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LC01698/SUB A/3

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO FISH AND WILDLIFE

Introduced By: Senators Sosnowski, McDonald, Walaska, Bates, and Felag

Date Introduced: February 07, 2002

Referred To: Joint Environment & Energy

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 20-1-3 of the General Laws in Chapter 20-1 entitled "General
2 Provisions" is hereby amended to read as follows:

3 **20-1-3. Definitions.** -- (a) When used in this title, the following words and phrases shall
4 have the following meanings, unless the context indicates another meaning:

5 (1) "Bushel" means a standard U.S. bushel, 2,150.4 cubic inches capacity;

6 (2) "Hinge width" means the distance between the convex apex of the right shell and the
7 convex apex of the left shell;

8 (3) "Nonresident landowner" means a nonresident citizen of the United States and owner
9 of real estate in Rhode Island as evidenced by deed filed in the Recorder of Deeds office in a
10 Rhode Island town or city hall.

11 (4) "Peck" means one fourth (1/4) of a bushel;

12 (5) "Person" means an individual, corporation, partnership, or other legal entity;

13 (6) "Possession" means the exercise of dominion or control over the resource
14 commencing at the time at which a decision is made not to return the resource to the immediate
15 vicinity from which it was taken. The decision must be made at the first practical opportunity; and
16 In the case of aquaculture crops, "possession" means the exercise of dominion or control over
17 cultured crops commencing at the time which a decision is made not to return the crops to the
18 lease or facility from which they were taken. The decision must be made at the first practical
19 opportunity, taking into consideration the management practices set forth in the approved

1 operational plan.

2 (7) "Quart" means one thirty-second (1/32) of a bushel;

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

5 (9) "Commercial fishing" means to take, harvest, hold, transport, load or off-load, marine
6 species for sale or for intended sale;

7 (10) "Land or landing" means to off-load seafood products, including, but not limited to,
8 finfish, shellfish, and crustaceans, for sale or intended sale, or to secure a vessel with such
9 seafood products on board to a shoreside facility where the products may be off-loaded for sale or
10 intended sale.

11 (b) When used in this title, the following common names shall mean the animals
12 designated by the following scientific names:

13 Alewife -- *Pomolobus* or *Alosa pseudoharengus*

14 Bay quahaug -- *Mercenaria mercenaria*

15 Bay scallop -- *Argopecten irradians*

16 Blue crab -- *Callinectes sapidus*

17 Blue mussel -- *Mytilus edulis*

18 Conch/channel whelk -- *Busycon canaliculatum*

19 Conchob whelk -- *Busycon carica*

20 Deer -- Virginia white tail deer, *Odocoileus virginianus*

21 Eel -- *Anguilla rostrata*

22 Green crabs -- *Carcinus maenas*

23 Jonahorthern crab -- *Cancer borealis*

24 Lobster -- *Homarus americanus*

25 Menhaden -- *Brevoortia tyrannus*

26 Ocean quahaug -- *Arctica islandica*

27 Oyster -- *Crassostrea virginica*, *Ostrea edulis*

28 Rock crab -- *Cancer irroratus*

29 Sea scallop -- *Placopecten magellanicus*

30 Smelt -- *Osmerus mordax*

31 Soft shell clam -- *Mya arenaria*

32 Striped bass -- *Morone saxatilis*

33 Surf clam or sea clam -- *Spisula solidissima*.

34 SECTION 2. Sections 20-2-1.1, 20-2-24 and 20-2-28.2 of the General Laws in Chapter

1 20-2 entitled "Licensing" are hereby amended to read as follows:

2 **20-2-1.1. Commercial fishing license moratorium.** -- (a) The commercial marine
3 fishing licenses as provided for in sections 20-2-20(a), (b); 20-2-21; 20-2-24(a); 20-2-25; 20-2-
4 26; 20-2-26.1(a), (b); 20-2-27(a), (b), (c)(1) -- (c)(4); 20-2-28(a) -- (c); 20-2-28.1(a); 20-4-1.2(1) -
5 - (4); 20-5-1; 20-5-2; and 20-5-3 shall be issued for renewal only. No new licenses applicable to
6 these sections shall be issued between July 1, 2001, and ~~June 30,~~ December 31, 2002. In order to
7 obtain a license applicable to these sections between July 1, 2001, and ~~June 30,~~ December 31,
8 2002, an individual must provide proof that he or she possessed a valid Rhode Island commercial
9 fishing license subsequent to July 1, 2000, and submit a license application to the department
10 environmental management. The moratorium shall provide time for a continued study of the
11 commercial marine fishing licensing program to insure the sustainable viability and use of marine
12 fisheries, ~~and~~ for a recommendation to the general assembly, in accordance with chapter 3.1 of
13 title 20-, and for implementation of a new system of commercial fishing licenses as provided for
14 in chapter 2.1 of this title.

15 (b) Notwithstanding the provisions of subsection (a), an existing license may only be
16 transferred until January 1, 2003 to an immediate family member upon approval by the director.
17 An immediate family member for the purposes of this subsection is defined as the spouse,
18 mother, father, brother, sister, or child of the transferor. After January 1, 2003, transfers shall be
19 governed by section 20-2.1-5.

20 ~~**20-2-24. Lobster license.**~~ **20-2-24. Lobster license.** – [Effective until January 1, 2003]:

21 (a) Commercial: - two hundred dollars (\$200). The license is issued only to a legal
22 resident of the state who is the operator of a Rhode Island registered vessel.

23 (b) Non-commercial pot: - forty dollars (\$40.00). The license is issued only to a legal
24 resident of the state of Rhode Island.

25 (c) Non-commercial divers: - forty dollars (\$40.00). The license is issued only to a legal
26 resident of the state of Rhode Island.

27 (d) Sellers: - two hundred dollars (\$200).

28 (e) Rhode Island lobster dealer: - two hundred dollars (\$200).

29 ~~**20-2-24. Lobster license**~~ **20-2-24. Recreational lobster license.** – [Effective after
30 January 1, 2003]:

31 ~~(a) Commercial: - two hundred dollars (\$200). The license is issued only to a legal~~
32 ~~resident of the state who is the operator of a Rhode Island registered vessel.~~

33 ~~(b)~~ (a) Non-commercial pot: - forty dollars (\$40.00). The license is issued only to a legal
34 resident of the state of Rhode Island.

(e) (b) Non-commercial divers: - forty dollars (\$40.00). The license is issued only to a legal resident of the state of Rhode Island.

~~(d) Sellers: two hundred dollars (\$200).~~

~~(e) Rhode Island lobster dealer: two hundred dollars (\$200).~~

20-2-28.2. Deposit of fees. -- In any fiscal year moneys generated from license fees and vessel fees, provided for in sections 20-2-20—20-2-28.1 20-2-22 and 20-2-24 and chapter 20-2.1 over and above the sum of two hundred thousand dollars (\$200,000) through June 30, 2003, and on or after July 1, 2003, the full amount shall be deposited with the general treasurer and appropriated to the department of environmental management. The state controller is authorized and directed to draw orders upon the general treasurer for payment of any sum or sums as may be necessary from time to time upon receipt by him or her of duly authenticated vouchers presented by the director of environmental management. The moneys received under this section consistent with an annual plan for the allocation and use of said funds adopted by the department with the advice of the marine fisheries council are to be used only for the purpose of fishery conservation and restoration and resource enhancement, a minimum of two hundred thousand dollars (\$200,000) for the fiscal year beginning July 1, 2003, and each fiscal year thereafter, and for the following specific purposes:

(1) For protection and propagation of marine fish, lobsters, and shellfish;

(2) For additional enforcement of the marine fishery regulations;

(3) For transplanting shellfish from closed areas or enhancing the shellfish resource through other technologies including seeding;

(4) For fishing port development and construction;

(5) For staff support of, and expenses incurred by, the marine fisheries council; ~~and~~

(6) For lease and purchase of land or acquisition of conservation easements; and

(7) For technical support to and expenses incurred by the department for the collection, processing, analysis, and maintenance of data for fisheries management.

SECTION 3. Sections 20-2-20, 20-2-21, 20-2-23, 20-2-25, 20-2-26, 20-2-26.1, 20-2-27, 20-2-27.2, 20-2-28 and 20-2-28.1 of the General Laws in Chapter 20-2 entitled "Licensing" are hereby repealed.

20-2-20. Commercial shellfish licenses. -- ~~(a) A resident older than nineteen (19) years but younger than sixty five (65) years shall pay two hundred dollars (\$200) for a commercial license to take shellfish.~~

~~(b) A resident twenty three (23) years or younger shall pay fifty dollars (\$50.00) for a student commercial license to take shellfish upon provision of proof of full time student status.~~

1 ~~-(c) Commercial shellfish licenses shall expire on December 31 of each year.~~

2 **20-2-21. Shellfish dredging license -- Fees.** ~~--- A resident of this state shall pay an annual~~
3 ~~fee of two hundred dollars (\$200) for a license to take quahaugs, mussels, and surf clams by~~
4 ~~dredges hauled by power boat.~~

5 **20-2-23. Shellfish buyer's license.** ~~--- The annual fee for a shellfish buyer's license is two~~
6 ~~hundred dollars (\$200).~~

7 **20-2-25. Scallop license.** ~~--- Commercial: --- two hundred dollars (\$200). The license is~~
8 ~~only issued to a resident of this state and shall be valid only for the reason for which issued.~~

9 **20-2-26. Fish trap license.** ~~--- Two hundred dollars (\$200) per license and twenty dollars~~
10 ~~(\$20.00) per trap location in accordance with the provisions of chapter 5 of this title.~~

11 **20-2-26.1. Gill net licenses.** ~~--- (a) Each resident of the state is eligible to obtain a license~~
12 ~~to utilize gill nets upon payment of an annual fee of two hundred dollars (\$200) subject to rules~~
13 ~~and regulations established by the marine fisheries council.~~

14 ~~-(b) Each resident who holds a multi-purpose commercial marine license, as provided in~~
15 ~~section 20-2-28.1, or a commercial vessel or vessel operator's license, as provided in section 20-~~
16 ~~2-27(c), is also eligible to apply for a commercial gill net permit in accordance with the~~
17 ~~provisions of this section. The annual recording fee for commercial gill netting is twenty dollars~~
18 ~~(\$20.00) and shall be paid in addition to the fees payable under sections 20-2-27(c) and 20-2-~~
19 ~~28.1.~~

20 **20-2-27. Commercial fishing licenses.** ~~--- (a) Rod and reel (for sale of finfish lawfully~~
21 ~~taken by rod and reel or diving): --- two hundred dollars (\$200) for residents of the state; four~~
22 ~~hundred dollars (\$400) for nonresidents of the state.~~

23 ~~-(b) Individual (for named individual only, lawfully taking fish for sale with use of nets or~~
24 ~~other means without use of boat): --- two hundred dollars (\$200) for residents of the state; four~~
25 ~~hundred dollars (\$400) for nonresidents of the state.~~

26 ~~-(c) Commercial vessel or vessel operators engaged in a commercial fishery, excepting~~
27 ~~those vessels or operators of vessels covered by section 20-2-24 (lobster fishery), sections 20-2-~~
28 ~~20 and 20-2-21 (shellfishery), or section 20-2-28 (non-resident otter trawl):~~

29 ~~-(1) Vessels up to fifty feet (50') in total length: two hundred dollars (\$200) for residents~~
30 ~~of the state; four hundred dollars (\$400) for nonresidents of the state;~~

31 ~~-(2) Vessels from fifty feet (50') to ninety nine feet (99') in total length: two hundred fifty~~
32 ~~dollars (\$250) for residents of the state; five hundred dollars (\$500) for nonresidents of the state;~~

33 ~~-(3) Vessels from ninety nine feet (99') or more in total length: twenty dollars (\$20.00)~~
34 ~~per lineal foot or any part thereof of the registered length of the vessel for residents of the state;~~

~~forty dollars (\$40.00) per lineal foot or any part thereof of the registered length of the vessel for~~
~~nonresidents of the state:~~

~~–(4) Miscellaneous pot fishery, vessels not licensed in any of the above categories engaged in commercial scup, crab, eel or conch pot fishery: two hundred dollars (\$200). This license is issued only to a legal resident of the state of Rhode Island.~~

~~(d) Rhode Island finfish dealer: two hundred dollars (\$200).~~

20-2-27.2. Commercial aquaculture license. -- There is hereby established a commercial aquaculture license for the purpose of facilitating the development of commercial aquaculture in the state. Any person, corporation or business entity, chartered under the laws of this state, who is granted a permit for the conduct of aquaculture by the coastal resources management council in accordance with chapter 10 of this title, shall obtain a commercial aquaculture license to harvest, possess, or sell aquaculture products in the state to licensed fish and shellfish dealers. The license shall be issued by the department on a calendar year basis for an annual fee of two hundred dollars (\$200).

20-2-28. Non-resident otter, beam, or pair trawl. -- Any resident of a state which accords to residents of Rhode Island reciprocal commercial fishing privileges may obtain a license for the setting of an otter, beam, or pair trawl or other mechanical trawling device in those areas of the state's waters where such a device is allowed upon application therefor and payment of a fee computed on the basis of twenty dollars (\$20.00) per lineal foot, or part thereof, of the registered length of the vessel to be licensed, as indicated on its document, certificate of award, register, enrollment, or license issued by the United States collector of customs. This license is non-transferable and is issued annually for the fee specified on the first day of January in each year and expires on the succeeding December 31st. If it appears in the public interest, the director may suspend or cancel this license on ten (10) days' notice in writing to the holder thereof.

20-2-28.1. Multi-purpose license -- Fees. -- (a) Each resident of this state is eligible to obtain a multi-purpose commercial marine license to participate in all commercial marine fisheries licensed subject to this chapter upon payment of an annual fee of three hundred dollars (\$300).

~~(b) Multi purpose Rhode Island dealers licenses. This license allows persons to deal all~~
~~marine products in the state of Rhode Island, three hundred dollars (\$300).~~

SECTION 4. Title 20 of the General Laws entitled "Fish and Wildlife" is hereby amended by adding thereto the following chapter:

CHAPTER 2.1

COMMERCIAL FISHING LICENSES

1 **20-2.1-1. Findings.** – The general assembly finds and declares:

2 (1) That the constitution of the state places plenary authority and responsibility in the
3 general assembly to provide for the conservation of natural resources of the state, including its
4 marine fisheries;

5 (2) That the state of Rhode Island has historically established programs to provide for and
6 regulate harvesting, taking, landing, and selling marine finfish, crustaceans, and shellfish for the
7 benefit of the people of the state;

8 (3) That federal government and regional entities have established and continue to
9 establish regulatory programs, management measures, quotas, and restrictions that affect persons
10 engaged in marine fisheries in Rhode Island, and that Rhode Island functions in whole or in part
11 in the context of these federal and regional programs depending on the marine species;

12 (4) That the department of environmental management in accordance with the
13 requirements of section 20-3.1-7(1) of the general laws has issued goals and principles pertaining
14 to biological, socio-economic, and licensing and data collection issues that present;

15 (5) That the rights and interests of residents of Rhode Island to engage in fishing
16 including commercial fishing need to be recognized and protected;

17 (6) That the rights and interests of persons engaged in commercial fishing are affected by
18 fisheries management programs and allocations and need to be reported and be given
19 consideration; and

20 (7) That Rhode Island's statutes and programs for marine fisheries management and
21 licensure developed over time and need to be brought up-to-date and made adaptable to changing
22 conditions and circumstances.

23 **20-2.1-2. Purposes.** – The purposes of this chapter are, through a system of licensure that
24 is clear, predictable and adaptable to changing conditions, to:

25 (1) Preserve, enhance, and allow for any necessary regeneration of the fisheries of the
26 state, for the benefit of the people of the state, as an ecological asset and as a source of food and
27 recreation;

28 (2) Provide Rhode Islander who wish to fish commercially the opportunity to do so and
29 end the moratorium on issuance of new commercial fishing licenses so that new licenses may be
30 issued for the year beginning January 1, 2003, and each year thereafter;

31 (3) Allow residents who have fished commercially to sell their vessels and gear in a
32 manner that first, facilitates up-grading license levels among residents already in the fishery; that
33 second, provides lateral movement among residents who are holders of commercial fishing
34 licenses to other types of fishing; and that third, enables new entrants into new commercial

1 fishing;

2 (4) Respect the interests of residents who fish under licenses issued by the state and wish
3 to continue to fish commercially in a manner that is economically viable: provided, it is
4 specifically not a purpose of this chapter to establish licensing procedures that eliminate the
5 ability to fish commercially of any resident as of the date of enactment who validly holds
6 commercial fishing license;

7 (5) Preserve and enhance full-time commercial fishing, with a high degree of
8 participation by owner operated vessels, as a way of life and as a significant industry in Rhode
9 Island;

10 (6) Establish principles, for a system of adaptive management, that shall be used by the
11 department in licensure programs and fisheries management, which principles shall include:

12 (i) the foregoing purposes; and

13 (ii) as appropriate, necessary, and effective, the following measures:

14 (A) regulation of the design and use of gear;

15 (B) limitations on the amount of gear that may be used by a license holder;

16 (C) restrictions on when and where commercial fishing may be done;

17 (D) quotas and limitations on catch or landings; and

18 (E) restrictions on the number of license holders;

19 (7) Provide a licensure system that facilitates data collection and management so that
20 marine fisheries can be managed more efficiently and effectively.

21 **20-2.1-3. Definitions.** – For the purposes of this chapter the following terms shall mean:

22 (1) “Basic harvest and gear levels” shall mean fishery-specific harvest and/or gear levels,
23 established and regularly updated by the department by rule, which, in a manner consistent with
24 such state or federally sanctioned management plans or programs that may be in effect, and to the
25 extent possible given such plans and programs, provide a maximum level of participation for
26 Commercial Fishing License holders in accordance with applicable endorsements.

27 (2) "Commercial fisherman" shall mean a natural person who catches, harvests, or takes
28 finfish, crustaceans, or shellfish from the marine waters for sale.

29 (3) "Council" shall mean the Marine Fisheries Council established by chapter 20-3 of the
30 general laws.

31 (4) "Crustaceans" shall mean lobsters, crabs, shrimp, and for purposes of this chapter it
32 shall also include horseshoe crabs.

33 (5) "Director" shall mean the director of the department of environmental management.

34 (6) “Endorsement” shall mean the designation of a fishery in which a license holder may

1 participate at either basic or full harvest and gear levels. Endorsement categories and levels shall
2 be established annually by the department by rule, based on the status of the various fisheries, the
3 levels of participation of existing license holders, and the provisions of applicable management
4 plans or programs. At a minimum, endorsement categories and endorsement opportunities shall
5 include, but may not be limited to: non-lobster crustacean; lobster; non-quahaug shellfish;
6 quahaug; non-restricted finfish; and restricted finfish. Endorsements, when available, shall be
7 issued in accordance with applicable qualifying criteria.

8 (7) "Finfish" shall mean cold-blooded aquatic vertebrates with fins, including fish,
9 sharks, rays, skates, and eels and shall also include, for the purposes of this chapter squid.

10 (8) "Fisheries sectors" shall mean and comprise crustaceans, finfish, shellfish, as herein
11 defined, each of which shall singularly be considered a fishery sector.

12 (9) "Full harvest and gear levels" shall mean fishery-specific harvest and/or gear levels,
13 established and regularly updated by the department by rule, which, in a manner consistent with
14 such state or federally sanctioned management plans or programs that may be in effect, and to the
15 extent possible given such plans and programs, provide a maximum level of participation for
16 Principal Effort License holders in accordance with applicable endorsements and for all Multi-
17 Purpose License holders.

18 (10) "Shellfish" shall mean quahogs, clams, mussels, scallops, oysters, conches, and
19 mollusks in general other than squid.

20 (11) "Student commercial fisherman" shall mean a resident twenty-three (23) years of age
21 or younger who is a full-time student.

22 **20-2.1-4. Licenses -- General provisions governing licenses issued [to be effective**
23 **January 1, 2003, and after]. – (a) Licenses and vessel declarations required. It shall be unlawful**
24 **for any person in Rhode Island or the waters of the state, (1) to catch, harvest, or to hold or**
25 **transport for sale in Rhode Island any marine finfish, crustacean, or shellfish without a license**
26 **issued under the provisions of this title, provided, however, that marine finfish, crustaceans, or**
27 **shellfish may be transported by a duly licensed dealer if the said marine finfish, crustaceans, or**
28 **shellfish has previously been sold by a duly licensed person, or (2) to engage in commercial**
29 **fishing from a vessel unless the vessel has been declared a commercial fishing vessel as provided**
30 **in section 20-2.1-5(2) and has a decal affixed to it or is displaying a plate.**

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

33 **(c) Transfer or loan of license. Unless otherwise provided for in this title, a license issued**
34 **to a person under this chapter shall be good only for the person to whom it is issued; and any**

1 transfer or loan of the license shall be grounds for revocation or suspension of that license
2 pursuant to section 20-2-13.

3 (d) Reporting and inspections condition of license. All persons granted a license under
4 the provisions of this chapter are deemed to have consented to the reporting requirements
5 applicable to commercial fishing actively that are established pursuant to this title and to the
6 reasonable inspection of any boat, vessel, net, rake, bullrake, tong, dredge, trap, pot, vehicle,
7 structure, or other contrivance used regularly for the keeping or storage of fish, shellfish or
8 crustaceans, and any creel, box, locker, basket, crate, blind, fishing, or paraphernalia used in
9 conjunction with the licensed activity by persons duly authorized by the director. The provisions
10 of section 20-1-8 (a)(7)(ii) shall apply to said inspections.

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

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

28 (g) For commercial marine fishing licenses provided for in sections 20-2.1-5 and 20-2.1-
29 6, of this chapter, the following provisions shall apply: (1) unless otherwise specified in this
30 chapter, an individual qualified to obtain a license must submit an application to the department
31 of environmental management no later than February 28 of each year; license application shall be
32 deemed valid if submitted to the department prior to the close of regular office hours on February
33 28, or if postmarked by February 28; (2) unless otherwise specified in this title, no new or
34 renewed licenses shall be issued after February 28 of each year, unless an applicant has submitted

1 an application by the February 28 deadline required by this section; and (3) the department shall
2 notify all license holders, in writing, regarding the December 31 expiration and the February 28
3 renewal deadline no later than November 1 of each year.

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

9 (i) Expiration and deadline for renewal. (1) Beginning January 1, 2003, unless otherwise
10 specified in this title, all licenses issued under this chapter shall be annual and shall expire on
11 December 31 of every year.

12 (2) All commercial marine fisheries licenses that are subject to renewal July 1, 2002, may
13 be renewed for a six (6) month period ending December 31, 2002. The fee for the renewals shall
14 be one-half (1/2) of the amount for annual renewal of the licenses as otherwise provided for in
15 this title.

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

22 (2) False statements and violations -- Cancellation of license. Any person who willfully
23 makes a false representation as to birthplace or requirements of identification or of other facts
24 required in an application for license under this chapter, or is otherwise directly or indirectly a
25 party to such a false representation, shall be punished by a fine of not more than fifty dollars
26 (\$50.00). A license obtained by any person through such a false representation shall be null and
27 void, and the license shall be surrendered immediately to the director. No license shall be issued
28 under this title to this person for a period of one (1) year from the date of imposition of a penalty
29 under this section.

30 (3) Every person who falsely makes, alters, forges, or counterfeits, or who causes to be
31 made, altered, forged, or counterfeited, a license issued under this chapter or title or purporting to
32 be a license issued under this chapter or title, or who shall have in his or her possession such a
33 license knowing it to be false, altered, forged, or counterfeit, is guilty of a misdemeanor and is
34 subject to the penalties prescribed in section 20-1-16.

1 **20-2.1-5. Resident licenses [effective January 1, 2003, and after].** – The director shall
2 establish as a minimum the following types of licenses set forth in this section. In addition, the
3 director may establish such other classes and types licenses and endorsements, consistent with the
4 provisions of this chapter and with adopted management plans that may be necessary to
5 accomplish the purposes of this chapter.

6 (1) Types of License.

7 (i) Commercial Fishing License. Rhode Island residents shall be eligible to obtain a
8 commercial fishing license; said license shall allow the holder to engage in commercial fishing in
9 fisheries sectors, per endorsement at basic harvest and gear levels. The annual fee for a
10 commercial fishing license shall be fifty dollars (\$50.00) and twenty-five dollars (\$25.00) for
11 each endorsement at the basic harvest and gear levels.

12 (ii) Principal effort license. Duly licensed persons in a fishery as of December 31, 2002,
13 shall be eligible to obtain a principal effort license for the fishery sector for which they were
14 licensed on December 31, 2002; which principal effort license shall allow its holder to fish in a
15 fishery sector at the full harvest and gear levels. The annual fee for a principal effort license shall
16 be one hundred fifty dollars (\$150). Principle effort license holders in addition to the fishery
17 sector of their principle effort, shall be eligible to obtain endorsements for the other fishery
18 sectors at the full harvest and gear levels, if and when such endorsements are made available; the
19 annual fee for each such fishery sector endorsement shall be seventy-five dollars (\$75.00).
20 Principle effort license holders shall also be eligible to obtain a commercial fishing license with
21 endorsements except for fisheries in which the license holder can fish at the full harvest and gear
22 levels.

23 (iii) Multi-purpose license. All multi-purpose license holders as of December 31, 2002,
24 shall be eligible to obtain a multi-purpose license, which shall allow the holder to engage in
25 commercial fishing in all fisheries sectors at the full harvest and gear levels. At the time of
26 application for a multi-purpose license and each annual renewal thereof, the applicant shall make
27 a non-binding declaration of which fishing sectors the applicant intends to place significant
28 fishing effort during the period covered by the license. The annual fee for multi-purpose license
29 shall be three hundred dollars (\$300).

30 (iv) Special licenses.

31 (A) Student shellfish license. A resident twenty-three (23) years or younger shall pay
32 fifty dollars (\$50.00) for a student commercial license to take shellfish upon provision of proof of
33 full-time student status.

34 (B) Over sixty-five (65) shellfish license. A resident sixty-five (65) year of age and over

1 shall be eligible for a shellfish license to shellfish commercially and there shall be no fee for this
2 license.

3 (2) Vessel fees and special vessel gear licenses and fees.

4 (i) Vessel declaration and fee. The department shall require the owner and/or the
5 operator of a commercial fishing vessel to declare the vessel on the owner/operators commercial
6 fishing license. The declaration shall be made at the time of initial license issuance and each
7 renewal, or prior to the vessels being used for commercial fishing by the owner an/or operator if
8 the first usage of the vessel for commercial fishing occurs during the course of a year after the
9 license has been issued or renewed, if the declaration is for a vessel of less than twenty-five feet
10 (25') in length, the declaration shall be transferable to another vessel less than twenty-five feet
11 (25') in length, provided the vessel is identified as commercial fishing vessel while it is being
12 used for commercial fishing by displaying a plate as provided in section 20-2.1-4

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

19 (ii) Special vessel and gear licenses and fees.

20 (A) Shellfish dredging license -- Fee. A resident of this state shall pay an annual fee of
21 two hundred dollars (\$200) for a license to take quahogs, mussels, and surf clams by dredges
22 hauled by powerboat.

23 (B) Fish trap license. Twenty dollars (\$20.00) per trap location in accordance with the
24 provisions of chapter 5 of this title.

25 (C) Gill net licenses. A person who holds a multi-species participant license and/or a
26 principal effort license for finfish is also eligible to apply for a commercial gill net permit in
27 accordance with the provisions of this section. The annual recording fee for commercial gill
28 netting is twenty dollars (\$20.00).

29 (D) Miscellaneous gear licenses, the department may establish by rule such specific gear
30 licenses as may be necessary or appropriate to effectuate the purposes of this chapter and
31 facilitate participation in a specific fishery with a specific type of gear; the fee for such a gear
32 license shall not be greater than two hundred dollars (\$200), but may be a lesser amount. This
33 license shall be issued only in a manner consistent with the general requirements of this chapter,
34 including specifically those governing residency.

1 (3) New Licenses:

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

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

10 (iii) Availability new, additional licenses. New principal effort and multi-purpose
11 licenses, that increase the total number of licenses in the fishery, may be made available by rule
12 consistent with management plan for issuance effective January 1, in any year, based on status of
13 resource and economic condition of fishery. Priority for new licenses shall be given to Rhode
14 Island residents.

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

18 (5) Transfer for hardship. Notwithstanding the provisions of section 20-2.1-4 (C), a
19 license may be transferred to a family member upon the incapacity, or death of the license holder,
20 who has actively participated in commercial fishing. Such transfer shall be effective upon its
21 registration with the department. A family member shall be defined as the spouse, mother, father,
22 brother, sister, child or grandchild of the transferor. The department shall make available as
23 necessary operator permits to provide solely for the continued operation of a fishing vessel upon
24 the illness, incapacity or death of a license holder, who has actively participated in commercial
25 fishing, which operator permits shall be subject at a minimum to the conditions and restrictions
26 that applied to the license holder.

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

31 **20-2.1-6. Non-resident licenses [effective January 1, 2003, and after]. – Subject to the**
32 rules of the department, non-residents may apply for the following commercial fishing licenses:

33 (1) Non-Resident Principal Effort License - - (a) A Non-Resident Principal Effort License
34 shall allow the holder to harvest, land, and sell in a lawful manner any species of finfish, per

endorsement(s), at principal harvest and gear levels and as allowed in a management plan adopted by the department.

(b) Duly Rhode Island-licensed non-residents in a commercial fishery as of December 31, 2002 shall be eligible to obtain a Non-Resident Principal Effort License with a single sector endorsement applicable to the fishery for which they were licensed as of December 31, 2002; provided (i) that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents; (ii) that said persons apply for said Non-Resident Principal Effort License no later than February 28, 2003; and (iii) that said persons shall also be subject to such other restrictions that were applicable to the license as of December 31, 2002, which other restrictions may be altered or changed consistent with a management plan adopted by the department.

(c) Persons not duly licensed as of December 31, 2002 shall be eligible to obtain a Non-Resident Principal Effort License, per endorsement, when available, in accordance with applicable qualifying criteria and as allowed in a management plan adopted by the department, provided that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents.

(d) Holders of Non-Resident Principal Effort Licenses shall remain eligible to participate in their endorsed fishery sectors, at principal harvest and gear levels, if said license holders annually renew their licenses in accordance with applicable laws and rules, and provided that the state of residence of the person continues to afford the same privilege in a manner that is not more restrictive to Rhode Island residents.

(e) The annual fee for a non-resident commercial fishing license shall be four hundred dollars (\$400), plus one hundred dollars (\$100) per endorsement.

(2) Non-Resident Commercial Fishing License - - (a) A Non-Resident Commercial Fishing License shall allow the holder to harvest, land, and sell in a lawful manner any species of finfish, per endorsement(s), at basic harvest and gear levels and as allowed in a management plan adopted by the department.

(b) Non-residents age eighteen (18) and over shall be eligible to obtain a Non-Resident Commercial Fishing License and, in accordance with applicable qualifying criteria, available fishery sector endorsements, provided that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents.

(c) Holders of Non-Resident Principal Effort Licenses shall not be eligible to obtain Non-Resident Commercial Fishing Licenses with the same fishery sector endorsements.

(d) Holders of Non-Resident Commercial Fishing Licenses shall remain eligible to

1 participate in their endorsed fishery sectors, at basic harvest and gear levels, if said license
2 holders annually renew their licenses in accordance with applicable laws and rules, and provided
3 that the state of residence of the person continues to afford the same privilege in a manner that is
4 not more restrictive to Rhode Island residents.

5 (e) The annual fee for a Non-Resident Commercial Fishing License shall be one hundred
6 fifty dollars (\$150), plus fifty dollars (\$50.00) per endorsement.

7 (3) Vessel declaration fees and vessel and gear license, fees.

8 (i) Vessel declaration. The department shall require a non-resident owner and/or operator
9 of a commercial fishing vessel to make a declaration for that vessel; which shall be made at the
10 time of initial license issuance and each renewal, or prior to the vessel's being used for
11 commercial fishing in Rhode Island waters by the non-resident owner and/or operator if the first
12 usage of the vessel for commercial fishing occurs during the course of a year after the license has
13 been issued or renewed, for a cost of fifty dollars (\$50.00), plus one dollar and fifty cents (\$1.50)
14 for each whole foot over twenty-five feet (25') in length overall.

15 (4) New licenses. Any resident of a state that accords to Rhode Island residents
16 commercial fishing privileges that include an ability to obtain a new license to fish for finfish
17 species that are subject to restrictions and/or quotas, may on species specific reciprocal basis be
18 eligible to obtain commercial fishing licenses and principal effort licenses by endorsement as
19 provided herein, subject to availability and with the priority established in section 20-2.1-5
20 (3)(iii).

21 **20-2.1-7. Landing permits.** – Landing permits shall be issued as provided for in chapter
22 4 of this title. In addition, a non-resident must obtain a landing permit, for a fee of two hundred
23 dollars (\$200), to off-load or land species harvested outside Rhode Island waters. Said landing
24 permit shall be valid for the calendar year in which it was issued. The department shall adopt such
25 rules and procedures as may be necessary for the timely issuance of such permits in order to
26 facilitate the off-loading and sale of non-quota species harvested outside state waters.

27 **20-2.1-8. Dealers licenses.** - - In accordance with sections 20-4-1.1, 20-6-24, and 20-7-
28 5.1, the following dealers licenses shall be issued by the department:

29 (1) Multi-purpose Rhode Island Dealer's License - - This license shall allow the holder to
30 deal all marine products in the state of Rhode Island. The license shall be valid for the calendar
31 year in which it is issued. The cost of the license shall be three hundred dollars (\$300).

32 (2) Finfish Dealer's License - - This license shall allow the holder to deal all finfish
33 products in the State of Rhode Island. The license shall be valid for the calendar year in which it
34 is issued. The cost of the license shall be two hundred dollars (\$200).

1 (3) Shellfish Dealer’s License - - This license shall allow the holder to deal all shellfish
2 products in the State of Rhode Island. The license shall be valid for the calendar year in which it
3 is issued. The cost of the license shall be two hundred dollars (\$200).

4 **20-2.1-9. Powers and duties of the director.** – It shall be the duty of the director to
5 adopt, implement effective January 1, 2003, and maintain a commercial fisheries licensing system
6 that shall incorporate and be consistent with the purposes of this chapter; in performance of this
7 duty the director shall follow the guidelines and procedures set forth below.

8 (1) The rule making powers of the director to accomplish the purposes of this chapter
9 shall include the following with regard to commercial fishing licenses and commercial fishing by
10 license holders:

11 (i) Types of licenses and/or license endorsement consistent with the provisions of this
12 chapter and applicable sections of this title, and limitations on levels of effort and/or on catch by
13 type of license and/or license endorsement;

14 (ii) Design, use, and identification of gear;

15 (iii) Declarations for data collection purposes of vessels used in commercial fishing,
16 which declaration requirements shall in no way, except as otherwise provided for in law, restrict
17 the use of any vessel less than twenty-five feet (25') in length overall by appropriate holders of
18 commercial fishing licenses;

19 (iv) Areas in Rhode Island waters where commercial fishing of different types may take
20 place, and where it may be prohibited or limited, and the times and/or seasons when commercial
21 fishing by type or species may be allowed, restricted, or prohibited.

22 (v) Limitations and/or restrictions on effort, gear, catch, or number of license holders and
23 endorsements.

24 (vi) Emergency rules, as provided for in chapter 42-35, to protect an unexpectedly
25 imperiled fishery resource, to provide access to a fisheries resource that is unexpectedly more
26 abundant, and to protect the public health and safety from an unexpected hazard or risk. The
27 Marine Fisheries Council shall be notified of all emergency rules on or before their effective date,
28 and no emergency rule shall become a final rule unless it is promulgated as provided for in
29 section 20-2.1-8(3).

30 (2) When implementing the system of licensure set forth in sections 20-2.1-4, 20-2.1-5,
31 20-2.1-6, and 20-2.1-7 of this chapter and other provisions of this title pertaining to commercial
32 fishing licenses, permits, and registrations, the director shall consider the effect of the measure on
33 the access of Rhode Islanders to commercial fishing and when establishing limitations on effort
34 and/or catch:

1 (i) The effectiveness of the limitation:

2 (A) In achieving duly established conservation or fisheries regeneration goals or
3 requirements;

4 (B) In maintaining the viability of fisheries resources overall, including particularly, the
5 reduction of by-catch, discards, and fish mortality, and in improving efficiency in the utilization
6 of fisheries resources;

7 (C) In complementing federal and regional management programs and the reciprocal
8 arrangements with other states.

9 (ii) The impact of the limitation on persons engaged in commercial fishing on:

10 (A) Present participation in the fishery, including ranges and average levels of
11 participation by different types or classes of participants;

12 (B) Historical fishing practices in, and dependence on, the fishery;

13 (C) The economics of the fishery;

14 (D) The potential effects on the safety of human life at sea;

15 (E) The cultural and social framework relevant to the fishery and any affected fishing
16 communities; and

17 (iii) Any other relevant considerations that the director finds in the rule making process.

18 (iv) The following standards for fishery conservation and management, which standards
19 shall understood and applied so far as practicable and reasonable in a manner consistent with
20 federal fisheries law, regulation, and guidelines:

21 (A) Conservation and management measures shall prevent overfishing, while achieving,
22 on a continuing basis, the optimum yield from each fishery;

23 (B) Conservation and management measures shall be based upon the best scientific
24 information available; and analysis of impacts shall consider ecological, economic and social
25 consequences of the fishery as a whole;

26 (C) Conservation and management measures shall, where practicable, consider efficiency
27 in the utilization of fisheries resources; except that no such measure shall have economic
28 allocation as its sole purpose;

29 (D) Conservation and management measures shall take into account and allow for
30 variations among, and contingencies in, fisheries, fishery resources, and catches;

31 (E) Conservation and management measures shall, where practicable, minimize costs and
32 avoid unnecessary duplication.

33 (F) Conservation and management measures shall, consistent with conservation
34 requirements of this act (including the prevention and overfishing and rebuilding of overfished

1 stocks), take into account the importance of fishery resources to fishing communities in order to
2 (I) provide for the sustained participation of such communities, and (II) to the extent practicable,
3 minimize adverse economic impacts on such communities.

4 (G) Conservation and management measures shall, to the extent practicable, (I) minimize
5 bycatch and (II) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

6 (H) Conservation and management measures shall, to the extent practicable, promote the
7 safety of human life at sea.

8 (3) The rule making process herein set forth shall conform with the requirements of
9 chapter 42-35, the administrative procedures act, and shall:

10 (i) Regulatory agenda for marine fisheries management, with the advice of the Marine
11 Fisheries Council, in accordance with the requirements of section 42-35-5.1 of the general laws.

12 (ii) The director shall submit proposed rule to the Marine Fisheries Council at least sixty
13 (60) days prior to the proposed date public hearing on the rule;

14 (iii) The public hearing shall be on either the rule as proposed to the Marine Fisheries
15 Council by the director or a proposed revision to that rule adopted by the Marine Fisheries
16 Council;

17 (iv) The proposed rule as submitted by the director to the Marine Fisheries Council and
18 the council report and recommendation regarding the rule shall both be entered into the record of
19 the hearing conducted in accordance with the requirements of chapter 42-35.

20 (v) Notwithstanding the provisions of subdivisions (i) – (iv), the director may promulgate
21 a rule with less than sixty (60) days notice to the Marine Fisheries Council if and to the extent
22 necessary to comply with federal requirements or to respond to a sudden change in conditions,
23 where failure to take immediate action would be likely to cause harm to fishery resources or
24 participants.

25 (vi) The decision of the director shall state the basis for adopting the rule including a
26 concise statement giving the principal reasons for and against its adoption and the response to
27 positions entered into the record; and in the case of a rule promulgated in accordance with
28 subdivision (v) above, the reasons for having to take immediate action.

29 (4) Matters to be considered in establishing license programs under this chapter. The
30 director shall be consistent with the requirements of section 20-2.1-2(6) establish and implement
31 a licensing system in accordance with the provisions of this chapter that shall be designed to
32 accomplish marine fisheries management objectives. Such licensing system may limit access to
33 fisheries, particularly commercial fisheries for which there is adequate or greater than adequate
34 harvesting capacity currently in the fishery and for which either a total allowable catch has been

1 set or a total allowable level of fishing effort has been established for the purpose of preventing
2 over-fishing of the resource or the dissipation of the economic yield from the fishery. This
3 authority shall include the authority of the director to:

4 (i) Differentiate between the level of access to fisheries provided to license holders or
5 potential license holders on the basis of past performance, dependence on the fishery, or other
6 criteria;

7 (ii) Establish prospective control dates that provide notice to the public that access to, and
8 levels of participation in, a fishery may be restricted and that entrance into, or increases in levels
9 of participation in a fishery after the control date may not be treated in the same way as
10 participation in the fishery prior to the control date; retroactive control dates are prohibited and
11 shall not be used or implemented, unless expressly required by federal law, regulation or court
12 decision;

13 (iii) Establish levels of catch by type of license and/or endorsement which shall provide
14 for basic and full harvest and gear levels; quotas may be allocated proportionally among classes
15 of license holders as needed to maintain the viability of different forms of commercial fishing.

16 (5) The director shall by rule, with the advice of the Marine Fisheries Council develop
17 conservation and management plans for the fishery resources of the state, which conservation and
18 management plans shall be adopted prior to and at the same time as adoption of any license
19 restrictions on effort or catch. In the development of such fishery conservation and management
20 plans, priority shall be given to those resources with the highest value to the state, either for
21 commercial or recreational purposes.

22 (6) The director to report annually to the general assembly and to the citizens concerning
23 the conservation and management of the fishery resources of the state, noting particularly the
24 status of any fishery resources that are considered to be over-fished or were considered to be
25 over-fished in the preceding year.

26 **20-2.1-10. Powers and duties of the Marine Fisheries Council with regard to**
27 **licensure.** – The Marine Fisheries Council, established by chapter 20-3, shall have the power and
28 the duty to advise the director in accordance with section 20-2.1-8(3) on all rules, except
29 emergency rules, necessary to implement the provisions of this chapter. The council may
30 establish such committees and hold such meetings and hearings as it may deem appropriate to
31 fulfill this responsibility. The council shall advise the director on the development of the
32 regulatory agenda for marine fisheries and shall have the power to initiate rule making by petition
33 as provided for in section 42-35-6. The council shall advise the department concerning the
34 development of annual plans for the allocation and use of the funds made available to the

1 department from commercial fishing license fees, tags, permits, and vessel fees as provided in
2 section 20-2-28.2.

3 **20-2.1-11. Industry advisory committee.** – The council shall establish an industry
4 advisory committee to provide coordination among commercial fisheries sectors and to review
5 plans and recommendations that affect more than commercial fishery sector, and to advise the
6 council and the department on matters which affect commercial fishing as a whole, which
7 committee shall include representatives of each commercial fisheries sector and of manners of
8 commercial fishing.

9 **20-2.1-12. Commercial fishing license review board.** - - (a) There is hereby established
10 within the department commercial fishing license review board of five (5) members to be
11 appointed by the governor for a term of five (5) years with the advice and consent of the senate,
12 provided that for the initial appointments, two (2) shall be for a term of five (5) years, one (1)
13 shall be for a term of four (4) years, one (1) shall be for a term of three (3) years, and one (1) shall
14 be for a term of two (2) years. Three (3) members shall be commercial fishers, one (1) from each
15 of the fisheries sectors; one (1) of whom shall be a person with professional knowledge of
16 fisheries management, and one (1) of whom shall be an attorney, licensed to practice law for at
17 least five (5) years and with environmental law expertise; the attorney member shall be the chair.
18 Three (3) members of the board shall constitute a quorum. Members of the board shall serve until
19 their successors are duly appointed. The purpose of the board shall be to hear requests for
20 reconsideration of the preliminary denial of a commercial fishing license.

21 (b) Any person whose application for a commercial fishing license was denied by the
22 Office of Boat Registration and Licensing may file a request for reconsideration to the
23 commercial fishing license review board. Requests for reconsideration must be filed with the
24 Office of Boat Registration and Licensing within ten (10) days of receipt of the denial. The
25 review board shall consider the impact that issuance of the license will have on the fisheries
26 management program overall, equity with other license holders, consistency with prior agency
27 decisions, consistency with management plans, unreasonable hardship to the applicant and
28 consistency with the purposes of this act. The burden shall be on the applicant to demonstrate to
29 the board that they meet the criteria for a license.

30 (c) Within thirty (30) days of receipt of a request for reconsideration, the review board
31 shall issue a written recommendation to the Office of Boat Registration and Licensing. The
32 decision of the board shall state the specific grounds for its decision and the vote of the board.
33 Within ten (10) days of receipt of the decision of the board, the Office of Boat Registration and
34 Licensing shall issue a written decision affirming, denying or modifying the recommendation of

1 the board and stating the rationale therefor. The applicant may appeal the decision of the Office
2 of Boat Registration and Licensing to the Administrative Adjudication Division for
3 Environmental Matters pursuant to section 42-17.7-1 et seq. The written decision of the review
4 board and the Office of Boat Registration and Licensing shall be provided and made part of the
5 administrative record upon appeal.

6 (d) Nothing contained in this section shall affect the authority granted in chapter 17.7 of
7 title 42.

8 **20-2.1-13. Liberal construction.** – The provisions of this chapter, being necessary for
9 the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its
10 purposes.

11 SECTION 5. Section 20-3-1 of the General Laws in Chapter 20-3 entitled "Marine
12 Fisheries Council" is hereby amended to read as follows:

13 **20-3-1. Council created -- Membership -- Compensation.** -- There is hereby created a
14 marine fisheries council. The council shall be composed of the director of the department of
15 environmental management or the director's designee, who shall serve as chairperson and eight
16 (8) private citizen members. The private citizen members shall be chosen from among those with
17 skill, knowledge and experience in the commercial fishing industry, the sport fishing industry,
18 and in the conservation and management of fisheries resources and shall be appointed by the
19 governor with the advice and consent of the senate. Three (3) of the private citizen members shall
20 be representatives of the commercial fishing industry; three (3) shall be representatives of the
21 sport fishing industry; and the remaining two (2) shall have skill, knowledge, and experience in
22 the conservation and management of fisheries resources and/or marine biology. The chairperson
23 of the coastal resources management council and the chiefs of the divisions of enforcement and
24 fish and wildlife in the department of environmental management shall serve in an advisory
25 capacity to the council. Members of the council shall serve for a term of four (4) years and may
26 not succeed themselves more than once after January 1, 2002. Initial appointments to the council
27 shall be appointed as follows: three (3) members for a term of two (2) years, three (3) members
28 for a term of three (3) years, and two (2) members for a term of four (4) years. All members of
29 the council shall serve without compensation and shall be reimbursed for their necessary
30 expenses incurred in travel and in the performance of their duties.

31 SECTION 6. Sections 20-3.1-2, 20-3.1-3, 20-3.1-4, 20-3.1-5, 20-3.1-8 and 20-3.1-9 of
32 the General Laws in Chapter 20-3.1 entitled "Marine Fisheries Management Modernization" are
33 hereby repealed.

34 **20-3.1-2. Legislative findings.** – ~~The general assembly finds and declares that:~~

~~(1) Marine fisheries have been important to the way of life of people in Rhode Island throughout its history;~~

~~(2) Marine fisheries resources are seriously depleted in many respects, and this condition adversely affects commercial and recreational fishing;~~

~~(3) There is a public interest in taking action to secure the sustainable viability and use of marine fisheries;~~

~~(4) Sustainability can often be enhanced or achieved through effective control of effort and mortality in marine fisheries;~~

~~(5) Rhode Island has actively managed its marine fisheries for more than one hundred fifty (150) years, and these management efforts have been responsive to the conditions of the fisheries, knowledge of the fisheries, and socio-economic conditions and values;~~

~~(6) Marine fisheries management methods currently used in Rhode Island are not adequate to achieve desired levels of sustainability of certain species of the state's marine fisheries and their commercial and recreational use;~~

~~(7) Moratoria in commercial fisheries, which have been used in 1995–1998 and 2000–present to address concerns about over fishing, are at best an interim measure;~~

~~(8) There is a need to comprehensively upgrade and restructure Rhode Island's marine fisheries management structure and improve information and data collection systems; and~~

~~(9) The Coastal Institute of the University of Rhode Island, with voluntary involvement of a broad range of fishing interests during the winter–spring 2001, produced an analysis of commercial fishing issues that can serve as a basis for commencing the process of restructuring marine fisheries management.~~

20-3.1-3. Purposes. ~~---~~ The purposes of this chapter are to:

~~(1) Commence the process of restructuring marine fisheries management in Rhode Island by: (i) taking initial steps in redesigning fisheries licensure and fees; (ii) establishing expectation for modernization of data collection and analysis by the department; and (iii) authorizing studies to be undertaken that are critical to the development of fisheries management structures needed to secure the sustainability of fisheries and the viability of commercial and recreational fishing;~~

~~(2) Provide a one year period, through an extension of the moratorium on commercial fishing licenses, for the development of effective fisheries management structures.~~

20-3.1-4. Definitions. ~~---~~ For the purposes of this chapter, the following terms shall have the following meaning:

~~(1) "Council" shall mean the marine fisheries council established pursuant to chapter 3 of this title.~~

1 ~~(2) "Department" shall mean the department of environmental management.~~

2 ~~(3) "Director" shall mean the director of the department of environmental management.~~

3 **20-3.1-5. Interim management measure.** ~~--- In order to provide a period of time in order~~
4 ~~to accomplish the purposes and requirements of this chapter and to provide for an orderly~~
5 ~~transition to such other management system as may be enacted by the general assembly or~~
6 ~~adopted by rule by the council or department, the moratorium established pursuant to section 20-~~
7 ~~2-1.1 shall remain in effect until June 30, 2002.~~

8 **20-3.1-8. Reporting.** ~~--- The department, with the advice of the council, shall report~~
9 ~~annually by March 15 of each year through March 15, 2004, on the status and condition of~~
10 ~~fisheries in Rhode Island and the effectiveness of management programs to accomplish the~~
11 ~~purposes of this chapter.~~

12 **20-3.1-9. Severability.** ~~--- If any provision of this chapter or the application thereof to any~~
13 ~~person or circumstances is held invalid, such invalidity shall not effect other provisions or~~
14 ~~applications of the chapter, which can be given effect without the invalid provision or application,~~
15 ~~and to this end the provisions of this chapter are declared to be severable.~~

16 SECTION 7. Section 20-4-1 and 20-4-1.2 of the General Laws in Chapter 20-4 entitled
17 "Commercial Fisheries " is hereby amended to read as follows:

18 **20-4-1. Commercial fishing.** ~~--~~ No person shall engage in the taking for sale by any
19 manner, method, or contrivance, of any marine finfish, shellfish, crustacean, or other invertebrate;
20 and no vessel, boat, trap, seine, or other fishing gear shall be used in the taking for sale or landing
21 of any marine finfish, shellfish, crustacean, or other invertebrate unless a license or permit has
22 been obtained as provided in this title.

23 **20-4-1.2. Resident or non-resident commercial landing permit.** ~~--~~ (a) Each resident or
24 non-resident who has charge of a vessel carrying seafood products legally harvested outside
25 Rhode Island waters shall may obtain a license permit to land, sell or offer for sale seafood
26 products legally harvested outside in Rhode Island, waters Said permit shall be issued by the
27 department upon proof that the applicant holds a valid state or federal commercial fishing license
28 and upon payment of the following fees:

29 (1) Resident or non-resident finfish landing ~~license permit~~: for the landing sale or
30 offering for sale of non-restricted finfish, the definition of which shall be established by the
31 department by rule, caught by any means, two hundred dollars (\$200) for residents of the state;
32 four hundred dollars (\$400) for nonresidents of the state.

33 (2) Resident or non-resident shellfish landing ~~license permit~~ : (includes process product),
34 two hundred dollars (\$200) for residents of the state; four hundred dollars (\$400) for nonresidents

1 of the state. This ~~license~~ permit allows the holder to land shellfish (surf clams, blue mussels,
2 ocean quahaugs, sea scallops) legally harvested in federal water.

3 (3) Resident or non-resident miscellaneous landing ~~license~~ permit: includes all other
4 seafood products not specified under any other provision of this chapter, two hundred dollars
5 (\$200) for residents of the state; four hundred dollars (\$400) for nonresidents of the state.

6 (4) Multi-purpose resident or non-resident landing ~~license~~ permit: This ~~license~~ permit
7 allows a resident or non-resident to land and sell all marine products in the state of Rhode Island,
8 except restricted finfish, the definition of which shall be established by the department by rule,
9 three hundred dollars (\$300) for residents of the state; six hundred dollars (\$600) for nonresidents
10 of the state.

11 (b) Landing permits shall be valid for the calendar year in which they are issued.

12 (c) The department shall adopt such rules and procedures as may be necessary for the
13 timely issuance of such permits in order to facilitate the off-loading and sale of seafood products,
14 except restricted finfish, harvested outside Rhode Island waters.

15 (d) Notwithstanding the above, a commercial vessel with seafood products on board, may
16 without a landing permit, enter Rhode Island waters and be secured to a shoreside facility for
17 purposes other than landing, selling, or offering for sale the seafood products on board if the
18 person having charge of the vessel obtains permission from the department's division of law
19 enforcement prior to securing the vessel to the shoreside facility.

20 SECTION 8. Chapter 20-4 of the General Laws entitled "Commercial Fisheries" is
21 hereby amended by adding thereto the following section:

22 **20-4-1.3. Non-resident landing permits.** – A new landing permit shall not be issued to
23 any non-resident to off-load, land, offer for sale, or sell any restricted marine species the
24 definition of which shall be established by the department by rule and shall take into account
25 species for which a quota has been allocated to the state of Rhode Island by the Atlantic States
26 Marine Fisheries Council or the National Marine Fisheries service, unless: (1) the landing shall
27 be counted against the quota of the state where the vessel making the landing is registered or
28 documented; or (2) the state where the vessel making the landing is registered or documented,
29 issues new landing permits to Rhode Island residents to land against that state's quota for the
30 same species. For purposes of this section, the renewal of any non-resident landing permit shall
31 be considered a new non-resident landing permit unless the applicant can show, to the satisfaction
32 of the director, historic participation in the fishery and landings of the species; and any change or
33 upgrade of a vessel twenty percent (20%) or greater in length, displacement, or horsepower above
34 the named vessel shall be considered a new landing permit. Issuance of a landing permit shall not

1 be deemed to create a property right that can be sold, transferred, or encumbered; landing permits
2 shall be surrendered to the state upon their non-renewal or forfeiture, and the acquisition of a
3 named vessel by a non-resident who does not already have a landing permit shall not entitle the
4 non-resident to a landing permit unless a new landing permit can be issued as herein allowed.

5 SECTION 9. Sections 20-6-3 and 20-6-11 of the General Laws in Chapter 20-6 entitled
6 "Shellfish" are hereby amended to read as follows:

7 **20-6-3. Scallops -- Open season. --** Unless otherwise specified in regulations adopted by
8 the director, in consultations with the marine fisheries council, the open season for taking scallops
9 from the free and common scallop fisheries in any of the waters of the state shall be between
10 sunrise of the first day of October and sunset on the last day of December of every year. Any
11 person taking scallops in violation of this section shall, upon conviction, be fined not less than
12 fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or imprisoned exceeding thirty
13 (30) days for each offense.

14 **20-6-11. Minimum size of shellfish -- Penalty. --** No person shall take and/or possess
15 any quahogs less than one inch (1") shell thickness (hinge width); In addition, no person shall
16 take and/or possess soft shell clams, taken from the free and common soft shell clam fisheries, or
17 ~~mussels~~ of a diameter less than one and one half inches (1 1/2") taking the maximum shell
18 diameter, or any oysters, taken from the free and common oyster fisheries, measuring less than
19 three inches (3") measured parallel to the long axis of the oyster, unless greater minimum sizes
20 are established by the director, in consultation with the marine fisheries council. Any person who
21 takes and/or possesses shellfish of less than the minimum size, as delineated above, upon
22 conviction, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00)
23 for each and every fifteen (15) shellfish taken. Additionally, any person who takes and/or
24 possesses shellfish of less than the minimum size commingled and/or otherwise stored or
25 contained with shellfish of not less than the minimum size, where the percentage of the less than
26 minimum size shellfish is not less than ten percent (10%) of the total piece count of the
27 commingled and/or otherwise stored or contained package, shipment, or container shall be subject
28 to seizure and/or forfeiture of the entire commingled and/or otherwise stored or contained
29 package, shipment, or container, in accordance with the provisions of sections 20-1-8(e) and (f)
30 and 20-1-8.1.

31 SECTION 10. Sections 20-10-12 and 20-10-16 of the General Laws in Chapter 20-10
32 entitled "Aquaculture" are hereby amended to read as follows:

33 **20-10-12. ~~Permits for possession, importation, and transportation of species used in~~**
34 **aquaculture. Permits and licenses for the taking, possession, sale, importation, and**

1 **transportation of species used in aquaculture.--** (a) The director is authorized and empowered
2 to grant permits for, issue licenses for, and establish rules and regulations governing the taking,
3 possession, sale, importation, and transportation of animal or plant species utilized in aquaculture;
4 provided, however, that in the case of bivalves, no approval shall be given for the sale,
5 possession, use, storage, or transportation of those species for human consumption without the
6 written approval and permission of the director of health.

7 (b) Any person who takes, possesses, imports, or transports any animal or plant species
8 as delineated in subsection (a) without a permit issued by ~~he~~ the director shall be guilty of a
9 misdemeanor and subject to imprisonment of not more than one year or a fine not exceeding five
10 hundred dollars (\$500), or both. The animal or plant species possessed, imported, or transported
11 by that person may be forfeited to the state.

12 (c) In accordance with rules and regulations established under this section, permits
13 issued by the director may provide for specific exemptions, notwithstanding other provisions of
14 law, from quotas, catch or bag limits, seasons, minimum size limits and other such restrictions on
15 commercial fishing as the director, in consultation with the council, may determine to be
16 inappropriate to commercial aquaculture.

17 (d) Any person who is granted permits for the conduct of aquaculture by the CRMC and
18 the director in accordance with this chapter shall obtain a commercial aquaculture license to sell
19 aquaculture products in the state to licensed fish and shellfish dealers. The license shall be issued
20 by the department on a calendar year basis for an annual fee of two hundred dollars (\$200).

21 **20-10-16. Penalties. --** (a) Any person who conducts aquaculture activities in excess of
22 those authorized by an aquaculture permit shall be guilty of a misdemeanor and subject to
23 imprisonment not exceeding one year or a fine not exceeding ~~five hundred dollars (\$500), one~~
24 thousand dollars (\$1,000), or both. In addition to that fine and/or imprisonment, all works,
25 improvements, fish, and animal and plant life involved in the project may be forfeited to the state.

26 (b) Any person damaging, disturbing, or interfering with any area subject to an
27 aquaculture permit or any person damaging, disturbing, interfering, or taking by any means
28 whatsoever, or possessing the cultivated species in an area subject to an aquaculture permit,
29 without the permission of the permittee, is guilty of a misdemeanor and subject to imprisonment
30 not exceeding one year or a fine of not more than ~~five hundred dollars (\$500), one thousand~~
31 dollars (\$1,000), or both. In addition to that fine and/or imprisonment, all vessels, dredges, tongs,
32 rakes, and other implements used to damage, disturb, interfere, or take cultivated species in those
33 areas may be forfeited to the state.

34 SECTION 11. Chapter 20-10 of the General Laws entitled "Aquaculture" is hereby

1 amended by adding thereto the following sections:

2 **20-10-13.1. Cultivated plants or animals -- Exemption from certain wild fishery**
3 **restrictions.** – Aquaculture activities conducted in a manner consistent with permit and license
4 conditions and in accordance with the rules and regulations promulgated pursuant to this chapter,
5 and aquaculture products harvested for sale as a result of said activities, shall be exempt from the
6 following statutory and regulatory restrictions governing wild fisheries: seasons; bag limits;
7 methods of harvest; and, except for quahaugs (Mercenaria mercenaria), minimum sizes.

8 The possessor of aquaculture products subject to these exemptions shall have the burden
9 of proof that such products were legally acquired and possessed. In accordance with applicable
10 rules and regulations governing aquaculture products, proper tags and bills of sale shall constitute
11 the primary means for satisfying this burden of proof.

12 Aquaculturists are prohibited from harvesting for sale to a shellfish dealer for human
13 consumption, quahaugs (Mercenaria mercenaria) with a hinge width of less than one inch (1").

14 **20-10-16.1. License or permit suspension or revocation.** – The permit or license of any
15 person who has violated the provisions of this chapter or the rules and regulations issued pursuant
16 thereto, including anyone holding a license or permit found guilty of a violation in accordance
17 with subsection 20-10-16(b), may be suspended or revoked by the CRMC or the director as the
18 CRMC or the director shall determine by regulation. Any person aggrieved by an order of
19 suspension or revocation may appeal this order in accordance with the provisions of the
20 administrative procedures act, chapter 35 of title 42.

21 SECTION 12. Severability. If any clause, sentence, paragraph, section or part of this act
22 shall be adjudged to be invalid by any court of competent jurisdiction, the judgment shall not
23 affect, impair, or invalidate the remainder of the act.

24 SECTION 13. Section 3, portions of section 4 of this act as identified therein, section 7
25 and section 8, shall take effect on January 1, 2003. Section 6 of this act shall take effect on
26 January 1, 2004. The remaining portions of this act shall take effect upon passage.

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LC01698/SUB A/3
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FISH AND WILDLIFE

1 This act would amend laws regarding the licensing of shell fisherman. The act would
2 also extend the current moratorium and would make other technical changes to the laws
3 governing commercial fisherman.

4 Section 3, portions of section 4 of this act as identified therein, section 7 and section 8,
5 would take effect on January 1, 2003. Section 6 of this act would take effect on January 1, 2004.
6 The remaining portions of this act would take effect upon passage.

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LC01698/SUB A/3
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