

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

3

HOUSE BILL 831*
Committee Substitute Favorable 5/20/03
Committee Substitute #2 Favorable 7/9/03

Short Title: Coastal Recreational Fishing License/Fund. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE
2 AND A MARINE RESOURCES RESTORATION FUND TO RESTORE,
3 PROTECT, AND ENHANCE THE MARINE RESOURCES OF THE STATE.
4

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

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

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

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

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

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

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

23 Whereas, the General Assembly intends that the commercial fishing industry
24 be allowed to continue to take fish by means of all methods traditionally employed in
25 commercial fishing operations, including the use of nets and trawls; and

26 Whereas, the General Assembly finds that in order to protect coastal fishery
27 resources, it is essential that the recreational as well as the commercial fishing sectors

1 provide data on use of fishery resources for the development of scientifically valid plans
2 to manage fishery resources; and

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

6 Whereas, management of marine resources can achieve significant restoration
7 of stocks as demonstrated by the role regulation of overfishing has played in restoring
8 stocks of species such as striped bass; and

9 Whereas, implementing a system for licensing coastal recreational fishers and
10 establishing a fund containing revenue generated by the licensing system would enable
11 the Division of Marine Fisheries to better disseminate information to and gather
12 information from recreational fishers, who are the largest marine resources user group
13 in our State, and would enable the Division to better manage the marine resources of the
14 State through habitat protection and research; and

15 Whereas, an objective poll conducted by North Carolina State University
16 found that almost 80% of recreational fishers in North Carolina support the
17 establishment of a system for licensing coastal recreational fishing, with the revenues
18 from the license to be used to manage the marine resources of the State; and

19 Whereas, recreational fishers should help pay for the fishery regulation and
20 management efforts of the State and should have a voice in this regulation and
21 management; and

22 Whereas, North Carolina is the only coastal state between Delaware and
23 Texas that is not benefiting from a system for licensing coastal recreational fishing; and

24 Whereas, the establishment of a system for licensing coastal recreational
25 fishing and the revenue that such a license would generate for the protection,
26 restoration, and enhancement of the marine resources of the State offer the best hope for
27 the long-term health of the coastal tourism, boating, and fishing industries of North
28 Carolina; Now, therefore,

29 The General Assembly of North Carolina enacts:

30 **SECTION 1.** Chapter 113 of the General Statutes is amended by adding two
31 new Articles to read:

32 "Article 14B.

33 "Coastal Recreational Fishing Licenses.

34 "**§ 113-174. Definitions.**

35 As used in this Article:

36 (1) 'Commission' means the Marine Fisheries Commission.

37 (2) 'CRFL' means Coastal Recreational Fishing License.

38 (3) 'Division' means the Division of Marine Fisheries in the Department of
39 Environment and Natural Resources.

40 (4) 'North Carolina resident' means an individual who is a resident within
41 the meaning of G.S. 113-130(4).

42 (5) 'RCGL' means Recreational Commercial Gear License.

- 1 (6) 'Recreational fishing' means any activity preparatory to, during, or
2 subsequent to the taking of any fish, the taking of which is subject to
3 regulation by the Commission, by any means:
4 a. That does not constitute a commercial fishing operation as
5 defined in G.S. 113-168.
6 b. Except as provided in G.S. 113-261.
7 (7) 'RSCFL' means Retired Standard Commercial Fishing License issued
8 pursuant to G.S. 113-168.3.
9 (8) 'SCFL' means Standard Commercial Fishing License issued pursuant
10 to G.S. 113-168.2.

11 **"§ 113-174.1. General provisions governing recreational licenses.**

12 (a) License Required to Engage in Recreational Fishing. – It is unlawful for any
13 individual to engage in recreational fishing in coastal fishing waters without holding a
14 license required by this Article. It is unlawful for any individual to engage in
15 recreational fishing without complying with the provisions of this Article and rules
16 adopted by the Commission under this Article.

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

23 (c) Assignment and Transfer Prohibited. – Except as provided in G.S.
24 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a
25 license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or
26 otherwise transfer a license issued under this Article.

27 (d) Format. – A license issued under this Article shall be issued in the name of
28 the applicant. A license shall show the type of license; the name, mailing address,
29 physical or residence address, and date of birth of the licensee; the date on which the
30 license is issued; the date on which the license expires; and any other information that
31 the Commission or the Division determines to be necessary to accomplish the purposes
32 of this Subchapter.

33 (e) Licenses Available for Inspection. – It is unlawful for any individual to
34 engage in recreational fishing in coastal fishing waters in the State without having ready
35 at hand for inspection all licenses required under this Article. It is unlawful for an
36 individual to refuse to exhibit any license required by this Article upon the request of an
37 inspector or other law enforcement officer authorized to enforce federal or State laws,
38 regulations, or rules relating to marine fisheries.

39 (f) Replacement Licenses. – The Division shall issue a replacement license to a
40 licensee for a license that has not been suspended or revoked. A licensee may apply for
41 a replacement license for a license that has been lost, stolen, or destroyed and shall
42 apply for a replacement license within 30 days of a change in the licensee's name or
43 address. A licensee may apply for a replacement license in person at any office of the
44 Division or by mail to the Morehead City office of the Division. A licensee may use a

1 copy of the application for a replacement license that has been filed with the Division as
2 a temporary license until the licensee receives the replacement license. The Commission
3 may establish a fee for each type of replacement license, not to exceed five dollars
4 (\$5.00), that compensates the Division for the administrative costs associated with
5 issuing the replacement license.

6 (g) No Dual Residency. – It is unlawful for any individual to hold any license
7 issued under this Article to the individual as a North Carolina resident if that individual
8 holds any commercial or recreational fishing license issued by another state to the
9 individual as a resident of that state.

10 (h) Limitations on Eligibility. – An individual is not eligible to obtain a license
11 under this Article if, at the time the individual applies for the license, any other license
12 or endorsement issued to the individual under this Article is suspended or revoked. An
13 individual is not eligible to obtain a license under this Article if, within the three years
14 prior to the date of application, the individual has been determined to be responsible for
15 four or more violations of State laws, regulations, or rules governing the management of
16 marine and estuarine resources. An applicant for a license under this Article shall certify
17 that the applicant has not been determined to be responsible for four or more violations
18 of State laws, regulations, or rules governing the management of marine and estuarine
19 resources during the previous three years. The Division may also consider violations of
20 federal law and regulations governing the management of marine and estuarine
21 resources in determining whether an applicant is eligible for a license.

22 (i) Cancellation. – The Division may cancel a license issued on the basis of an
23 application that contains false information supplied by the applicant. A cancelled license
24 is void from the date of issuance. An individual in possession of a cancelled license
25 shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender
26 a cancelled license upon demand of any authorized agent of the Division.

27 (j) Reporting Requirements. – The holder of a license issued under this Article
28 shall comply with the biological data sampling and survey programs of the Commission
29 and the Division.

30 (k) Confidentiality of Information. – Information collected pursuant to this
31 Article, including the names and addresses of licensed individuals, is confidential and is
32 not a public record under Chapter 132 of the General Statutes.

33 **"§ 113-174.2. Coastal Recreational Fishing License.**

34 (a) License Required. – Except as otherwise provided in this Article, it is
35 unlawful for any individual to engage in recreational fishing in coastal fishing waters by
36 means of recreational gear without holding a CRFL issued under this section. It is
37 unlawful for any individual licensed under this section or fishing under a CRFL to
38 possess fish in excess of recreational size or possession limits.

39 (b) Purchase; Renewal. – Any license issued under this section may be purchased
40 at designated offices of the Division or from the Division by mail. A license issued
41 under subdivisions (1) and (2) of subsection (c) of this section may also be purchased
42 through a license agent authorized under G.S. 113-174.5. Any license issued under this
43 section may be renewed by mail.

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

3 (1) Standard CRFL. – \$10.00. This license is valid for a period of one year
4 from the date of issuance.

5 (2) Ten-Day CRFL. – \$5.00. This license is valid for a period of 10 days.

6 (3) Lifetime CRFL. – This license is valid for the lifetime of the licensee.
7 The fee for the Lifetime CRFL, based on the age of the prospective
8 licensee as of the date on which the application is filed with the
9 Division, is:

10 a. Younger than 18 years of age \$150.00

11 b. 18 years of age to younger than 62 years of age \$200.00

12 (4) Disabled Individual CRFL. – An applicant for a license under this
13 subdivision shall provide documentation to the Division to
14 demonstrate that the applicant is disabled as determined by the United
15 States Social Security Administration. A license issued under this
16 subdivision shall be issued without charge and is valid for the lifetime
17 of the individual so long as the individual remains disabled.

18 (5) Disabled Veteran CRFL. – An applicant for a license under this
19 subdivision shall provide documentation to the Division to
20 demonstrate that the applicant is a fifty percent (50%) or more disabled
21 veteran as determined by the United States Department of Veterans
22 Affairs. A license issued under this subdivision shall be issued without
23 charge and is valid for the lifetime of the individual so long as the
24 individual remains fifty percent (50%) or more disabled.

25 (6) Legally Blind Lifetime CRFL. – An applicant for a license under this
26 subdivision shall provide documentation to the Division to
27 demonstrate that the applicant is legally blind. A license issued under
28 this subdivision shall be issued without charge and is valid for the
29 lifetime of the licensee.

30 (d) Exemptions. – An individual may engage in recreational fishing by means of
31 recreational gear without holding a CRFL if the individual:

32 (1) Is under 16 years of age.

33 (2) Is 62 years of age or older.

34 (3) Holds a SCFL or a RSCFL.

35 (4) Holds a Lifetime Resident Comprehensive Fishing License under G.S.
36 113-271(d)(3) or a Lifetime Sportsman License under G.S.
37 113-270.1D(b).

38 (5) Is fishing from a public bridge.

39 (e) Notwithstanding the fee for the Standard CRFL specified in subdivision (1)
40 of subsection (c) of this section, if the Commission finds that a state has established a
41 coastal recreational fishing license fee that exceeds the fee for the Standard CRFL, the
42 Commission may increase the fee for the Standard CRFL applicable to residents of that
43 state to an amount equal to the fee a North Carolina resident is required to pay for a
44 coastal recreational fishing license in that state. The action of the Commission to

1 increase a fee pursuant to this subsection is not subject to the provisions of Article 2A of
2 Chapter 150B of the General Statutes. The action of the Commission to increase a fee
3 pursuant to this subsection becomes effective on the date specified by the Commission.

4 **"§ 113-174.3. Recreational Commercial Gear License.**

5 (a) License Required. – Except as provided in subsection (e) of this section, it is
6 unlawful for any individual to engage in recreational fishing by means of commercial
7 fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL
8 entitles the licensee to use authorized commercial gear to take fish for personal use
9 subject to recreational size and possession limits. It is unlawful for any individual
10 licensed under this section or fishing under a RCGL to possess fish in excess of
11 recreational size or possession limits.

12 (b) Authorized Commercial Gear. –

13 (1) The Commission shall adopt rules authorizing the use of a limited
14 amount of commercial fishing equipment or gear for recreational
15 fishing under a RCGL. The Commission may authorize the limited use
16 of commercial gear on a uniform basis in all coastal fishing waters or
17 may vary the limited use of commercial gear within specified areas of
18 the coastal fishing waters. The Commission shall periodically evaluate
19 and revise the authorized use of commercial gear for recreational
20 fishing. Authorized commercial gear shall be identified by visible
21 colored tags or other means specified by the Commission in order to
22 distinguish between commercial gear used in a commercial fishing
23 operation as defined in G.S. 113-168 and commercial gear used for
24 recreational purposes.

25 (2) An individual who holds a RCGL may use up to 100 yards of gill net
26 to take fish for recreational purposes. Two individuals who each hold a
27 RCGL and who are fishing from a single vessel may use up to a
28 combined 200 yards of gill net to take fish for recreational purposes.
29 No more than 200 yards of gill net may be used to take fish for
30 recreational purposes from a single vessel regardless of the number of
31 individuals aboard the vessel who hold a RCGL.

32 (c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the
33 Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be
34 renewed by mail.

35 (d) Duration; Fees. – The RCGL shall be valid for a one-year period from the
36 date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five
37 dollars (\$35.00). The fee for a RCGL for an individual who is not a North Carolina
38 resident shall be two hundred fifty dollars (\$250.00).

39 (e) Exemptions. –

40 (1) An individual who is under 16 years of age may engage in recreational
41 fishing by means of authorized commercial gear without holding a
42 RCGL if the individual is accompanied by a parent, grandparent, or
43 guardian who holds a valid RCGL or if the individual has in the

1 individual's possession a valid RCGL issued to the individual's parent,
2 grandparent, or guardian.

3 (2) An individual may engage in recreational fishing for crabs by means of
4 one or more crab pots attached to the shore along privately owned land
5 or to a privately owned pier without holding a RCGL provided that the
6 crab pots are attached with the permission of the owner of the land or
7 pier.

8 (3) An individual who is on a vessel may engage in recreational fishing by
9 means of authorized commercial gear without holding a RCGL if there
10 is another individual on the vessel who holds a valid RCGL. This
11 exemption does not authorize the use of commercial gear in excess of
12 that authorized for use by the individual who holds the valid RCGL or,
13 if more than one individual on the vessel holds a RCGL, in excess of
14 that authorized for use by those individuals.

15 (4) An individual using nonmechanical means may take shellfish for
16 personal use within the limits specified in G.S. 113-169.2(i) without
17 holding a RCGL.

18 (5) An individual may take fish for recreational purposes by means of a
19 gig without holding a RCGL.

20 **"§ 113-174.4. License agents.**

21 (a) The Secretary shall designate license agents for the Department. At least one
22 license agent shall be designated for each county that contains or borders on coastal
23 fishing waters. The Secretary may designate additional license agents in any county if
24 the Secretary determines that additional agents are needed to provide efficient service to
25 the public. The Division and license agents designated by the Secretary under this
26 section shall issue licenses authorized under this Article in accordance with this Article
27 and the rules of the Commission.

28 (b) The Secretary may require license agents to enter into a contract that provides
29 for their duties and compensation, post a bond, and submit to reasonable inspections and
30 audits. If a license agent violates any provision of this Article, the rules of the
31 Commission, or the terms of the contract, the Secretary may initiate proceedings for the
32 forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to
33 renew a designation as a license agent and may impound or require the return of all
34 licenses, moneys, record books, reports, license forms, and other documents, ledgers,
35 and materials pertinent or apparently pertinent to the license agency. The Secretary shall
36 report evidence of misuse of State property, including license fees, by a license agent to
37 the State Bureau of Investigation as provided by G.S. 114-15.1.

38 (c) A license agent may deduct a fee of six percent (6%) from the amount
39 collected for each license.

40 "Article 14C.

41 "Marine Resources Restoration Fund.

42 **"§ 113-175. Definitions.**

43 As used in this section:

44 (1) 'Board of Trustees' means the Board of Trustees of the Fund.

1 (2) 'Fund' means the Marine Resources Restoration Fund.

2 (3) 'License revenues' means the net proceeds from the sale of licenses
3 issued under G.S. 113-174.2 and interest earned from the investment
4 of license proceeds. The term includes funds realized from the sale,
5 lease, rental, or other grant of rights to real or personal property
6 acquired or produced with license revenues and federal aid project
7 reimbursements to the extent that license revenues originally funded
8 the project for which the reimbursement is made.

9 **"§ 113-175.1. Marine Resources Restoration Fund.**

10 The Marine Resources Restoration Fund is established as a special nonreverting
11 fund within the Department. License revenues shall be deposited in the Fund. The State
12 Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S.
13 147-69.2 and G.S. 147-69.3.

14 **"§ 113-175.2. Board of Trustees of the Marine Resources Restoration Fund.**

15 (a) Board of Trustees. – There is hereby established the Board of Trustees of the
16 Marine Resources Restoration Fund. The Board of Trustees shall be independent, but
17 for administrative purposes shall be located under the Department.

18 (b) Membership, Qualifications. – The Board of Trustees shall consist of seven
19 members appointed to three-year terms as follows:

20 (1) One member appointed by the Governor to a term that expires on July
21 1 of years that precede by one year those years that are evenly divisible
22 by three.

23 (2) One member appointed by the Governor to a term that expires on July
24 1 of years that are evenly divisible by three.

25 (3) One member appointed by the Governor to a term that expires on July
26 1 of years that follow by one year those years that are evenly divisible
27 by three.

28 (4) One member appointed by the General Assembly upon the
29 recommendation of the Speaker of the House of Representatives to a
30 term that expires on July 1 of years that precede by one year those
31 years that are evenly divisible by three.

32 (5) One member appointed by the General Assembly upon the
33 recommendation of the Speaker of the House of Representatives to a
34 term that expires on July 1 of years that are evenly divisible by three.

35 (6) One member appointed by the General Assembly upon the
36 recommendation of the President Pro Tempore of the Senate to a term
37 that expires on July 1 of years that follow by one year those years that
38 are evenly divisible by three.

39 (7) One member appointed by the General Assembly upon the
40 recommendation of the President Pro Tempore of the Senate to a term
41 that expires on July 1 of years that precede by one year those years that
42 are evenly divisible by three.

43 (c) Qualifications. – A person must hold a license issued under G.S. 113-174.2 at
44 the time of appointment in order to be eligible for appointment to the Board of Trustees

1 under subsection (b) of this section. A person appointed under subsection (b) must
2 continue to hold a license issued under G.S. 113-174.2 in order to remain eligible to
3 serve on the Board of Trustees.

4 (d) Officers. – The Governor shall appoint the Chair and Vice-Chair of the Board
5 of Trustees from among the persons appointed under subsection (b) of this section.

6 (e) Vacancies. – If a vacancy occurs for a member subject to appointment by the
7 General Assembly upon the recommendation of the Speaker of the House of
8 Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled
9 in accordance with G.S. 120-122. All other vacancies shall be filled by the appointing
10 official in the original manner.

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

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

18 **"§ 113-175.3. Allocation of moneys from the Fund.**

19 The Secretary shall disburse moneys from the Fund only upon written direction from
20 the Board of Trustees. The Board of Trustees shall use moneys that accrue to the Fund
21 in each fiscal year for the administration of the provisions of Subchapter IV of Chapter
22 113 of the General Statutes related to marine fisheries as follows:

23 (1) Resource and habitat enhancement. – Not less than thirty-five percent
24 (35%) of the moneys in the Fund shall be used for resource and habitat
25 enhancement, including, but not limited to, artificial reef construction,
26 restoration and enhancement of submerged aquatic vegetation,
27 acquisition of land or an interest in land that provides for the
28 preservation of critical fisheries habitat, and studies used in the
29 development of a Fishery Management Plan or a Coastal Habitat
30 Protection Plan.

31 (2) Marine fisheries research. – Not less than thirty-five percent (35%) of
32 the moneys in the Fund shall be used for marine fisheries research,
33 including, but not limited to, life history studies of commercially or
34 recreationally significant marine and estuarine species or fisheries,
35 sampling and statistical studies, data collection and analysis, fisheries
36 habitat studies, commercial and recreational discard mortality studies,
37 and studies used in the development of a Fishery Management Plan or
38 a Coastal Habitat Protection Plan.

39 (3) Administration. – Not more than ten percent (10%) of the moneys,
40 exclusive of the license agent fees, in the Fund shall be used for
41 administrative costs.

42 (4) Public education and information. – Not less than five percent (5%)
43 but no more than ten percent (10%) of the moneys in the Fund shall be
44 used for public education and information.

1 (5) Grants. – Not more than five percent (5%) of the moneys in the Fund
2 shall be used to fund grants for coastal fishing programs, projects, and
3 scholarships.

4 **"§ 113-175.4. Report.**

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

10 **SECTION 2.** G.S. 113-168(1) reads as rewritten:

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

20 **SECTION 3.** The catch line of G.S. 113-168.1 reads as rewritten:

21 **"§ 113-168.1. General provisions governing commercial licenses and**
22 **endorsements."**

23 **SECTION 4.** G.S. 113-168.1(a) reads as rewritten:

24 "(a) Duration, Fees. – ~~Except as provided in G.S. 113-173(f), all~~ All licenses and
25 endorsements issued under this Article expire on the last day of the license year. An
26 applicant for any license or endorsement shall pay the full annual fee at the time the
27 applicant applies for the license or endorsement regardless of when application is
28 made."

29 **SECTION 5.** G.S. 113-168.1(f) reads as rewritten:

30 "(f) License Issuance and Renewal. – ~~Except as provided in G.S. 113-173(d), the~~
31 The Division shall issue licenses and endorsements under this Article to eligible
32 applicants at any office of the Division or by mail from the Morehead City office of the
33 Division. A license or endorsement may be renewed in person at any office of the
34 Division or by mail to the Morehead City office of the Division. Eligibility to renew an
35 expired SCFL shall end one year after the date of expiration of the SCFL."

36 **SECTION 6.** G.S. 113-172 is repealed.

37 **SECTION 7.** G.S. 113-173 is repealed.

38 **SECTION 8.** G.S. 143B-289.52(a) is amended by adding a new subdivision
39 to read:

40 "(13) To adopt rules to define fishing gear as either recreational gear or
41 commercial gear for purposes of implementing Article 14B of Chapter
42 113 of the General Statutes."

43 **SECTION 9.** In order to provide for a system of staggered three-year terms
44 for members of the Board of Trustees of the Marine Resources Restoration Fund

1 established by G.S. 113-175.2, as enacted by Section 1 of this act, the following
2 provisions shall apply:

- 3 (1) The term of the member initially appointed to serve in the position
4 established by G.S. 113-175.2(1) shall be five years and shall expire
5 on July 1, 2009.
- 6 (2) The term of the member initially appointed to serve in the position
7 established by G.S. 113-175.2(2) shall be three years and shall expire
8 on July 1, 2007.
- 9 (3) The term of the member initially appointed to serve in the position
10 established by G.S. 113-175.2(3) shall be four years and shall expire
11 on July 1, 2008.
- 12 (4) The term of the member initially appointed to serve in the position
13 established by G.S. 113-175.2(4) shall be five years and shall expire
14 on July 1, 2009.
- 15 (5) The term of the member initially appointed to serve in the position
16 established by G.S. 113-175.2(5) shall be three years and shall expire
17 on July 1, 2007.
- 18 (6) The term of the member initially appointed to serve in the position
19 established by G.S. 113-175.2(6) shall be four years and shall expire
20 on July 1, 2008.
- 21 (7) The term of the member initially appointed to serve in the position
22 established by G.S. 113-175.2(7) shall be five years and shall expire
23 on July 1, 2009.

24 **SECTION 10.** The first report required by G.S. 113-175.4, as enacted by
25 Section 1 of this act, shall be submitted by September 30, 2004.

26 **SECTION 11.** Unless otherwise expressly provided, every agency to which
27 this act applies shall adopt rules to implement the provisions of this act only in
28 accordance with the provisions of Chapter 150B of the General Statutes. This act
29 constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.
30 Every agency to which this act applies that is authorized to adopt rules to implement the
31 provisions of this act may adopt temporary rules to implement the provisions of this act.
32 This section shall continue in effect until all rules necessary to implement the provisions
33 of this act have become effective as either temporary rules or permanent rules.

34 **SECTION 12.** If any section or provision of this act is declared
35 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
36 provision does not affect the validity of this act as a whole or any part of this act other
37 than the part declared to be unconstitutional or invalid.

38 **SECTION 13.** Sections 8, 11, 12, and 13 of this act are effective when this
39 act becomes law. All other sections of this act become effective March 1, 2004.