

2009 -- S 0969 AS AMENDED

LC02701

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO FISH AND WILDLIFE

Introduced By: Senators Lenihan, and Sosnowski

Date Introduced: June 09, 2009

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 20 of the General Laws entitled "FISH AND WILDLIFE" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 2.2

4 RECREATIONAL SALTWATER FISHING LICENSE

5 **20-2.2-1 Findings.** -- The general assembly finds and declares:

6 (1) The constitution of the state places plenary authority and responsibility in the general
7 assembly to provide for the conservation of the natural resources of the state, including its marine
8 fisheries;

9 (2) The state of Rhode Island has historically established programs to provide for and
10 regulate the harvesting and taking of marine fish for recreational purposes;

11 (3) The federal government and regional entities have established and continue to
12 establish regulatory programs, management measures, quotas, and other restrictions that affect
13 persons engaged in marine recreational fisheries in Rhode Island, and Rhode Island functions in
14 whole or in part in the context of federal and regional programs, depending on the fishery;

15 (4) The regulatory programs, management measures, quotas, and other restrictions
16 governing marine recreational fisheries are based primarily on catch and effort statistics from
17 recreational fisherman, and on fishery resource assessments, which gauge the biological status of
18 fish stocks;

19 (5) Since 1979, recreational fishing assessments have been derived from the marine

1 recreational fisheries statistics Survey (MRFSS), administered by the federal government in
2 partnership with the states;

3 (6) In 2006, congress acknowledged major flaws in the accuracy of the assessments
4 provided by (MRFSS), and called upon the national marine fisheries service (NMFS) to
5 undertake programmatic reforms, including the establishment of a universal registry of all
6 saltwater anglers to provide a more accurate and efficient means for acquiring recreational catch
7 and effort data;

8 (7) In 2008, (NMFS) initiated a new marine recreational information program (MRIP) to
9 replace (MRFSS), and enacted rules requiring marine recreational fisherman to either register
10 under a new national program, or be registered or licensed by a state program that meets federal
11 requirements;

12 (8) All coastal states have enacted, or are in the process of enacting, marine recreational
13 fishing license or registry programs;

14 (9) The interests of recreational saltwater anglers in Rhode Island can best be met by
15 establishing a state program that meets federal requirements, contributes to improved state-based
16 recreational fishing assessments and stock assessments, and supports fair and effective regulatory
17 programs and quota allocations for Rhode Island's marine recreational fisheries;

18 (10) Additionally, the interests of recreational saltwater anglers in Rhode Island are well
19 served by a program that supports improved and expanded opportunities for the public to access
20 the marine waters of the state; and

21 (11) The use of license fee revenues for any purpose other than managing recreational
22 fisheries and enhancing recreational fishing opportunities would: violate the terms of section 20-
23 9-3 and trigger a discontinuation of all federal funding provided to Rhode Island pursuant to the
24 Federal Aid in Sport Fish Restoration Act (16 U.S.C. section 777-777K); conflict with legislative
25 intent, as set forth in subdivision 20-3.1-7(3); veer from the restricted use requirements governing
26 freshwater fishing, commercial fishing, and hunting license fee revenues; affect compliance with
27 the requirements of this chapter; and compromise the purposes of this chapter.

28 **20-2.2-2. Purposes.** -- The purposes of this chapter are to:

29 (1) Enable recreational fisherman to fish legally in the marine waters of Rhode Island,
30 and in all offshore federal waters, via a state-based recreational fishing licensing program,
31 established in accordance with the requirements set forth by the federal Magnuson-Stevens
32 Fishery Conservation and Management Act (16 U.S.C. section 1601 et seq.);

33 (2) Establish a state-based licensing program that will: provide Rhode Island recreational
34 fisherman, including residents and non-resident visitors, with a convenient and inexpensive

1 licensing process; support and contribute to more accurate state-based fishing and resource
2 assessments; and provide for fair and effective management programs that optimize benefits and
3 opportunities for Rhode Island recreational fisherman; and

4 (3) Establish a dedicated funding vehicle to support improved coastal access
5 opportunities for recreational fisherman along the Rhode Island shoreline.

6 **20-2.2-3. Definitions.** -- As used in this chapter, the following terms shall have the
7 following meanings:

8 (1) "Angling" means to fish recreationally using hook and line.

9 (2) "Blind" means an individual who is blind in accordance with section 20-2-31.

10 (3) "Exempted state" means a state that has been designated as an exempted state by the
11 national marine fisheries service, pursuant to the National Saltwater Angler Registry Program, 50
12 CFR Part 600.

13 (4) "Finfish" means all species of finfish, excluding shellfish and crustaceans.

14 (5) "Fishing recreationally" means all forms of angling, as well as all forms of
15 spearfishing, the purpose of which is to harvest, or attempt to harvest finfish for non-commercial
16 purposes.

17 (6) "Marine waters of Rhode Island" means all tidal and territorial waters of the state out
18 to three (3) nautical miles from the coastline, including all state waters surrounding Block Island.

19 (7) "Permanently disabled" means an individual who is one hundred percent (100%)
20 permanently disabled in accordance with section 20-2-31.

21 (8) "Resident" means an individual who has had his or her actual place of residence and
22 has lived in the state of Rhode Island for a continuous period of not less than six (6) months.

23 (9) "Spearfishing" means to fish recreationally using a spear or a powerhead.

24 **20-2.2-4. License required.** -- (a) It shall be unlawful for any person to fish
25 recreationally in the marine waters of Rhode Island without:

26 (1) A recreational fishing license issued in accordance with the provisions of this chapter;
27 or

28 (2) A recreational fishing license or registration issued by any other exempted state that
29 affords reciprocity to Rhode Island residents who hold recreational fishing licenses issued
30 pursuant to this chapter; or

31 (3) A federal saltwater angler registration issued by the national marine fisheries service.

32 (b) An individual will be considered to be fishing recreationally if they are engaged in the
33 process of angling or spearfishing, or if they possess equipment used for angling or spearfishing
34 and are also in possession of finfish.

1 **20-2.2-5. Exemptions.** – A license shall not be required for anyone who is:

2 (1) Under the age of sixteen (16);

3 (2) Permanently disabled, or blind;

4 (3) On leave from active military duty;

5 (4) A passenger on a party or charter boar holding a current and valid license issued by
6 the department in accordance with section 20-2-27.1;

7 (5) Fishing recreationally during a designated free-fishing day, which may be established
8 by the director and occur on no more than one day per year; or

9 (6) Fishing commercially in accordance with a current and valid commercial fishing
10 license.

11 **20-2.2-6. Fees - Terms and conditions - Information required.** -- (a)(1) Resident seven
12 dollars (\$7.00);

13 (2) No fee shall be charged for residents who are over the age of sixty-five (65) or in
14 active military service;

15 (3) Nonresident ten dollars (\$10.00);

16 (4) Licenses issued pursuant to this subsection shall expire on December 31st of each
17 year.

18 (b)(1) Resident or non-resident seven (7) day five dollars (\$5.00);

19 (2) This license shall entitle the holder to fish recreationally for seven (7) consecutive
20 days, including the day of issuance.

21 (c) All license applications shall be required to provide their name, address, phone
22 number, and date of birth.

23 (d) Any lost or destroyed license shall be replaceable, during the calendar year in which it
24 was issued, or in the case of a seven-day license, during the seven-day period when it is valid, at
25 no cost to the license holder.

26 (e) The director is authorized to determine a portion of the license fee, not to exceed any
27 of the amounts set forth above in this section, that may be retained by the state-approved vendor
28 and authorized licensing agents, as set forth in section 20-2.2-7, as commission for services
29 rendered.

30 **20-2.2-7. License issuance.** -- The director is authorized and directed to engage the
31 contractual services of a state-approved vendor to develop and implement a web-based system
32 that will serve as the sole means for obtaining licenses pursuant this chapter. The vendor's
33 responsibilities shall include, but not limited to:

34 (1) Development of the web-based application;

1 (2) Creation and servicing of authorized licensing agents who will be able to vend
2 licenses at their establishments;

3 (3) Collection and transmittal of license fee revenues; and

4 (4) Storage and transmittal of license holder database.

5 **20-2.2-8. Violations. -- (a) Any person who violates any provision of this chapter shall**
6 **be guilty of a civil violation and subject to a fine, as follows:**

7 (i) for a first offense, a fine of ten dollars (\$10.00);

8 (ii) for a second offense, a fine of fifty dollars (\$50.00); and

9 (iii) for a third offense or subsequent offense, a fine of one hundred dollars (\$100.00).

10 (b) Jurisdiction over violations of this chapter shall be with the traffic tribunal.

11 **20-2.2-9. Deposit of fees - Appropriation and use of license fee revenue. -- All**
12 **moneys generated from license fees issued under this chapter, other than any commissions**
13 **retained by the licensing vendor and licensing agents per subsection 20-2.2-6(e), shall be**
14 **deposited with the general treasurer and appropriated to the department of environmental**
15 **management. The state controller is authorized and directed to draw orders upon the general**
16 **treasurer for payment of any sum or sums as may be necessary from time to time upon receipt by**
17 **him or her of duly authenticated vouchers presented by the director of environmental**
18 **management. In accordance with section 20-9-3 and in keeping with subdivision 20-3.1-7(3), the**
19 **monies from license fees received under this section are to be used only for the following specific**
20 **purposes:**

21 (1) Administering and enforcing the recreational saltwater fishing license program
22 established by this chapter;

23 (2) Managing Rhode Island's marine recreational fisheries, with particular reference to
24 improving state-based recreational fishery catch and effort statistics and stock assessments; and

25 (3) Enhancing recreational fishing opportunities in the state.

26 **20-2.2-10. Accountability and oversight. -- (a) On an annual basis, the department shall**
27 **prepare a report that details the number of recreational saltwater fishing licenses issued, the total**
28 **amount of license fee revenue received, the expenditures made during the prior year utilizing the**
29 **fee revenue, and how the department plans to allocate and use the fee revenue during the next**
30 **year. The report shall also include any additional, relevant information relating to the**
31 **administration and enforcement of the licensing program, and status of state-based recreational**
32 **fishing assessments and stock assessments.**

33 (b) The department shall annually submit the report to the marine fisheries council, and
34 the department, in coordination with the council, shall annually schedule and conduct one or more

1 public meetings to solicit input from recreational fisherman and the general public. On the basis
2 of such input, and the council's own review, the council shall annually prepare an addendum to
3 the report, setting forth the council's opinion on whether the licensing program is meeting its
4 intended purposes, and offering any recommendations for modifying the program.

5 (c) The department shall annually submit the report, including the addendum developed
6 by the council, to the general assembly.

7 **20-2.2-11. Rules and regulations.** -- The director is authorized to promulgate, adopt, and
8 enforce any and all rules and regulations deemed necessary to carry out the purposes of this
9 chapter.

10 SECTION 2. This act shall take effect on January 1, 2010.

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

- 1 This act would create a recreational saltwater fishing license and would make it unlawful
- 2 to fish in the marine waters of the state without first obtaining a license.
- 3 This act would take effect on January 1, 2010.

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