

Chapter 161 of the Acts of 2009

AN ACT PROVIDING FOR SALTWATER FISHING LICENSES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35LL, inserted by section 9 of chapter 27 of the acts of 2009, the following section:-

Section 35NN. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Marine Recreational Fisheries Development Fund. There shall be credited to the fund all recreational saltwater fishing permit fees collected by the director of the division of marine fisheries under section 17C of chapter 130, any appropriations, grants, gifts or other monies authorized by the general court or other parties and specifically designated to be credited to the fund and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund may be expended, subject to appropriation, provided that all unexpended balances remaining in the fund at the end of the fiscal year shall not revert to the General Fund and may be appropriated for expenditure in the subsequent fiscal year.

(b) The fund shall be administered by the director in consultation with the marine recreational fisheries development panel established in section 17C of chapter 130. Monies expended from the fund shall be used for the development and administration of the recreational saltwater fishing permit program established in said section 17C of said chapter 130, to support science and conservation programs designed to improve recreational saltwater fishing and other recreational saltwater fishing improvement programs and for the direct and indirect costs of personnel or contractors of the division of marine fisheries associated with such programs; provided, however, that not less than one-third of the permit fees appropriated for expenditure in a fiscal year shall be expended on existing or new facilities and other activities that improve public access to recreational saltwater fishing. The director shall consult with the department of fish and game's office of fishing and boating access on any proposals for public access facilities to be constructed with monies from the fund and such facilities may be constructed in consultation with the office of fishing and boating access. The director shall request the marine recreational fisheries development panel's input on the division's proposed spending plan for the fund in the upcoming fiscal year and provide the panel with a written explanation if the director does not adopt a recommendation of the panel.

SECTION 2. Section 1 of chapter 130 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:-

"Commissioner", the commissioner of the department of fish and game.

SECTION 3. Said section 1 of said chapter 130, as so appearing, is hereby further amended by striking out the definition of "Department" and inserting in place thereof the following definition:-

"Department", the department of fish and game of the executive office of energy and environmental affairs.

SECTION 4. Said section 1 of said chapter 130, as so appearing, is hereby further amended by inserting after the definition of "Quahaug" the following definition:-

"Recreational saltwater fishing", the non-commercial taking or attempted taking of finfish for personal or family use; provided, however, that the finfish are not sold, traded or bartered.

SECTION 5. Section 1A of said chapter 130, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "of fisheries, wildlife and environmental law enforcement".

SECTION 6. Section 5 of said chapter 130, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "of fisheries, wildlife and environmental law enforcement".

SECTION 7. Section 17A of said chapter 130, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 8. Said chapter 130 is hereby further amended by inserting after section 17B the following 2 sections:-

Section 17C. (a) The director shall establish a state recreational saltwater fishing permit program to comply with the state exemption requirements of section 401 (g)(2) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 1881 (g)(2) and may promulgate regulations implementing the state program in accordance with sections 17 and 17A.

(b) No person shall engage in the recreational activity of finfishing, or take or land finfish for recreational purposes in or from the coastal waters of the commonwealth without first obtaining a saltwater recreational fishing permit from the director. The permit process shall require the applicant to submit, in addition to any other information required by the director, the applicant's name, address, telephone number and date of birth. A permit shall not be required in the following circumstances:

(1) a non-resident holding a valid recreational saltwater fishing permit from a coastal state; provided, however, that the director shall determine that: the requirements of such other state permit are substantially the same as the commonwealth's permit requirements; and the privileges granted under law to the resident of the other coastal state are similar to those permitted by the commonwealth;

(2) a person under 16 years of age;

(3) a disabled person, as defined in section 1 of chapter 19C; or

(4) a person fishing as a passenger on a for-hire vessel; provided, however, that the owner of the vessel has a valid permit from the director as provided in subsection (c).

(c) The director may issue a recreational saltwater fishing permit to an individual or a business entity that is engaged in for-hire recreational fishing in the coastal waters of the commonwealth, and such permit shall be valid for all persons on board the for-hire vessel. The director may establish categories and related requirements for such permits.

(d) The director may establish categories of recreational saltwater fishing permits, including, but not limited to, individual permits, age-related permits and for-hire permits, and may charge a separate annual fee for each category of permits. The amounts of such fees shall be established by the secretary of administration and finance under section 3B of chapter 7; provided, however, that the director or authorized agents may not charge a fee to individuals requesting a permit who, at the time of permit application, are 60 years of age or older or less than 16 years of age. The director shall develop a fee schedule for all classes of permits and submit such schedule to the clerks of the house of representatives and senate not less than 30 days before the schedule is to take effect.

(e) The director may authorize agents to sell recreational saltwater fishing permits issued under this section and authorize agents who are not employed by the commonwealth to charge and retain a reasonable service fee for such service.

(f) The director may designate not more than 2 days in each year as free recreational saltwater fishing days. A person may take saltwater finfish for noncommercial purposes on a free recreational saltwater fishing day without obtaining or possessing a permit or paying a permit fee as prescribed in this section; provided, however, that a person who takes saltwater finfish on a free recreational fishing day must comply with all laws, rules and regulations governing the holders of a recreational fishing permit and all other conditions and limitations regulating the taking of saltwater finfish.

(g) There shall be established within the division a marine recreational fisheries development panel. The panel shall advise the director on the development and administration of recreational saltwater fishing improvement programs, including, but not limited to, the improvement of public access to marine recreational fisheries. The panel shall consist of 2 members of the marine fisheries advisory commission and 3 members of the public at large, all of whom shall have specific expertise and background in the commonwealth's marine recreational fisheries. The panel members shall be appointed by the commissioner for terms not to exceed 3 years. Any member shall be eligible for reappointment. The panel shall meet at least twice annually and shall also meet at the request of the director or the commissioner. Three of the members shall constitute a quorum and the affirmative vote of a majority of members present at a duly called meeting where a quorum is present shall be necessary for any action to be taken by the panel.

Section 17D. Whoever violates section 17C, or any rule or regulation made under authority thereof, shall be punished by a fine per offense as promulgated by the director. All funds received by the commonwealth under this section shall be deposited in the Marine Recreational Fisheries Development Fund established by section 35NN of chapter 10.

Approved November 23, 2009.