
- 25 (4) Vessels with or without motors over 38 feet in length, three dollars
26 (\$3.00) per foot.
- 27 (4a) Vessels owned by persons who are not residents of North Carolina,
28 two hundred dollars (\$200.00) or an amount equal to the nonresident
29 fee charged by the nonresident's state, whichever is greater, in addition
30 to the fee requirement otherwise applicable under this ~~subsection or~~
31 ~~subsection (d)-section.~~
- 32 (5) Vessels engaged in menhaden fishing shall be taxed, based on tonnage,
33 as prescribed in subsection (d).
- 34 (6) Vessels engaged in commercial fishing operations for which the
35 Commission requires a gear or equipment license shall be subject to
36 fees as prescribed in subsection (g).
- 37 (7) Vessels engaged in selling fish taken from coastal fishing waters shall
38 be subject to the endorsement to sell fees as prescribed in subsection
39 (h) of this section.

40 (d) Vessel Fees/Menhaden Fishing. – Vessels engaging in menhaden fishing are
41 subject to the following license and fee requirements:

- 42 (1) For the mother ship, two dollars (\$2.00) per ton, gross tonnage,
43 customhouse measurements.

1 (2) For each purse boat carrying a purse seine used in connection with a
2 licensed mother ship, no license required.

3 (3) Repealed by Session Laws 1983, c. 570, s. 6.

4 (e) ~~All licenses in this Article issued during the period January 1, 1992, through~~
5 ~~June 30, 1992, are subject to fifty percent (50%) of the full license fee regardless of~~
6 ~~when issued and expire on June 30, 1992. Beginning July 1, 1992, all~~ All licenses in
7 this Article expire on June 30 of each year and are subject to the full license fee
8 regardless of when issued unless otherwise indicated.

9 Nonresidents obtaining licenses must certify that their conviction record in their
10 state of residence is such that they would not be denied a license under the standards in
11 G.S. 113-166. When a license application is denied for violations of fisheries laws,
12 whether the violations occurred in North Carolina or another jurisdiction, the license
13 fees shall not be refunded and shall be applied to the costs of processing the application.

14 (f) Oyster, Scallop, and Clam Exemption. – No person exempt from the oyster,
15 scallop, and clam license under the provisions of this Article may take more than:

16 (1) One bushel of oysters per person per day, not to exceed two bushels
17 per vessel per day;

18 (2) One-half bushel of scallops per person per day, not to exceed one
19 bushel per vessel; and

20 (3) One hundred clams per person per day, not to exceed two hundred per
21 vessel per day.

22 (g) Gear or Equipment Licenses. – Gear or equipment licenses shall be issued
23 upon the payment of fees as prescribed by the Commission in its duly adopted rules at a
24 rate to be established by the Commission between twenty-five dollars (\$25.00) and five
25 hundred dollars (\$500.00) per license. The fee rate for gear or equipment licenses, at a
26 minimum, shall be adequate to compensate the Department for the actual and
27 administrative cost associated with the conservation and management of the fishery.
28 Gear or equipment licenses may be required for commercial fishing operations that do
29 not involve the use of a vessel.

30 (h) Endorsement to Sell. – A vessel license may include an endorsement to sell
31 fish taken from coastal fishing waters subject to the requirements of G.S. 113-154.1. A
32 vessel license containing an endorsement to sell shall be capable of being used to make
33 imprints of the sale or transaction. Fees for an endorsement to sell on a vessel license
34 are as follows:

35 (1) Vessels with or without motors not over 18 feet in length, twenty-five
36 dollars (\$25.00).

37 (2) Vessels with or without motors over 18 feet but not over 38 feet in
38 length, thirty-five dollars (\$35.00).

39 (3) Vessels with or without motors over 38 feet in length, forty-five
40 dollars (\$45.00).

41 A fee for an endorsement to sell shall be in addition to any other vessel license fee
42 established under this section."

43 Sec. 2. G.S. 113-153 reads as rewritten:

44 "**§ 113-153. Land or sell license; ~~Vessels~~ vessels fishing beyond territorial waters.**

1 (a) Persons aboard vessels not having their primary situs in North Carolina which
2 are carrying a cargo of fish taken outside the waters of North Carolina may land ~~and or~~
3 sell their catch in North Carolina by ~~complying with the licensing provisions of G.S. 113-~~
4 ~~152 purchasing a land or sell license as set forth in this section~~ with respect to the vessel
5 in question. The Marine Fisheries Commission may by rule modify the land or sell
6 licensing procedure set out in G.S. 113-152 in order to devise an efficient and convenient
7 procedure for licensing out-of-state vessels to only land, or after landing in order to
8 permit sale of cargo.

9 (b) The fee for a land or sell license for a vessel owned by a person who is not a
10 resident of North Carolina is two hundred dollars (\$200.00), or an amount equal to the
11 nonresident fee charged by the nonresident's state, whichever is greater. Provided, that
12 persons ~~Persons~~ aboard vessels having a primary situs in a jurisdiction that would allow
13 North Carolina vessels without restriction to land ~~and or~~ sell their catch, taken outside
14 such jurisdiction, may land ~~and or~~ sell their catch in North Carolina without complying
15 with this section if such persons are in possession of a valid license from their state of
16 residence."

17 Sec. 3. Article 14 of Chapter 113 of the General Statutes is amended by
18 adding a new section to read:

19 "**§ 113-154.1. Endorsement to sell fish.**

20 (a) Requirements. – Except as otherwise provided in this section, it is unlawful
21 for any person who takes or lands any species of fish under the authority of the Marine
22 Fisheries Commission from coastal fishing waters by any means whatever, including
23 aquaculture operations, to sell, offer for sale, barter or exchange for merchandise such
24 fish, without having first procured a current and valid endorsement to sell fish. It is
25 unlawful for fish dealers to buy fish unless the seller presents a current and valid vessel
26 license with an endorsement to sell, or a separate endorsement to sell if no vessel is
27 involved, at the time of the transaction. Any subsequent sale of fish shall be subject to
28 the licensing requirements of fish dealers under G.S. 113-156.

29 (b) Fees. – The annual fee for an endorsement to sell fish on a vessel license for a
30 resident of this State is set forth in G.S. 113-152(f). The annual fee for an endorsement
31 to sell fish when no vessel is involved for a resident of this State is fifteen dollars
32 (\$15.00) and for a nonresident of this State one hundred dollars (\$100.00) or an amount
33 equal to the nonresident fee charged by the nonresident's state, whichever is greater.
34 The license shall be valid for the period July 1 through June 30 of a given year.

35 (c) Non-Vessel Endorsement Format. – The format of an endorsement when the
36 applicant is not seeking a vessel license shall include the name of the applicant, date of
37 birth, social security number, expiration date of the endorsement, and any other
38 information the Division deems necessary to accomplish the purposes of this
39 Subchapter. The endorsement shall be issued on a card made of hard plastic or metal
40 capable of being used to make imprints of the sale or transaction. An applicant who is
41 applying for an endorsement on a vessel license shall comply with G.S. 113-152.

42 (d) Application for Non-Vessel Endorsement. – An application for issuance or
43 renewal of an endorsement to sell shall be filed with the Morehead City offices of the
44 Division of Marine Fisheries or license agents authorized to sell licenses under this

1 Article. An application shall be accompanied by the fee established in subsection (b) of
2 this section. Applications shall not be accepted from persons ineligible to hold a license
3 issued by the Marine Fisheries Commission, including any applicant whose
4 endorsement is suspended or revoked on the date of the application. The applicant shall
5 be provided with a copy of the application marked received. The copy shall serve as the
6 endorsement to sell, until the endorsement issued by the Division is received or the
7 Division determines that the applicant is ineligible to hold an endorsement. In addition
8 to the information required in subsection (c) of this section, the applicant shall disclose
9 on the application a valid address, and such other information as the Division may
10 require.

11 (e) Application for Replacement Non-Vessel Endorsement to Sell. – A
12 replacement endorsement shall only be obtained from the Morehead City offices of the
13 Division of Marine Fisheries. The Division shall not accept an application for a
14 replacement endorsement unless the Division determines that the applicant's current
15 license has not been suspended or revoked. A copy of an application duly filed with the
16 Division shall serve as the endorsement until the replacement license has been received.

17 (f) Sale of Fish. – It is unlawful for any person licensed under this section to sell
18 fish taken outside the territorial waters of North Carolina or to sell fish taken from
19 coastal fishing waters except to:

20 (1) Fish dealers licensed under G.S. 113-156; or

21 (2) The public, if the seller is also licensed as a fish dealer under G.S. 113-
22 156.

23 (g) Recordkeeping Requirements. – The fish dealer shall record each transaction
24 on a form provided by the Department. The transaction form shall include the
25 information on the endorsement to sell of the seller, the quantity of the fish, the identity
26 of the fish dealer, and such other information as the Division deems necessary to
27 accomplish the purposes of this Subchapter. The person who records the transaction
28 shall provide a completed copy of the transaction form to the Department, and to the
29 other party of the transaction. The Department copy of each transaction from the
30 preceding month shall be transmitted to the Department by the fish dealer on or before
31 the tenth day of the following month.

32 (h) Non-Vessel Endorsement to Sell Nontransferable. – An endorsement to sell
33 fish issued under this section is nontransferable. It is unlawful to use an endorsement to
34 sell issued to another person in the sale or attempted sale of fish or for a licensee to lend
35 or transfer a license to sell with the following two exceptions: (i) an individual under the
36 age of 16 may sell fish under the license of a relative or guardian; or (ii) a license may
37 be transferred within a single fishing operation if the person to whom it is transferred is
38 a U.S. citizen. It is unlawful for a licensee to lend or transfer a license to sell for the
39 purpose of circumventing the requirements of this section.

40 (i) Penalties. – Any person who violates any provision of this section or any rule
41 by the Marine Fisheries Commission to implement this section is guilty of a
42 misdemeanor.

- 1 (1) A violation of subsections (a), (f), or (h) or a rule of the Marine
2 Fisheries Commission implementing any of those subsections is a
3 misdemeanor punishable as follows:
- 4 a. For a first conviction, a fine of not less than fifty dollars
5 (\$50.00) or double the value of the fish which are the subject of
6 the transaction, whichever is greater, not to exceed two hundred
7 fifty dollars (\$250.00), or imprisonment not to exceed 30 days.
- 8 b. For a second conviction within three years, a fine of not less
9 than two hundred fifty dollars (\$250.00) or double the value of
10 the fish which are the subject of the transaction, whichever is
11 greater, not to exceed five hundred dollars (\$500.00), or
12 imprisonment not to exceed 90 days, or both.
- 13 c. For a third or subsequent conviction within three years, a fine of
14 not less than five hundred dollars (\$500.00) or double the value
15 of the fish which are the subject of the transaction, whichever is
16 greater, or imprisonment not to exceed six months, or both.
- 17 (2) A violation of any other provision of this section other than
18 subsections (a), (f), or (h), or of any rule of the Marine Fisheries
19 Commission other than a rule implementing subsections (a), (f), or (h)
20 of this section, is punishable under G.S. 113-135(a).

21 (j) Proceeds of Sale. – Income received by the State from the sale of
22 endorsements to sell fish under G.S. 113-152(f) or G.S. 113-154.1 shall be used to
23 defray the costs of the fisheries data information system of the Division of Marine
24 Fisheries and for new or expanded marine fisheries programs or research projects which
25 enhance knowledge of and use of marine and estuarine resources. The fisheries data
26 information system operated by the Division of Marine Fisheries or its contract agent
27 shall be used to compile fisheries data in conjunction with the licensing program
28 established in this section and in G.S. 113-152(f)."

29 Sec. 4. G.S. 113-156 reads as rewritten:

30 **"§ 113-156. Licenses for fish dealers.**

31 (a) License Requirement. – Except as otherwise provided in this Article, every
32 person who sells fish or has any connection whatever with fish that results in his
33 enrichment is a fish dealer, provided that individual employees of fish dealer's are not
34 fish dealer's merely by virtue of transacting the business of their employers. section, it
35 is unlawful for any person involved in a fishing operation not licensed pursuant to this
36 section:

- 37 (1) To buy fish for resale from any person involved in a coastal fishing
38 operation that takes any species of fish under the authority of the
39 Marine Fisheries Commission from coastal fishing waters. For
40 purposes of this subdivision, a retailer who purchases fish from a fish
41 dealer shall not be liable if the fish dealer has not complied with the
42 licensing requirements of this act;
- 43 (2) To sell fish to the public subject to the licensing requirements of G.S.
44 113-153(b); or

1 (3) To sell to the public any species of fish under the authority of the
2 Marine Fisheries Commission taken from coastal fishing waters by
3 that coastal fishing operation.

4 Any person subject to the licensing requirements of this section is a fish dealer. Any
5 person subject to the licensing requirements of this section shall obtain a separate
6 license or set of licenses for each location conducting activities required to be licensed
7 under this section.

8 (b) Exceptions to License Requirements. – The Marine Fisheries Commission
9 may make reasonable rules to implement this section by clarifying the status of particular
10 classes of persons as regards fish dealerships, subsection including rules to clarify the status
11 of the listed classes of exempted persons, require submission of statistical data, and
12 require that records be kept in order to establish compliance with this section. Any
13 person not licensed pursuant to this section is exempt from the licensing requirements of
14 this section if all fish handled within any particular licensing category meet one or more
15 of the following requirements:

16 ~~Persons all of whose dealings with a category of fish fall under one or more of the~~
17 ~~following headings are not fish dealers as respects that category:~~

18 (1) ~~Persons—The fish are sold by persons whose dealings in fish are~~
19 ~~primarily educational, scientific, or official. Scientific, educational, or~~
20 ~~official agencies official, and who have been issued a permit by the~~
21 ~~Division that authorizes the educational, scientific, or official agency~~
22 ~~to may sell fish harvested or processed in connection with research or~~
23 ~~demonstration projects projects; without being deemed dealers, but such~~
24 ~~sales are subject to such reasonable rules as the Marine Fisheries~~
25 ~~Commission may make governing such sales.~~

26 (2) ~~Individuals selling legally acquired fish other than oysters and clams to~~
27 ~~individuals other than dealers on a casual, noncommercial basis,~~
28 ~~provided that such sales do not net in excess of five hundred dollars~~
29 ~~(\$500.00) in cash or equivalent value in any 12-month period. Any~~
30 ~~public offer to sell, or peddling of fish, is deemed commercial.~~

31 (3) ~~Fishermen who sell their catch exclusively to fish dealers licensed~~
32 ~~under this section if the fish taken by any fisherman meets one of the~~
33 ~~following requirements:~~

34 a. ~~The fish were taken lawfully in coastal fishing waters other than~~
35 ~~through the use of a vessel licensed under G.S. 113-152, and the~~
36 ~~value of such fish sold does not exceed five hundred dollars~~
37 ~~(\$500.00) in any 12-month period.~~

38 b. ~~The fish were taken in a commercial fishing operation meeting~~
39 ~~all licensing requirements, and he was a party to the operation.~~

40 c. ~~The fish were taken by him, whether by sports or commercial~~
41 ~~methods, through the use of a vessel currently and validly~~
42 ~~licensed under G.S. 113-152.~~

43 d. ~~The fish were taken by him in inland fishing waters in~~
44 ~~conformity with the laws and rules administered by the Wildlife~~

Resources Commission and are of a type permitted to be sold by the Wildlife Resources Commission.

- e. ~~The fish taken were oysters, scallops, or clams and the person satisfies the dealer that he took them or participated in the taking, that he then had a current and valid oyster, scallop, and clam license issued to him personally, and that they were taken lawfully.~~

(e) ~~Every fish dealer is subject to the licensing requirements of this section unless all fish handled within any particular licensing category meet one or more of the following requirements:~~

- (2) ~~The fish are sold by individual employees of fish dealers when transacting the business of their duly licensed employer;~~
 (1)(3) ~~The fish are shipped to him a person by a dealer from without the State. State;~~
 (2) ~~The fish are nongame fish taken in inland fishing waters.~~
 (3)(4) ~~The fish are of a kind the sale of which is regulated exclusively by the Wildlife Resources Commission. Commission; or~~
 (4)(5) ~~The fish are purchased from a licensed dealer. dealer.~~

~~In the event the seller is a licensed fish dealer, he must satisfy any purchasing fish dealer, whether licensed or unlicensed, that the fish were acquired in conformity with law. It is unlawful for a fish dealer to purchase or sell or in any manner deal in fish except in conformity with the provisions of this section.~~

~~(d) Every fish dealer subject to the licensing provisions of this section must secure a separate license or set of licenses for each established location.~~

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

- (1) Dealing in oysters:
 a. Oyster shucker-packer (including sale of shell stock), one hundred dollars (\$100.00).
 b. Oyster shell stock shipper, fifty dollars (\$50.00).
 (2) Dealing in scallops:
 a. Scallop shucker-packer (including sale of shell stock), one hundred dollars (\$100.00).
 b. Scallop shell stock shipper, fifty dollars (\$50.00).
 (3) Dealing in clams:
 a. Clam shucker-packer (including sale of shell stock), one hundred dollars (\$100.00).
 b. Clam shell stock shipper, fifty dollars (\$50.00).
 (4) Dealing in hard and soft crabs:
 a. Crab processor (including dealing in unprocessed crabs), one hundred dollars (\$100.00).
 b. Unprocessed crab dealer, fifty dollars (\$50.00).
 (5) Dealing in shrimp:

- 1 a. Shrimp processor (including dealing in unprocessed shrimp),
2 one hundred dollars (\$100.00).
3 b. Unprocessed shrimp dealer, fifty dollars (\$50.00).
4 (6) Dealing in finfish:
5 a. Finfish processor (including dealing in unprocessed finfish),
6 one hundred dollars (\$100.00).
7 b. Unprocessed finfish dealer, fifty dollars (\$50.00).
8 (7) Operating menhaden processing plant, one hundred dollars (\$100.00).
9 (8) Operating any other fish-dehydrating or oil-extracting plant, fifty
10 dollars (\$50.00).

11 Any person subject to fish-dealer licensing requirements who deals in fish not
12 included in the above categories must secure a finfish dealer license. The Marine
13 Fisheries Commission may make reasonable rules implementing and clarifying the
14 dealer categories of this subsection.

15 (d) License Format. – The format of the license shall include the name of the
16 licensee, date of birth, social security number, name and address of each business
17 location, expiration date of the license, and any other information the Division deems
18 necessary to accomplish the purposes of this Subchapter.

19 (e) Application for License. – An application for a fish dealer's license shall be
20 filed with the Morehead City offices of the Division of Marine Fisheries. An
21 application shall be accompanied by the fee established in subsection (c) of this section.
22 Applications shall not be accepted from persons ineligible to hold a license issued by
23 the Marine Fisheries Commission, including any applicant whose license is suspended
24 or revoked on the date of the application. The applicant shall be provided with a copy
25 of the application marked received. The copy shall serve as the fish dealer's license
26 until the license issued by the Division is received or the Division determines that the
27 applicant is ineligible to hold a license. Where ~~a dealer~~ an applicant does not have an
28 established location for transacting the fisheries business within the State, the license
29 application must be denied unless the applicant satisfies the Secretary that his residence,
30 or some other office or address, within the State, is a suitable substitute for an
31 established location and that records kept in connection with licensing, sale, and ~~tax~~
32 purchase requirements will be available for inspection when necessary. Fish dealers'
33 licenses are issued on a fiscal year basis upon payment of a fee as set forth herein upon
34 proof, satisfactory to the Secretary, that the license applicant is a resident of North
35 Carolina.

36 (f) Application for Replacement License. – A replacement license shall only be
37 obtained from the Morehead City offices of the Division of Marine Fisheries. The
38 Division shall not accept an application for a replacement license unless the Division
39 determines that the applicant's current license has not been suspended or revoked. A
40 copy of an application duly filed with the Division shall serve as the license until the
41 replacement license has been received.

42 (g) Purchase and Sale of Fish. – It is unlawful for a fish dealer to buy fish unless
43 the seller possesses a current and valid endorsement to sell and the dealer records the
44 transaction on a form provided by the Department consistent with the recording

1 requirements of G.S. 113-154.1. It is unlawful for a fish dealer to possess or sell fish
2 taken from coastal fishing waters in violation of this Subchapter or the rules adopted by
3 the Marine Fisheries Commission implementing this Subchapter.

4 (h) License Nontransferable. – Any fish dealer license issued under this section is
5 nontransferable. It is unlawful to use a fish dealer license issued to another person in
6 the sale or attempted sale of fish or for a licensee to lend or transfer a fish dealer license
7 for the purpose of circumventing the requirements of this section.

8 (i) Penalties. – Any person who violates any provision of this section or any rule
9 by the Marine Fisheries Commission to implement this section is guilty of a
10 misdemeanor.

11 (1) A violation of subsections (a), (g), or (h) or a rule of the Marine
12 Fisheries Commission implementing any of those subsections is a
13 misdemeanor punishable as follows:

14 a. For a first conviction, a fine of not less than fifty dollars
15 (\$50.00) or double the value of the fish which are the subject of
16 the transaction, whichever is greater, not to exceed two hundred
17 fifty dollars (\$250.00), or imprisonment not to exceed 30 days.

18 b. For a second conviction within three years, a fine of not less
19 than two hundred fifty dollars (\$250.00) or double the value of
20 the fish which are the subject of the transaction, whichever is
21 greater, not to exceed five hundred dollars (\$500.00), or
22 imprisonment not to exceed 90 days, or both.

23 c. For a third or subsequent conviction within three years, a fine of
24 not less than five hundred dollars (\$500.00) or double the value
25 of the fish which are the subject of the transaction, whichever is
26 greater, or imprisonment not to exceed six months, or both.

27 (2) A violation of any other provision of this section other than
28 subsections (a), (g), or (h), or of any rule of the Marine Fisheries
29 Commission other than a rule implementing subsections (a), (g), or (h)
30 of this section, is punishable under G.S. 113-135(a)."

31 Sec. 5. G.S. 113-161 reads as rewritten:

32 "**§ 113-161. Nonresidents reciprocal agreements.**

33 Persons who are not residents of North Carolina are not entitled to obtain licenses
34 under the provisions of G.S. 113-152 or G.S. 154.1 except as hereinafter provided.
35 Residents of jurisdictions which sell commercial fishing licenses to North Carolina
36 residents are entitled to North Carolina commercial fishing licenses under the provisions
37 of G.S. 113-152 or G.S. 154.1. Such licenses may be restricted in terms of area, gear
38 and fishery by the ~~commission~~ Marine Fisheries Commission so that the nonresidents are
39 licensed to engage in North Carolina fisheries on the same or similar terms that North
40 Carolina residents can be licensed to engage in the fisheries of such other jurisdiction.
41 The Secretary may enter into such reciprocal agreements with other jurisdictions as are
42 necessary to allow nonresidents to obtain commercial fishing licenses in North Carolina
43 subject to the foregoing provisions."

44 Sec. 6. G.S. 113-129(14) reads as rewritten:

1 "(14) Shellfish. – Mollusca, specifically including oysters, clams, mussels,
2 ~~and scallops.~~ scallops, conchs and whelks."

3 Sec. 7. The Marine Fisheries Commission may use such powers as may be
4 reasonably necessary to accomplish the purposes of this act. The Director of the
5 Division of Marine Fisheries of the Department of Environment, Health, and Natural
6 Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture
7 by December 1, 1993, on implementation of this act.

8 Sec. 8. This act becomes effective upon ratification, except any new or
9 increased fees for licenses are applicable to licenses that become effective on July 1,
10 1993. This act shall expire on July 1, 1996.