

HOUSE No. 4224

The Commonwealth of Massachusetts

Mr. Straus of Mattapoisett, for the committee on Environment, Natural resources and
Agriculture, on House, No. 797, a Bill instituting salt water fishing licenses. (House, No. 4224).
August , 2009

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
William M. Straus	10th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act instituting salt water 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:

Chapter 130 of the General Laws is hereby amended by inserting after section 17B the following section:

Section 17C. Recreational Saltwater Fishing Permit Program

(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, codified at 16 U.S.C. 1881, and may promulgate regulations implementing the state program in accordance with sections 17 and 17A of Chapter 130.

(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, as defined in section 1 of Chapter 130, 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, his name, address, telephone number, and date of birth. No such permit shall be required in the following circumstances:

(1) non-resident persons holding a valid recreational saltwater fishing permit of any coastal state, provided the director has determined that the requirements of such other state permit is substantially the same as the commonwealth's permit, and the director has determined that the other state provides similar privileges granted under its law to residents permitted by the commonwealth;

(2) persons under sixteen years of age;

- (3) persons who meet the definition of disabled under applicable state law; or
- (4) persons fishing as a passenger from a for-hire vessel, provided 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, including but not limited to, for a charter boat allowing the permit holder to carry up to six paying passengers and for a head-boat allowing the permit holder to carry more than six paying passengers.

(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 pursuant to section 3B of chapter seven. However, the director or authorized agents may not charge a fee to individuals requesting a permit who at the time of permit application are more than sixty-four years of age or less than seventeen 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 such schedule is to take effect. The director may also authorize agents to sell recreational saltwater fishing permits issued pursuant to section 17C and authorize agents who are not employed by the commonwealth to charge and retain a reasonable service fee for such service.

(e) The director may designate not more than two consecutive or nonconsecutive days in each year as free saltwater fishing days. Notwithstanding any other provision of this chapter, any person may take saltwater fish for noncommercial purposes on a free saltwater fishing day, without obtaining or possessing a license or permit or paying a license or permit fee as prescribed in this section. A person who takes saltwater fish on a free fishing day must comply with all laws, rules, and regulations governing the holders of a fishing license or permit and all other conditions and limitations regulating the taking of saltwater fish.

(f) There shall be established within the division of marine fisheries 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 two members of the marine fisheries advisory commission and three 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 for terms not to exceed three years by the commissioner of the department of fish and game. The panel shall meet at least twice each year, and shall also meet at the request of the director or the commissioner. A quorum to conduct business shall consist of three members.

SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after Section 35KK the following section:-

“Section 35LL. Marine recreational fisheries development fund.

(1) 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 pursuant to Section 17C of Chapter 130 of the General Laws, 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.

(2) The fund shall be administered by the director in consultation with the marine recreational fisheries development panel. Monies expended from the fund shall be used for the development and administration of the recreational saltwater fishing permit program established pursuant to Section 17C of Chapter 130 to support science and conservation programs designed to improve recreational fishing and other recreational saltwater fishing improvement programs, including for

the direct and indirect costs of personnel or contractors of the division of marine fisheries associated with such programs; provided, that at least one-third of the license 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'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 with said office. The director shall request the 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 3. (a) Section 1 of Chapter 130 is hereby further amended by inserting the following definition:

“Recreational saltwater fishing,” the non-commercial taking or attempted taking of finfish for personal or family use, and which are not sold, traded or bartered.

(b) Section 17A of Chapter 130 is hereby amended by striking the following sentence:

“No such rule or regulation shall require a license for the taking of fish from coastal waters for non-commercial purposes.”

SECTION 4. Chapter 130 of the General Laws is hereby amended by inserting after Section 17C the following section:-

“Section 17D. Fishing without a license; penalties.

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 pursuant to this section shall be deposited in the marine recreational fisheries development fund established by section 35LL of chapter 29 of the General Laws.”

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