

HOUSE No. 4309

The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways & Means, on House, No. 4224, a Bill instituting salt water fishing licenses (House, No. 4309). November 4, 2009.

An Act INSTITUTING SALTWATER FISHING LICENSES.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Charles Murphy	21st Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act INSTITUTING 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:

1 **SECTION 1.** Chapter 10 of the General Laws is hereby amended by inserting after section
2 35LL, as added by section 9 of chapter 27 of the acts of 2009, the following section:-

3 Section 35NN. (1) There shall be established and set up on the books of the commonwealth a
4 separate fund to be known as the Marine Recreational Fisheries Development Fund. There shall
5 be credited to the fund all recreational saltwater fishing permit fees collected by the director of
6 the division of marine fisheries pursuant to section 17C of chapter 130, any appropriations,
7 grants, gifts, or other monies authorized by the general court or other parties and specifically
8 designated to be credited to the fund and any income derived from the investment of amounts
9 credited to the fund. All amounts credited to the fund may be expended, subject to
10 appropriation, provided that all unexpended balances remaining in the fund at the end of the
11 fiscal year shall not revert to the general fund and may be appropriated for expenditure in the
12 subsequent fiscal year.

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

28 **SECTION 2.** Section 1 of chapter 130 of the General Laws, as so appearing, is hereby amended
29 by striking out the definition of “Commissioner” and inserting in place thereof the following
30 definition:-

31 “Commissioner”, the commissioner of the department of fish and game.

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

35 “Department”, the department of fish and game of the executive office of energy and
36 environmental affairs.

37 **SECTION 4.** Said section 1 of said chapter 130, as so appearing, is hereby further amended by
38 inserting after the definition of “Quahog” the following definition:-

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

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

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

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

47 **SECTION 8.** Chapter 130 of the General Laws is hereby amended by inserting after section
48 17B the following 2 sections:-

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

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

59 (1) non-resident persons holding a valid recreational saltwater fishing permit of any coastal
60 state; provided, however, that the director has determined that the requirements of such other
61 state permit is substantially the same as the commonwealth’s permit, and the director has

62 determined that the other state provides similar privileges granted under its law to residents as
63 permitted by the commonwealth;

64 (2) persons under 16 years of age;

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

66 (4) persons fishing as a passenger from a for-hire vessel; provided that the owner of the vessel
67 has a valid permit from the director as provided in subsection (c).

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

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

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

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

92 (g) There shall be established within the division a marine recreational fisheries development
93 panel. The panel shall advise the director on the development and administration of recreational
94 saltwater fishing improvement programs, including, but not limited to, the improvement of
95 public access to marine recreational fisheries. The panel shall consist of 2 members of the
96 marine fisheries advisory commission and 3 members of the public at large, all of whom shall
97 have specific expertise and background in the commonwealth's marine recreational fisheries.
98 The panel members shall be appointed by the commissioner for terms not to exceed 3 years.
99 Any member shall be eligible for reappointment. The panel shall meet at least twice each year,

100 and shall also meet at the request of the director or the commissioner. Three of the members
101 shall constitute a quorum and the affirmative vote of a majority of members present at a duly
102 called meeting where a quorum is present shall be necessary for any action to be taken by the
103 panel.

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