

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**HOUSE BILL 831  
RATIFIED BILL**

AN ACT TO ESTABLISH THE NORTH CAROLINA SALTWATER FISHING  
FUND AND LICENSE AND TO PROVIDE THAT VACANCIES MAY BE  
FILLED IN CERTAIN OFFICES DURING A HOLDOVER PERIOD.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that saltwater fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls, subject to federal and State law and rules adopted by the Marine Fisheries Commission pursuant to G.S. 143B-289.52; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 113 of the General Statutes is amended by adding a new Article to read:

"Article 14C.

"North Carolina Saltwater Fishing Fund.

**"§ 113-175. Definitions.**

As used in this Article:

- (1) 'Board of Trustees' means the Board of Trustees of the Fund.
- (2) 'Fund' means the North Carolina Saltwater Fishing Fund.

- (3) 'Investment income' means interest earned from the investment of license revenues and the proceeds of any gifts, grants, or contributions deposited in the Fund.
- (4) 'License revenues' means the net proceeds from the sale of Saltwater Fishing Licenses issued under G.S. 113-174.2. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

**"§ 113-175.1. North Carolina Saltwater Fishing Fund.**

There is hereby established the North Carolina Saltwater Fishing Fund as a nonreverting fund in the office of the State Treasurer. The purpose of the Fund is to enhance the fishery resources of the State for commercial and recreational fishing. License revenues and the proceeds of any gifts, grants, and contributions to the State that are specifically designated for inclusion in the Fund shall be deposited in the Fund. The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

**"§ 113-175.2. Board of Trustees of the North Carolina Saltwater Fishing Fund.**

(a) Board of Trustees Established. – There is hereby established the Board of Trustees of the North Carolina Saltwater Fishing Fund. The Board of Trustees shall be independent, but for administrative purposes shall be located under the Department of Environment and Natural Resources.

(b) Membership; Qualifications. – The Board of Trustees shall consist of 11 members as follows:

- (1) One individual appointed by the Governor, who has purchased a current Saltwater Fishing License at the time of the appointment.
- (2) One individual appointed by the Governor, who has purchased a current Saltwater Fishing License at the time of the appointment.
- (3) One individual appointed by the Governor, who has purchased a current Saltwater Fishing License at the time of the appointment.
- (4) One individual appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (5) One individual appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (6) One individual appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (7) One individual appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (8) One individual appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (9) One individual appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in

accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.

(10) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Board of Trustees.

(11) The Chair of the Marine Fisheries Commission, or the Chair's designee shall serve as a nonvoting, ex officio member of the Board of Trustees.

(c) Officers. – The Governor shall appoint a member of the Board of Trustees to serve as Chair. The Chair shall serve at the pleasure of the Governor. The Board of Trustees shall elect one of its members to serve as Vice-Chair. The Vice-Chair shall serve a one-year term beginning July 1 and ending June 30 of the following year. The Vice-Chair may serve any number of consecutive terms.

(d) Terms. – The term of office of members of the Board of Trustees appointed under subdivisions (1) through (9) of subsection (b) of this section is three years. A member appointed under subdivisions (1) through (9) of subsection (b) of this section may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), (4), and (7) of subsection (b) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (2), (5), and (8) of subsection (b) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (3), (6), and (9) of subsection (b) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. An individual appointed under subdivisions (1) through (9) of subsection (b) of this section must continue to have a current Saltwater Fishing License in order to remain eligible to serve on the Board of Trustees.

(e) Vacancies. – An appointment to fill a vacancy shall be for the unexpired balance of the term. If a vacancy occurs for a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122.

(f) Meetings; Frequency. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members. Six members of the Board of Trustees shall constitute a quorum for the transaction of business.

(g) Per Diem and Expenses. – The Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, travel, and subsistence expenses shall be paid from the Fund.

**"§ 113-175.3. Allocation of investment income of the Fund; other powers and duties.**

(a) Disbursement of Funds. – The State Treasurer shall disburse investment income only upon the written direction of the Board of Trustees.

(1) The Board of Trustees may authorize the disbursement of investment income that accrues to the Fund for:

a. Resource and habitat enhancement, including, but not limited to, creation of natural nursery areas, construction of artificial reefs, restoration and enhancement of submerged aquatic vegetation, creation and restoration of oyster habitat, and acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat.

b. Grants to fund fisheries management research for specifically designated species.

- c. Acquisition of land or an interest in land that provides for the enhancement of fishery habitat or public access to coastal fishing waters.
- d. Purchase or construction of public beach access areas and public marinas. If the Board of Trustees purchases or constructs a public marina, it may establish a boat docking fee.
- e. Emergency dredging for the restoration of access to public fishing areas.
- f. Establishment of scholarships for individuals pursuing degrees in marine sciences.
- g. Administrative and operating expenses of the Board of Trustees.

(2) The Board of Trustees shall not authorize the disbursement of investment income that accrues to the Fund for law enforcement purposes.

(b) Applicants. – Any of the following are eligible to apply for monies from the Fund:

- (1) A State agency.
- (2) A local government or other political subdivision of the State or a combination of such entities.
- (3) A nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of the marine resources of the State.

(c) Administrative and Operating Expenses. – No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of one million two hundred fifty thousand dollars (\$1,250,000), whichever is greater, may be used each fiscal year for administrative and operating expenses of the Board of Trustees.

(d) Acquisition of Real Property. – The Board of Trustees may acquire real property by purchase, negotiation, gift, or devise. Any acquisition of real property by the Board of Trustees must be reviewed and approved by the Council of State and the deed for the real property subject to approval of the Attorney General before the acquisition can become effective. Nothing in this section shall allow the Board of Trustees to acquire real property by eminent domain.

(e) Real Property Management. – The Board of Trustees may designate managers or managing agencies of the real property acquired under this Article.

(f) Designation of Locations for Purchase and Renewal of Licenses. – Pursuant to G.S. 113-174.2, the Board of Trustees may designate locations at which Saltwater Fishing Licenses may be purchased and renewed.

(g) The Board of Trustees may adopt rules to implement this Article.

**"§ 113-175.4. Report.**

The Chair of the Board of Trustees shall submit to the Joint Legislative Commission on Seafood and Aquaculture by September 30 of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

**SECTION 2.** Chapter 113 of the General Statutes is amended by adding a new Article to read:

"Article 14B.

"Saltwater Fishing Licenses.

**"§ 113-174. Definitions.**

As used in this Article:

- (1) 'Commission' means the Marine Fisheries Commission.
- (2) 'SFL' means Saltwater Fishing License.
- (3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.
- (4) 'North Carolina resident' means an individual who is a resident within the meaning of G.S. 113-130(4).

- (5) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:
- a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.
  - b. Except as provided in G.S. 113-261.

**"§ 113-174.1. General provisions governing licenses.**

(a) License Purchase Required to Engage in Recreational Fishing. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters without having purchased a current license required by this Article. It is unlawful for any individual to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

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

(c) Assignment and Transfer Prohibited. – It is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

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

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

(f) Cancellation. – The Division may cancel a license issued on the basis of false information supplied by the license applicant. A cancelled license is void from the date of issuance.

(g) Reporting Requirements. – A person licensed under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

**"§ 113-174.2. Saltwater Fishing License.**

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

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

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

- (1) One-year SFL. – \$15.00. This license is valid for a period of one year from the date of issuance.

- (2) Two-year SFL. – \$30.00. This license is valid for a period of two years from the date of issuance.
- (3) Three-year SFL. – \$45.00. This license is valid for a period of three years from the date of issuance.
- (4) Seven-day SFL. – \$1.00. This license is valid for a period of seven consecutive days. An individual may purchase this license only once in any 12-month period.
- (5) Subsistence SFL. – An applicant for a license under this subdivision shall provide to the Division a certification from the Department of Health and Human Services that the individual falls below the federal poverty level. A license issued under this subdivision shall be issued without charge and is valid for a period of one year from the date of issuance.
- (6) Lifetime SFL. – This license is valid for the lifetime of the licensee. The fee for the Lifetime SFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:
  - a. Younger than six years of age \$100.00
  - b. Six years of age to younger than 11 years of age \$150.00
  - c. 11 years of age to younger than 18 years of age \$200.00
  - d. 18 years of age or older \$500.00

(d) Exemptions. – An individual may engage in recreational fishing by means of recreational gear without having purchased a SFL if the individual is 18 years of age or younger and is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent."

**SECTION 3.** G.S. 113-169.2 reads as rewritten:

**"§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

- (a) ~~License or Endorsement Necessary to Take or Sell Shellfish. – Requirement.~~  
– It is unlawful for an individual to take shellfish from the public or private grounds of the State ~~by mechanical means or in quantities greater than the personal use limits set forth in subsection (i) of this section by any means as part of a commercial fishing operation~~ without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take and sell shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.
- (b) Repealed by Session Laws 1998-225, s. 4.17.
- (c) Fees. – Shellfish licenses shall be issued annually upon payment of a fee of twenty-five dollars (\$25.00) upon proof that the license applicant is a North Carolina resident.
- (d) ~~License Available for Inspection. – It is unlawful for any individual to take shellfish in quantities greater than the personal use limits set forth in subsection (i) of this section from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.~~
- (e) Repealed by Session Laws 1998-225, s. 4.17.
- (f) Name or Address Change. – In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or

prosecutor shall dismiss any charges brought pursuant to this subsection.

- (g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.
- (h) Exemption. – Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, ~~grandparent's~~ grandparent's, or guardian's shellfish license ~~license~~ or a parent's, grandparent's, or guardian's shellfish endorsement of a SCFL.
- (i) ~~Taking Shellfish Without a License for Personal Use.~~
  - (1) ~~A person may take shellfish for personal use without obtaining a license under this section in quantities up to:~~
    - a. ~~One bushel of oysters per day.~~
    - b. ~~One half bushel of scallops per day.~~
    - c. ~~One hundred clams per day.~~
    - d. ~~Ten conchs per day.~~
    - e. ~~One hundred mussels per day.~~
  - (2) ~~Two or more persons who are using a vessel to take shellfish may take shellfish for personal use without obtaining a license under this section in quantities up to:~~
    - a. ~~Two bushels of oysters per day.~~
    - b. ~~One bushel of scallops per day.~~
    - c. ~~Two hundred clams per day.~~
    - d. ~~Twenty conchs per day.~~
    - e. ~~Two hundred mussels per day.~~

**SECTION 4.** G.S. 113-173(j)(4) is repealed.

**SECTION 5.** G.S. 120-122 reads as rewritten:

**"§ 120-122. Vacancies in legislative appointments.**

When a vacancy ~~occurs, other than by the expiration of term,~~ occurs in any office subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives, upon the recommendation of the President Pro Tempore of the Senate, or upon the recommendation of the President of the Senate, and the vacancy occurs either: (i) after election of the General Assembly but before convening of the regular session; (ii) when the General Assembly has adjourned to a date certain, which date is more than 20 days after the date of adjournment; ~~or~~ (iii) after sine die adjournment of the regular session, session; or (iv) when the term of office expires and a successor has not been appointed, then the Governor may appoint a person to serve until the expiration of the term or until the General Assembly fills the vacancy, whichever occurs first. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. When a person is holding over in office after the expiration of the term, for the purpose of this section that office may be filled as if it were vacant. Before making an appointment, the Governor shall consult the officer who recommended the original appointment to the General Assembly (the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or the President of the Senate), and ask for a written recommendation. After receiving the written recommendation, the Governor must within 30 days either appoint the person recommended or inform the officer who made the recommendation that he is rejecting the recommendation. Failure to act within 30 days as required under the provisions of the preceding sentence shall be deemed to be approval of the candidate, and the candidate shall be eligible to enter the office in as full and ample extent as if the Governor had executed the appointment. The Governor shall not appoint a person other

than the person so recommended. Any position subject to initial appointment by the General Assembly but not filled prior to sine die adjournment of the Session at which the position was created or adjournment to a date certain which date is more than 20 days after the date of adjournment of the session at which the position was created may be filled by the Governor under this section as if it were a vacancy occurring after the General Assembly had made an appointment."

**SECTION 6.** G.S. 113-168(1) reads as rewritten:

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

**SECTION 7.** G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

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

**SECTION 8.** G.S. 143B-289.52 is amended by adding a new subsection to read:

"(h) Neither the Commission nor the Department may disclose personal information provided by an applicant for a license issued under Article 14A or 14B of Chapter 113 of the General Statutes."

**SECTION 9.** In order to establish a schedule of staggered terms of three years for the Board of Trustees of the North Carolina Saltwater Fishing Fund, the terms of members of the Board initially filling positions established by subdivisions (1), (4), and (7) of subsection (b) of G.S. 113-175.2, as enacted by Section 1 of this act, shall begin on the date the member is appointed and duly qualified and shall expire on June 30, 2010; the terms of members of the Board initially filling positions established by subdivisions (2), (5), and (8) of subsection (b) of G.S. 113-175.2, as enacted by Section 1 of this act, shall begin on the date the member is appointed and duly qualified and shall expire on June 30, 2009; the terms of members of the Commission initially filling positions established by subdivisions (3), (6), and (9) of subsection (b) of G.S. 113-175.2, as enacted by Section 1 of this act, shall begin on the date the member is appointed and duly qualified and shall expire on June 30, 2008.

**SECTION 10.** Notwithstanding G.S. 113-175.3, the Board of Trustees of the North Carolina Saltwater Fishing Fund may authorize disbursement and the State Treasurer may disburse up to fifty percent (50%) of the license revenues in the North Carolina Saltwater Fishing Fund during fiscal years 2005-2006 through 2015-2016.

**SECTION 11.** The first report required pursuant to G.S. 113-175.4, as enacted by Section 1 of this act, is due by September 30, 2005.

**SECTION 12.(a)** The Board of Trustees of the North Carolina Saltwater Fishing Fund shall develop a plan for the implementation of Section 2 of this act. The plan shall provide that:

- (1) Licenses may be purchased or renewed via mail, electronic mail, the Internet, or telephone.
- (2) The licensing and renewal system shall be fully automated and shall allow for the purchase or renewal of licenses at any time, without delay.
- (3) The licensing system shall not require individuals to hold a physical license.
- (4) Verification of licensure shall be accomplished by an individual providing only the individual's name and residence address.



**SECTION 12.(b)** The Board of Trustees of the North Carolina Saltwater Fishing Fund shall determine a date by which the plan developed pursuant to subsection (a) of this section would be fully implemented.

**SECTION 12.(c)** The Board of Trustees of the North Carolina Saltwater Fishing Fund shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Board shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what the system should be and how it should be implemented.

**SECTION 12.(d)** A report on the implementation plan, the determination of the date of full implementation, and the unified fishing license study required by subsections (a), (b), and (c) of this section shall be submitted to the Joint Legislative Commission on Seafood and Aquaculture no later than April 15, 2005.

**SECTION 12.(e)** Notwithstanding the provisions of G.S. 113-175.2 as enacted by Section 1 of this act, the requirement that members of the Board of Trustees of the North Carolina Saltwater Fishing Fund must have purchased a current Saltwater Fishing License at the time of appointment and the requirement that members of the Board of Trustees must continue to have a current Saltwater Fishing License in order to remain eligible to serve on the Board of Trustees shall not apply until such time as the Saltwater Fishing License becomes available.

**SECTION 13.** There is appropriated from the General Fund to the North Carolina Saltwater Fishing Fund for fiscal year 2004-2005 up to the sum of five million dollars (\$5,000,000). Notwithstanding G.S. 113-175.3, as enacted by Section 1 of this act, the Board of Trustees of the North Carolina Saltwater Fishing Fund shall use these funds to implement the provisions of this act. Notwithstanding G.S. 113-175.3, as enacted by Section 1 of this act, the Board of Trustees shall repay funds appropriated pursuant to this section to the General Fund by July 1, 2010.

**SECTION 14.** If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

**SECTION 15.** Sections 2, 3, and 4 of this act become effective January 1, 2006. All other sections of this act become effective when the act becomes law.  
In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2004.

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Marc Basnight  
President Pro Tempore of the Senate

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James B. Black  
Speaker of the House of Representatives

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Michael F. Easley  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2004