

LC02698

# STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T

RELATING TO FISH AND WILDLIFE

Introduced By: Representatives D Caprio, McHugh, Shanley, and Anguilla

Date Introduced: February 24, 2004

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

SECTION 1. Section 20-2-1.1 of the General Laws in Chapter 20-2 entitled "Licensing" is hereby repealed.

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

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

1 ~~governed by section 20-2.1-5.~~

2 SECTION 2. Section 20-2-14 of the General Laws in Chapter 20-2 entitled "Licensing" is  
3 hereby amended to read as follows:

4 **20-2-14. Licenses -- Expiration and deadline for renewal. -- Licenses -- Expiration .**

5 ~~--~~ (a) ~~Beginning January 1, 2003, unless~~ Unless otherwise specified in this title, all licenses issued  
6 under this title shall be annual and shall expire on December 31 of every year.

7 ~~(b) All marine fisheries licenses that are subject to renewal July 1, 2002, may be renewed~~  
8 ~~for a six (6) month period ending December 31, 2002. The fee for the renewals shall be one half~~  
9 ~~(1/2) of the amount for annual renewal of the licenses as otherwise provided for in this title.~~

10 ~~(c) Beginning January 1, 2003, for those commercial marine fishing licenses provided~~  
11 ~~for in sections 20-2-20(a), (b); 20-2-21; 20-2-24(a); 20-2-25; 20-2-26; 20-2-26.1(a), (b); 20-2-~~  
12 ~~27(a), (b), (c)(1) -- (c)(4); 20-2-28(a) -- (c); 20-2-28.1(a); 20-4-1.2(1) -- (4); 20-5-1; 20-5-2; and~~  
13 ~~20-5-3, the following provisions shall apply: (1) unless otherwise specified in this title, an~~  
14 ~~individual qualified to obtain a license must submit an application to the department of~~  
15 ~~environmental management no later than February 28 of each year; license applications shall be~~  
16 ~~deemed valid if submitted to the department prior to the close of regular office hours on February~~  
17 ~~28, or if postmarked by February 28; (2) unless otherwise specified in this title, no new or~~  
18 ~~renewed licenses shall be issued after February 28 of each year, unless an applicant has submitted~~  
19 ~~an application by the February 28 deadline required by this section; and (3) the department shall~~  
20 ~~notify all license holders, in writing, regarding the December 31 expiration and the February 28~~  
21 ~~renewal deadline no later than November 1 of each year.~~

22 SECTION 3. Sections 20-2.1-2, 20-2.1-3, 20-2.1-4, 20-2.1-5, 20-2.1-6 and 20-2.1-12 of  
23 the General Laws in Chapter 20-2.1 entitled "Commercial Fishing Licenses" are hereby amended  
24 to read as follows:

25 **20-2.1-2. Purposes. --** The purposes of this chapter are, through a system of licensure  
26 that is clear, predictable and adaptable to changing conditions, to:

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

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

33 (3) Allow residents who have fished commercially to sell their vessels and gear in a  
34 manner that first, facilitates up-grading license levels among residents already in the fishery; that

second, provides lateral movement among residents who are holders of commercial fishing licenses to other types of fishing; and that third, enables new entrants into new commercial fishing;

(4) Respect the interests of residents who fish under licenses issued by the state and wish to continue to fish commercially in a manner that is economically viable: provided, it is specifically not a purpose of this chapter to establish licensing procedures that eliminate the ability to fish commercially of any resident as of the date of enactment who validly holds [a commercial fishing license and who meets the application renewal requirements set forth herein](#);

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

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

(i) The foregoing purposes; and

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

(A) Regulation of the design and use of gear;

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

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

(D) Quotas and limitations on catch or landings; and

(E) Restrictions on the number of license holders;

(7) Provide a licensure system that facilitates data collection and management so that marine fisheries can be managed more efficiently and effectively. [In accordance with this purpose, the system shall include a firm annual renewal deadline, as established herein, for the submittal of applications to renew licenses or obtain new licenses. An annual grace period, as established herein, shall allow fishermen an additional opportunity to renew their licenses from the immediately preceding year, subject to payment of a late fee; however, after the expiration of the grace period, there shall be no opportunity to appeal the denial of a commercial fishing license unless the applicant can show that the failure to apply during the grace period was due to documented medical hardship.](#)

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

(1) "Basic harvest and gear levels" means fishery-specific harvest and/or gear levels, established and regularly updated by the department by rule, which, in a manner consistent with the state or federally sanctioned management plans or programs that may be in effect, and to the extent possible given those plans and programs, provide a maximum level of participation for

commercial fishing license holders in accordance with applicable endorsements.

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

(3) "Council" means the marine fisheries council established by chapter 3 of this title.

(4) "Crustaceans" means lobsters, crabs, shrimp, and for purposes of this chapter it also includes horseshoe crabs.

(5) "Director" means the director of the department of environmental management.

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

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

(8) "Fisheries sectors" means and comprises crustaceans, finfish, shellfish, as defined in this section, each of which shall singularly be considered a fishery sector.

(9) "Full harvest and gear levels" means fishery-specific harvest and/or gear levels, established and regularly updated by the department by rule, which, in a manner consistent with the state or federally sanctioned management plans or programs that may be in effect, and to the extent possible given those plans and programs, provide a maximum level of participation for principal effort license holders in accordance with applicable endorsements and for all multi-purpose license holders.

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

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

(12) "February 28" means the twenty-eighth (28th) day in the month of February or the next business day if February 28 falls on a Saturday or Sunday for the purpose of application submittals and renewal deadlines.

(13) "Medical hardship" means a significant medical condition that prevents a license applicant from meeting the application requirements.

1           (14) "Penalty grace period" means sixty (60) days commencing February 28, as defined  
2           herein, and shall only apply to renewals of licenses from the immediately preceding year.

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

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

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

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

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

31          (f) Application for license. - Every person entitled to a license under this chapter shall  
32          file an application with the director or the director's authorized agent, properly sworn to, stating  
33          the name, age, occupation, place of residence, mailing address, weight, height, and color of hair  
34          and eyes of the applicant for whom the license is wanted and providing any other information that

1 may be required pursuant to rule in order to effectuate the purposes of this chapter, and pay the  
2 fees as provided in this chapter. All licenses issued under this chapter shall be valid only for the  
3 calendar year of issuance, unless otherwise specified in this chapter or in the rules and regulations  
4 adopted pursuant to this chapter. If the person will be either the owner or the operator as provided  
5 in section 20-2.1-5(5) of a commercial fishing vessel, the person shall declare on the application  
6 for each commercial fishing vessel, the vessel name, length, horsepower, registration number,  
7 federal permit number if any, gear type(s), the principal fishery or fisheries, and average  
8 projected crew size.

9 (g) ~~Resident and non-resident licenses.~~ Application deadline, grace period for renewals,  
10 and limitation on appeals after deadline. - For commercial marine fishing licenses provided for in  
11 sections 20-2.1-5 and 20-2.1-6, the following provisions shall apply: (1) unless otherwise  
12 specified in this chapter, an individual qualified to obtain a license must submit an application to  
13 the department of environmental management no later than February 28 of each year; license  
14 application shall be deemed valid if submitted to the department prior to the close of regular  
15 office hours on February 28, or if postmarked by February 28; (2) unless otherwise specified in  
16 this title, no new or renewed licenses shall be issued after February 28 of each year, unless an  
17 applicant has submitted an application by the February 28 deadline required by this section; and  
18 (3) the department shall notify all license holders, in writing, regarding the December 31  
19 expiration and the February 28 renewal deadline no later than November 1 of each year- ;(4) for  
20 renewals of existing commercial marine fishing licenses that expire on December 31 of the  
21 immediately preceding year, there shall be a sixty (60) day grace period from the renewal  
22 deadline of February 28; licenses issued during the grace period shall be subject to a late fee in  
23 the amount of two hundred dollars (\$200) in addition to all other applicable fees; (5) except as  
24 provided for in section 20-2.1-4(g)(4) above, the department shall not accept any applications  
25 filed after February 28; and (6) there shall be no right to appeal to the commercial fishing license  
26 review board or the department of environmental management's administrative adjudication  
27 division (AAD) for the rejection of any applications submitted after the sixty (60) day grace  
28 period, except in the case of a documented medical hardship as defined herein.

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

34 (i) Expiration and deadline for renewal. - (1) ~~Beginning January 1, 2003, unless~~ Unless

otherwise specified in this title, all licenses issued under this chapter shall be annual and shall expire on December 31 of every year. It shall be unlawful for any person to fish commercially in Rhode Island waters on an expired license; and the application and grace periods set forth in sections 20-2.1-4(h)(1) and (4) below shall not extend the validity of any expired license.

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

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

~~⊕~~(k) Revocation of licenses.

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

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

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

**20-2.1-5. Resident licenses.** -- The director shall establish as a minimum the following types of licenses set forth in this section. In addition, the director may establish any other classes

1 and types of licenses and endorsements, consistent with the provisions of this chapter and with  
2 adopted management plans, that may be necessary to accomplish the purposes of this chapter:

3 (1) Types of licenses.

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

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

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

27 (iv) Special licenses.

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

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

34 (2) Vessel ~~fees and special vessel gear licenses and fees~~ declaration and fees; gear



[endorsements and fees.](#)

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

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

(ii) ~~Special vessel and gear licenses and fees.~~ [Gear endorsements and fees.](#)

(A) Shellfish dredging ~~license; fee~~ endorsement. - A resident of this state ~~shall pay an annual fee of two hundred dollars (\$200) for a license to~~ [who holds a multipurpose license and/or an appropriate shellfish license is also eligible to apply for a shellfish dredging endorsement to take quahogs, mussels, and surf clams by dredges hauled by powerboat. The annual fee shall be twenty dollars \(\\$20.00\).](#)

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

(C) Gill net ~~licenses~~ [endorsements](#). - A person who holds a ~~multi-species participant~~ [multipurpose](#) license and/or a principal effort license for finfish is also eligible to apply for a

1 commercial gill net ~~permit~~ endorsement in accordance with the provisions of this section. The  
2 annual ~~reecording~~ fee for a commercial gill ~~netting~~ net endorsement is twenty dollars (\$20.00).  
3 Applicants who possessed a gill net endorsement as of the immediately preceding year may  
4 obtain a gill net endorsement for the immediately following year. New gill net endorsements  
5 opportunities shall be established by the department by rule, pursuant to applicable management  
6 plans.

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

14 (3) New licenses.

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

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

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

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

32 (5) Transfer for hardship. - Notwithstanding the provisions of section 20-2.1-4(c), a  
33 license may be transferred to a family member upon the incapacity or death of the license holder  
34 who has actively participated in commercial fishing. The transfer shall be effective upon its

1 registration with the department. A family member shall be defined as the spouse, mother, father,  
2 brother, sister, child or grandchild of the transferor. The department shall make available as  
3 necessary operator permits to provide solely for the continued operation of a fishing vessel upon  
4 the illness, incapacity or death of a license holder who has actively participated in commercial  
5 fishing, which operator permits shall be subject at a minimum to the conditions and restrictions  
6 that applied to the license holder.

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

11 **20-2.1-6. Non-resident licenses.** -- Subject to the rules of the department, non-residents  
12 may apply for the following commercial fishing licenses:

13 (1) Non-resident principal effort license. - (i) A non-resident principal effort license shall  
14 allow the holder to harvest, land, and sell in a lawful manner any species of finfish, per  
15 endorsement(s), at principal harvest and gear levels and as allowed in a management plan adopted  
16 by the department.

17 (ii) Duly Rhode Island-licensed non-residents in a commercial fishery as of December  
18 31, ~~2002~~ [of the immediately preceding year](#), shall be eligible to obtain a non-resident principal  
19 effort license with a single sector endorsement applicable to the fishery for which they were  
20 licensed as of December 31, ~~2002~~ [of the immediately preceding year](#); provided: (A) that the state  
21 of residence of the person affords the same privilege in a manner that is not more restrictive to  
22 Rhode Island residents; (B) that those persons apply for the non-resident principal effort license  
23 no later than February 28, 2003; and (C) that those persons shall also be subject to any other  
24 restrictions that were applicable to the license as of December 31, 2002, which other restrictions  
25 may be altered or changed consistent with a management plan adopted by the department.

26 (iii) Persons not duly licensed as of December 31, ~~2002~~ [of the immediately preceding](#)  
27 [year](#), shall be eligible to obtain a non-resident principal effort license, per endorsement, when  
28 available, in accordance with applicable qualifying criteria and as allowed in a management plan  
29 adopted by the department, provided that the state of residence of the person affords the same  
30 privilege in a manner that is not more restrictive to Rhode Island residents.

31 ~~(iv) Holders of non-resident principal effort licenses shall remain eligible to participate~~  
32 ~~in their endorsed fishery sectors, at principal harvest and gear levels, if the license holders~~  
33 ~~annually renew their licenses in accordance with applicable laws and rules, and provided that the~~  
34 ~~state of residence of the person continues to afford the same privilege in a manner that is not more~~

~~restrictive to Rhode Island residents.~~

~~(v)~~ (iv) The annual fee for a non-resident principal effort license shall be four hundred dollars (\$400), plus one hundred dollars (\$100) per endorsement.

(2) Non-resident commercial fishing license. - (i) 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.

(ii) 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.

(iii) Holders of non-resident principal effort licenses shall not be eligible to obtain non-resident commercial fishing licenses with the same fishery sector endorsements.

~~(iv) Holders of non-resident commercial fishing licenses shall remain eligible to participate in their endorsed fishery sectors, at basic 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.~~ Duly Rhode Island licensed non-residents in a commercial fishery as of December 31 of the immediately preceding year, shall be eligible to obtain a non-resident commercial fishing license in their endorsed fishery sector as of December 31 of the immediately preceding year provided:

(A) that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents; and

(B) that those persons apply for the non-resident commercial fishing license no later than February 28; and

(C) that those persons shall also be subject to any other restrictions that were applicable to the license as of December 31 of the immediately preceding year which other restrictions may be altered or changed consistent with a management plan adopted by the department.

(v) The annual fee for a non-resident commercial fishing license shall be one hundred fifty dollars (\$150), plus fifty dollars (\$50.00) per endorsement.

(3) Vessel declaration fees and vessel and gear license; fees.

(i) Vessel declaration. - The department shall require a non-resident owner and/or operator of a commercial fishing vessel to make a declaration for that vessel; which shall be made at the time of initial license issuance and each renewal, or prior to the vessel's being used for

1 commercial fishing in Rhode Island waters by the non-resident owner and/or operator if the first  
2 usage of the vessel for commercial fishing occurs during the course of a year after the license has  
3 been issued or renewed, for a cost of fifty dollars (\$50.00), plus one dollar and fifty cents (\$1.50)  
4 for each whole foot over twenty-five feet (25') in length overall.

5 (4) New licenses. - Any resident of a state that accords to Rhode Island residents  
6 commercial fishing privileges that include an ability to obtain a new license to fish for finfish  
7 species that are subject to restrictions and/or quotas, may on species specific reciprocal basis be  
8 eligible to obtain commercial fishing licenses and principal effort licenses by endorsement as  
9 provided in this section, subject to availability and with the priority established in section 20-2.1-  
10 5(3)(iii).

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

23 (b) Any person whose application for a commercial fishing license was denied by the  
24 office of boat registration and licensing may file a request for reconsideration to the commercial  
25 fishing license review board, unless the person is prohibited from appealing pursuant to  
26 subsection 20-2.1-4(g). Requests for reconsideration must be filed with the office of boat  
27 registration and licensing within ten (10) days of receipt of the denial. The review board shall  
28 consider the impact that issuance of the license will have on the fisheries management program  
29 overall, equity with other license holders, consistency with prior agency decisions, consistency  
30 with management plans, unreasonable hardship to the applicant and consistency with the  
31 purposes of this chapter. The burden shall be on the applicant to demonstrate to the board that  
32 they meet the criteria for a license.

33 (c) Within thirty (30) days of receipt of a request for reconsideration, the review board  
34 shall issue a written recommendation to the office of boat registration and licensing. The decision

1 of the board shall state the specific grounds for its decision and the vote of the board. Within ten  
2 (10) days of receipt of the decision of the board, the office of boat registration and licensing shall  
3 issue a written decision affirming, denying or modifying the recommendation of the board and  
4 stating the rationale for the decision. The applicant may appeal the decision of the office of boat  
5 registration and licensing to the administrative adjudication division for environmental matters  
6 pursuant to section 42-17.7-1 et seq. The written decision of the review board and the office of  
7 boat registration and licensing shall be provided and made part of the administrative record upon  
8 appeal.

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

11 SECTION 4. Sections 20-5-1, 20-5-2, 20-5-3, 20-5-4, 20-5-5, 20-5-6, 20-5-8, 20-5-9, 20-  
12 5-10, 20-5-11, 20-5-12, 20-5-13, 20-5-14, 20-5-15, 20-5-16, 20-5-18 and 20-5-21 of the General  
13 Laws in Chapter 20-5 entitled "Fish Traps" are hereby amended to read as follows:

14 **20-5-1. ~~Fish traps — License required~~ Fish traps — Permit required.** -- It shall be  
15 unlawful for any person to set a fish trap in the public waters of the state without first obtaining a  
16 ~~license~~ permit as provided in this chapter. For the purposes of this chapter, "fish trap" means stub  
17 and floating traps, weirs, pounds, nets, or any other equivalent contrivance or thing set on, in or  
18 anchored to the bottom or shore used for the purpose of catching fish.

19 **20-5-2. ~~Persons to whom licenses issuable~~ Persons to whom permits issuable.** -- The  
20 department of environmental management may issue ~~licenses~~ permits duly signed and under its  
21 seal to set or erect and maintain fish traps, as provided in this chapter, to any resident of this state  
22 or to any corporations incorporated in the state, licensed in accordance with chapter 2.1 of this  
23 title, upon payment of ~~a license~~ an additional permit fee of ~~ten twenty~~ dollars ~~(\$10.00)~~ (\$20.00)  
24 per trap location for the ~~license~~ permit period prescribed by section 20-5-9 for each ~~license~~  
25 permit.

26 **20-5-3. ~~Application for license~~ Application for permit.** -- (a) Any person desiring a  
27 ~~license~~ permit for a location for erecting a fish trap shall make application in writing to the  
28 department of environmental management in any form and giving any information that the  
29 department may require.

30 (b) Each application for a location for a fish trap shall fix definitely the position of the  
31 desired location with reference to prominent points on shore and shall also show the dimensions  
32 of the trap and of the leader to be set in the desired location, and any other details the department  
33 may require.

34 **20-5-4. Distance between traps — Length of trap leader.** -- Except as provided in

section 20-5-5 no ~~license~~ permit shall be granted for the erection within the public waters of the state of a fish trap any part of which is less than three thousand feet (3,000') distant from an adjoining trap, measured parallel with the general coastline at such point as determined by the department of environmental management, or for a greater length of trap and leader than two hundred eighty (280) fathoms; provided, that the department of environmental management may grant a ~~license~~ permit for the erection of a fish trap within a lesser distance of three thousand feet (3,000') from an adjoining trap if the parties interested agree in writing to a lesser distance.

**20-5-5. Restricted locations off Rhode Island and Sakonnet River.** -- No ~~license~~ permit shall be granted for the erection of a fish trap within that portion of the public waters of the state southerly of the island of Rhode Island, designated by the engineer's office of the department of the army as available fishing areas, lying easterly of Brenton's Reef and southerly of a line drawn from Coggeshall's Point to Sakonnet Light, except as follows:

~~Licenses~~ Permits may be granted for the erection of traps:

(1) Southeasterly from Seal Rock, so-called, in a line on range of White Church in Saunderstown over Seal Rock to the offshore limits of the outer area designated by the engineer's office of the department of the army; provided, that all traps on this line shall be of equal length including leaders and shall be so limited in length that permits for eight (8) traps may be granted;

(2) Southeasterly from Flat Rock, so-called, on the easterly side of Coggeshall's Point, in a line to the offshore limits of the inner or "summer" area designated by the engineer's office of the department of the army;

(3) In a line from the westerly side of Price's Neck, so-called, southwesterly for a distance not exceeding one thousand five hundred feet (1,500'); provided, that not more than two (2) traps shall be ~~licensed~~ permitted in this line;

(4) In a line from the easterly side of Price's Neck, so-called, southeasterly for a distance not exceeding three thousand three hundred feet (3,300');

(5) Southeasterly from Coggeshall's Point in a line to the eastern limits of the outer area designated by the engineer's office of the department of the army;

(6) Southerly from Cormorant Rock, so-called, in a line for a distance of not exceeding seven thousand feet (7,000');

(7) For two (2) traps only on the line constituting the offshore limits of the outer area designated by the engineer's office of the department of the army at a point five thousand feet (5,000') east-southeasterly of the southeastern end of the line from Seal Rock described in subdivision (1);

(8) For two (2) traps only beginning at a point ten thousand feet (10,000') east-



southeasterly of the southeastern end of the line from Seal Rock described in subdivision (1);

provided, that the traps and leaders described in subdivisions (7) and (8) shall extend parallel with the Seal Rock line. The provisions of section 20-5-4 shall not apply to ~~licenses~~ permits for the erection of traps granted under this section with the exception of the provision in section 20-5-4 that no ~~license~~ permits shall be granted for a greater length of trap and leader than two hundred eighty (280) fathoms, which provision shall apply to this section.

**20-5-6. Continuity of traps.** -- (a) No more than two (2) traps shall be set together in any continuous string of line, and there shall be a space of one hundred fifty (150) fathoms between two traps set within which no trap, leader or other twine shall be placed.

(b) No more than three (3) traps shall be set, erected, or maintained by the holder of any ~~license~~ permit issued hereunder in a manner to be consecutively arranged in any one of the lines described in section 20-5-5; provided, that this subsection shall not be deemed to limit the total number of traps that may be set, erected, or maintained in a line by a holder.

**20-5-8. ~~Preference of prior occupants in licensing~~ Preference of prior occupants in permitting.** -- The director of environmental management shall, where there are two (2) or more applicants for ~~licenses~~ permits for the same location or for locations that are less than three thousand feet (3,000') apart, determine which applicant has continuously during the fishing season occupied the location for the longer period of years; and the application who shall establish a priority of location shall, if otherwise properly qualified, be entitled to receive a ~~license~~ permit for the location.

**20-5-9. ~~Expiration and renewal of licenses~~ Expiration and renewal of permits.** -- (a) All ~~licenses~~ permits issued under this chapter shall be for a three-year period or for that portion thereof expiring on the last day of December of each third year thereafter.

(b) On termination of any ~~license~~ permit, the department may renew the ~~license~~ permit by issuing a new ~~license~~ permit in place of the ~~license~~ permit, provided application for renewal is made within ten (10) days before the termination in a manner similar to that required for application for a ~~license~~ permit in section 20-5-3. Failure to apply for renewal shall operate to leave the location available for an application by any other person.

**20-5-10. ~~Exclusive right of licensee -- Assignment of license~~ Exclusive right of permittee -- Assignment of permit.** -- (a) The holder of any ~~license~~ permit, or the holder's heirs, executors, administrators, successors, or assigns shall have the exclusive right to fish the location by means of a fish trap, provided that the site is and has been actively fished.

(b) Any holder of a ~~license~~ permit may, with the approval of the director of environmental management, transfer the ~~license~~ permit to any suitable person. This approval shall



1 be endorsed on the ~~license~~ permit in order to become effective.

2 **20-5-11. Inspection of traps. --** The director of environmental management shall cause  
3 an inspection or inspections of the fish traps ~~licensed~~ permitted to be made at a proper time or  
4 times in each year for the purpose of determining whether the traps are located in accordance with  
5 the ~~license~~ permit for these traps and whether the ~~licensee~~ permittee is observing the rules and  
6 regulations fixed by the director.

7 **20-5-12. ~~Suspension or revocation of license~~ Suspension or revocation of permit. --**

8 If, upon inspection, it appears that any trap is improperly located or it is otherwise being used in  
9 violation of the rules and regulations fixed by the director, the director of environmental  
10 management shall immediately cause notice to be given to the holder of any ~~license~~ permit; and if  
11 those facts are established at a hearing, the director may suspend or revoke the ~~license~~ permit.

12 **20-5-13. ~~Report as to traps placed -- Failure to occupy location -- Removal of license~~**

13 **~~from state~~ Report as to traps placed -- Failure to occupy location -- Removal of permit**

14 **from state. --** On or before the tenth day of January in each year every person holding a ~~license~~  
15 permit pursuant to this chapter shall notify the department of environmental management in  
16 writing, under oath, what traps were placed under the ~~license~~ permit during the preceding  
17 calendar year. Failure to furnish this information makes the ~~license~~ permit null and void after that  
18 date. Failure to place a complete fish trap on a ~~licensed~~ permitted location for a part of one  
19 calendar year may, in the discretion of the director of environmental management, make the  
20 ~~license~~ permit for the fish trap null and void; and the location will then become available for any  
21 suitable applicant. A ~~license~~ permit for a fish trap location becomes null and void upon the  
22 removal of the holder from the state.

23 **20-5-14. Removal of trap on cessation of use -- Closed season -- Damaged or**

24 **dilapidated traps. --** Upon ceasing to use any fish trap as authorized, that structure shall at once  
25 be removed by the owner at the owner's expense and to the satisfaction of the director of  
26 environmental management. Failure to remove it shall be considered sufficient grounds for  
27 prosecution of the owner for maintaining a public nuisance or for revocation of the fish trap  
28 ~~license~~ permit. Unless otherwise specified by regulations adopted by the marine fisheries council,  
29 all fish traps authorized in this chapter shall be completely removed by or before the last day of  
30 December of each year; and no fish trap shall be reset before the first day of the following March.  
31 All submerged or broken stakes must be promptly removed. Any fish trap damaged or allowed to  
32 get into a dilapidated condition will be regarded as abandoned unless promptly removed or  
33 rebuilt. Failure to do this will subject the owner to prosecution and forfeiture of the trap.

34 **20-5-15. Seizure of abandoned or unlawful traps -- Destruction or sale. --** The

1 department may take possession of any abandoned fish trap and appurtenances; or any fish trap  
2 and appurtenances placed in a location for which no ~~license~~ [permit](#) has been obtained; or any fish  
3 trap and appurtenances for which a ~~license~~ [permit](#) location has been obtained but which the owner  
4 of the fish trap and appurtenances may willfully maintain in a wrong position or location; and  
5 may destroy the fish trap and appurtenances or may dispose of them at public auction to the  
6 highest bidder, first giving notice of the time and place of sale by publishing the notice at least  
7 three (3) times a week for two (2) successive weeks in a newspaper of general circulation with  
8 power to adjourn the sale from time to time, giving like notice of the adjournment; and make and  
9 execute to the purchaser at the sale a good and sufficient conveyance of all right, title, and interest  
10 in and to the fish trap and appurtenances; and to receive the proceeds of the sale and pay the  
11 proceeds into the treasury of the state; and the state controller shall draw orders upon the general  
12 treasurer for the payment of all expenses of taking possession and disposing of a fish trap and any  
13 appurtenances, upon receipt by him or her of proper vouchers, approved by the director of  
14 environmental management, and the general treasurer shall pay the orders out of moneys  
15 appropriated for that purpose.

16 **20-5-16. Rules and regulations.** -- The director of environmental management, with the  
17 concurrence of the marine fisheries council, may adopt and amend any rules and regulations in  
18 reference to fish traps, ~~licensed~~ [permitted](#) under this chapter, that may appear to him or her  
19 necessary for the public safety and for the proper execution of this chapter.

20 **20-5-18. Willful injury to traps.** -- Any person who willfully or maliciously cuts,  
21 removes, displaces, tampers with, or in any way damages any trap, leader, or pound set by virtue  
22 of the ~~license~~ [permit](#) provided for by this chapter shall be imprisoned not exceeding two (2) years  
23 or fined not exceeding one thousand dollars (\$1,000), or both.

24 **20-5-21. Fish traps near Conanicut Island unlawful.** -- It shall be unlawful to place  
25 any fish trap, as defined in this chapter, in the public waters of this state within one mile of the  
26 shore of the Island of Conanicut, and no ~~license~~ [permit](#) for this purpose shall be granted.

27 SECTION 5. This act shall take effect upon passage.

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LC02698  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FISH AND WILDLIFE

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- 1           This act would repeal the commercial fishing license moratorium, would change the term  
2 "licenses" to "permits", and would give a grace period for renewal of permits. This act would  
3 allow persons who hold a multipurpose license to be eligible for a fish trap endorsement.  
4           This act would take effect upon passage.

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LC02698  
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