

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 466
SENATE BILL 100

AN ACT TO VEST AUTHORITY IN THE SECRETARY OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO GRANT SHELLFISH CULTIVATION LEASES, TO MAKE CHANGES TO CHAPTER 113 OF THE NORTH CAROLINA GENERAL STATUTES, AND TO STUDY THE PREVENTION OF MARINE LITTER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-202 reads as rewritten:

"§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued prior to January 1, 1966.

(a) To increase the use of suitable areas underlying coastal fishing waters for the production of shellfish, the ~~Marine Fisheries Commission~~ Secretary may grant shellfish cultivation leases to persons who reside in North Carolina under the terms of this section when ~~it determines~~ the Secretary determines, in accordance with his duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet the following minimum standards:

- (1) The area leased must be suitable for the cultivation and harvesting of shellfish in commercial quantities.
- (2) The area leased must not contain a natural shellfish bed.
- (3) Cultivation of shellfish in the leased area will be compatible with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing and recreation.
- (4) Cultivation of shellfish in the leased area will not impinge upon the rights of riparian owners.
- (5) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.
- (6) The area leased must not include an area which the State Health Director has recommended be closed to shellfish harvest by reason of pollution.

(b) The ~~Marine Fisheries Commission~~ Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The ~~Marine Fisheries Commission~~ Secretary may not grant a new lease in an area heavily used for recreational purposes.

(c) No person, including a corporate entity, or single family unit may acquire and hold by lease, lease renewal, or purchase more than 50 acres of public bottoms under shellfish cultivation leases.

(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection(a) and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall ~~recommend that the application be denied~~ deny the application or propose that a conditional lease be issued ~~which that~~ is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of one hundred dollars (\$100.00).

(e) The area of bottom applied for in the case of an initial lease or amended initial lease must be as compact as possible, taking into consideration the shape of the body of water, the consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a sufficient distance from any known natural shellfish bed to prevent the likelihood of disputes arising between the leaseholder and members of the public taking shellfish from the natural bed.

(f) Within a reasonable time after receipt of an application that complies with subsection (d), the Secretary shall notify the applicant ~~whether he recommends approval, disapproval, or modification~~ of the intended action on the lease application. ~~In the event the Secretary recommends approval or~~ If the intended action is approval of the application as submitted or approval with a modification to which the applicant agrees, the Secretary shall conduct a public hearing in the county where the proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease in a newspaper of general circulation in the county in which the proposed leasehold lies. The first publication must precede the public hearing by more than 20 days; the second publication must follow the first by seven to 11 days. The notice of intention to lease must contain a sufficient description of the area of the proposed leasehold that its boundaries may be established with reasonable ease and certainty and must also contain the date, hour and place of the hearing. ~~The Secretary's recommendation of disapproval shall become the final agency decision of the application unless the applicant requests in~~

~~writing within 20 days of notice of such action an administrative hearing before the Marine Fisheries Commission.~~

~~(g) Protests to the granting of a proposed lease shall be made either in writing under oath prior to the public hearing held by the Secretary or by testimony under oath during the public hearing. After consideration of the protests public comment received and any additional investigations he the Secretary orders to evaluate the protests, comments, the Secretary shall send to notify the applicant and protesting parties in person or by certified or registered mail of his final recommendation the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision or another person aggrieved by the decision may commence a contested case by filing a petition under G.S. 150B-23 within 20 days after receiving notice of the Secretary's decision. In the event the Secretary's final recommendation decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the Secretary's final recommendation can be presented to the Marine Fisheries Commission. lease can be issued by the Secretary. In the event the Secretary's final recommendation is inconsistent with a protest, the person filing the protest may request in writing within 20 days of notice of such action an administrative hearing before the Marine Fisheries Commission. The Secretary's final recommendation of disapproval shall become the final agency decision of the application unless the applicant requests in writing within 20 days of notice of such action an administrative hearing before the Marine Fisheries Commission. The Secretary shall make the final agency decision in a contested case.~~

~~(h) The Secretary shall present all lease applications recommended for approval to the Marine Fisheries Commission for final determination. In addition to his final recommendation, the Secretary shall present the official record of the application as developed pursuant to the requirements of this action. The applicants and persons who protested the application shall be given an opportunity to present oral and written arguments based on the official record. Unless the Marine Fisheries Commission, in its discretion, refers the matter for an administrative hearing, the Marine Fisheries Commission shall determine all lease applications presented by the Secretary during the public meetings when the matter is presented. The Marine Fisheries Commission, Secretary, in its his discretion, may lease or decline to lease public bottoms in accordance with its his duty to conserve the marine and estuarine resources of the State.~~

~~More than 20 days prior to an administrative hearing conducted pursuant to this section, the Secretary must publish notice of the hearing in a newspaper of general circulation in the county where the proposed leasehold lies. The hearing shall be conducted in the county where the proposed leasehold lies. Protests to the granting of the proposed lease may be made during the administrative hearing by parties to the hearing, intervening parties, and witnesses for parties. When administrative hearings have been conducted pursuant to this section, the Marine Fisheries Commission shall determine the lease applications during the public meeting when the proposal for decision is presented by the hearing officer(s).~~

(i) After a lease application is approved by the ~~Marine Fisheries Commission, Secretary,~~ the applicant shall submit to the Secretary a survey of the area approved for leasing and define the bounds of the area approved for leasing with markers in accordance with the rules of the Commission. The survey shall conform to standards prescribed by the Secretary concerning accuracy of survey and the amount of detail to be shown. When an acceptable survey is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. ~~If the applicant and the Secretary are unable to agree that the area approved for lease is that shown in the survey, the Secretary shall report the matter with reasonable dispatch to the Marine Fisheries Commission for resolution.~~—The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased.

(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of April following the tenth anniversary of the granting of the lease. Renewal leases are issued for a period of 10 years effective from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of fifty dollars (\$50.00). The rental for initial leases is one dollar (\$1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of April following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after said date, the rental is five dollars (\$5.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of April must be paid in advance at the rate of one dollar (\$1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year.

(k) Except as restricted by this Subchapter, leaseholds granted under this section are to be treated as if they were real property and are subject to all laws relating to taxation, sale, devise, inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases properly acknowledged and probated are eligible for recordation in the same manner as instruments conveying an estate in real property. Within 30 days after transfer of beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner must notify the Secretary of such fact. Such transfer is not valid until notice is furnished the Secretary. In the event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the lease.

(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

- (1) Failure to pay the annual rent in advance.
- (2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.
- (3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.

- (4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
- (5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.
- (6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.
- (7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.

The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions of this paragraph of this subsection, his leasehold shall not be terminated under subdivision (5) of this subsection.

(m) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may ~~appeal to the Marine Fisheries Commission~~ initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. The Secretary shall make the final agency decision of all lease terminations. Where there is no appeal, or where an appeal does not prevail, the leaseholder does not initiate a contested case, or the Secretary's final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to ~~terminate~~ terminate, or of the Secretary's final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of ~~any appeal by the Marine Fisheries Commission~~ a contested case initiated by the leaseholder.

Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law-enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks. The format for notice by publication shall be approved by the Attorney General.

(n) Upon final termination of any leasehold, the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally. Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned markers denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned markers and the State may bring suit to recover the costs thereof.

(o) Every year between January 1 and February 15 the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by him for determining the amount of shellfish or shells planted on the leasehold during the preceding calendar year, and the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the shellfish culture of the State, and must be executed and returned by the leaseholder with the payment of his rental. Any leaseholder or his agent executing such forms for him who knowingly makes a false statement on such forms is guilty of a misdemeanor punishable in the discretion of the court.

(p) All leases and renewal leases granted after the effective date of this Article are made subject to this Article and to reasonable amendment of governing statutes, rules of the Marine Fisheries Commission, and requirements imposed by the Secretary or his agents in regulating the use of the leasehold or in processing applications of rentals. This includes such statutory increase in rentals as may be necessitated by changing conditions and refusal to renew lease after expiration, in the discretion of the ~~Marine Fisheries Commission. Secretary.~~ No increase in rentals, however, may be given retroactive effect.

The General Assembly declares it to be contrary to public policy to the oyster and clam bottoms which were leased prior to January 1, 1966, and which are not being used to produce oysters and clams in commercial quantities to continue to be held by private individuals, thus depriving the public of a resource which belongs to all the people of the State. Therefore, when the Secretary determines, after due notice to the lessee, and after opportunity for the lessee to be heard, that oysters or clams are not being produced in commercial quantities, due to the lessee's failure to make diligent effort to produce oysters and clams in commercial quantities, the Secretary may decline to renew, at the end of the current term, any oyster or clam bottom lease which was executed prior to January 1, 1966. The lessee may appeal the denial of the Secretary to renew the lease ~~to the Marine Fisheries Commission in which event the lessee shall be granted an opportunity to be heard, de novo, by the Marine Fisheries Commission and by initiating a contested case pursuant to G.S. 150B-23. In such contested cases, the burden of proof, by the greater weight of the evidence, shall be on the lessee. The Marine Fisheries Commission, by majority vote, may affirm or reverse the action of the Secretary. No appeal shall be allowed from the action of the Marine Fisheries Commission.~~

(q) Repealed by Session Laws 1983, c. 621, s. 16, effective July 1, 1983."

Sec. 2. G.S. 113-202.1, as amended by Chapter 322 of the 1993 Session Laws, reads as rewritten:

"§ 113-202.1. Water column leases for aquaculture.

(a) To increase the productivity of leases for shellfish culture issued under G.S. 113-202, the ~~Marine Fisheries Commission Secretary~~ may amend shellfish cultivation leases to authorize use of the water column superjacent to the leased bottom under the terms of this section when ~~it~~he determines the public interest will benefit from amendment of the leases. Leases with water column amendments must produce shellfish in commercial quantities at four times the minimum production rate of leases issued under G.S. 113-202, or any higher quantity required by the Marine Fisheries Commission through duly adopted rules.

(b) Suitable areas for the authorization of water column use shall meet the following minimum standards:

- (1) Aquaculture use of the leased area must not significantly impair navigation;
- (2) The leased area must not be within a navigation channel marked or maintained by a state or federal agency;
- (3) The leased area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the leaseholder, such as trawling or seining;
- (4) Aquaculture use of the leased area must not significantly interfere with the exercise of riparian rights by adjacent property owners including access to navigation channels from piers or other means of access; and
- (5) Any additional standards, established by the Commission in duly adopted rules, to protect the public interest in coastal fishing waters.

(c) The ~~Commission Secretary~~ shall not amend shellfish cultivation leases to authorize use of the water column unless:

- (1) The leaseholder submits an application, accompanied by a nonrefundable application fee of one hundred dollars (\$100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and the duly adopted rules of the Commission;
- (2) The proposed amendment has been noticed consistent with G.S. 113-202(f);
- (3) Public hearings have been conducted consistent with G.S. 113-202(g);
- (4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the ~~Commission Secretary~~ as commercially feasible forms of aquaculture which will enhance shellfish production on the leased area;
- (5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and
- (6) The authorized water column use has the least disruptive effect on other public trust uses of the waters of any available technology to produce the shellfish identified in the proposal.

(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for an initial water column amendment is one hundred dollars (\$100.00) an acre for each of the first four years for which the amendment is issued and five hundred dollars (\$500.00) an acre for the fifth year for which the amendment is issued. The annual rental for a renewed water column amendment is five hundred dollars (\$500.00) an acre. If a year for which a water column amendment is issued is less than a 12-month period, the rental for that year shall be prorated based on the number of months in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202.

(e) Amendments of shellfish cultivation leases to authorize use of the water column are subject to termination in accordance with the procedures established in G.S. 113-202 for the termination of shellfish cultivation leases. Additionally, such amendments may be terminated for unauthorized or unlawful interference with the exercise of public trust rights by the leaseholder, agents and employees of the leaseholder.

(f) Amendments of shellfish cultivation leases to authorize use of the water column are not transferrable except when the ~~Commission~~Secretary approves the transfer after public notice and hearing consistent with subsection (c) of this section.

(g) After public notice and hearing consistent with subsection (c) of this section, the ~~Commission~~Secretary may renew an amendment, in whole or in part, when the leaseholder has produced commercial quantities of shellfish and has otherwise complied with the rules of the Commission. Renewals may be denied or reduced in scope when the public interest so requires. Appeal of renewal decisions shall be conducted in accordance with G.S. 113-202(p). Renewals are subject to the lease terms and rates established in subsection (d) of this section.

(h) The procedures and requirements of G.S. 113-202 shall apply to proposed amendments or amendments of shellfish cultivation leases considered under this section except more specific provisions of this section control conflicts between the two sections.

(i) To the extent required by demonstration or research aquaculture development projects, the ~~Commission~~Secretary may amend existing leases and issue leases that authorize use of the bottom and the water column. Demonstration or research aquaculture development projects may be authorized for two years with no more than one renewal and when the project is proposed or formally sponsored by an educational institution which conducts research or demonstration of aquaculture. Production of shellfish with a sales value in excess of one thousand dollars (\$1,000) per acre per year shall constitute commercial production. Demonstration or research aquaculture development projects shall be exempt for the rental rate in subsection (d) of this section unless commercial production occurs as a result of the project."

Sec. 3. G.S. 113-202.2, as amended by Chapter 322 of the 1993 Session Laws, reads as rewritten:

"§ 113-202.2. Water column leases for aquaculture for perpetual franchises.

(a) To increase the productivity of shellfish grants and perpetual franchises for shellfish culture recognized under G.S. 113-206, the ~~Marine Fisheries Commission Secretary~~ may lease the water column superjacent to such grants or perpetual franchises (hereinafter 'perpetual franchises') under the terms of this section when it determines the public interest will benefit from the lease. Perpetual franchises with water column leases must produce shellfish in commercial quantities at four times the minimum production rate of leases issued under G.S. 113-202, or any higher quantity required by the Marine Fisheries Commission by rule.

(b) Suitable areas for the authorization of water column use shall meet the following minimum standards:

- (1) Aquaculture use of the leased water column area must not significantly impair navigation;
- (2) The leased water column area must not be within a navigation channel marked or maintained by a State or federal agency;
- (3) The leased water column area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the perpetual franchise holder, such as trawling or seining;
- (4) Aquaculture use of the leased water column area must not significantly interfere with the exercise of riparian rights by adjacent property owners including access to navigation channels from piers or other means of access;
- (5) The leased water column area may not exceed 10 acres for grants or perpetual franchises recognized pursuant to G.S. 113-206;
- (6) The leased water column area must not extend more than one-third of the distance across any body of water or into the channel third of any body of water for grants or perpetual franchises recognized pursuant to G.S. 113-206; and
- (7) Any additional rules to protect the public interest in coastal fishing waters adopted by the Commission.

(c) The ~~Commission Secretary~~ shall not lease the water column superjacent to oyster or other shellfish grants or perpetual franchises unless:

- (1) The perpetual franchise holder submits an application, accompanied by a nonrefundable application fee of one hundred dollars (\$100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and rules adopted by the Commission;
- (2) Notice of the proposed lease has been given consistent with G.S. 113-202(f);
- (3) Public hearings have been conducted consistent with G.S. 113-202(g);
- (4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the Commission Secretary as commercially feasible forms of aquaculture which will enhance shellfish production;

- (5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and
- (6) The authorized water column use has the least disruptive effect on other public trust uses of the waters of any available technology to produce the shellfish identified in the proposal.

(d) Water column leases to perpetual franchises shall be issued for a period of five years and may be renewed pursuant to subsection (g) of this section. The rental for an initial water column lease issued under this section is the same as the rental set in G.S. 113-202.1 for an initial water column amendment issued under that section, and the rental for a renewed water column lease issued under this section is the same as the rental set in G.S. 113-202.1 for a renewed water column amendment issued under that section.

(e) Water column leases to perpetual franchises may be terminated for unauthorized or unlawful interference with the exercise of public trust rights by the leaseholder or his agents or employees.

(f) Water column leases to perpetual franchises are not transferrable except when the ~~Commission~~ Secretary approves the transfer after public notice and hearing consistent with G.S. 113-202(f) and (g).

(g) After public notice and hearing consistent with G.S. 113-202(f) and (g), the ~~Commission~~ Secretary may renew a water column lease, in whole or in part, if the leaseholder has produced commercial quantities of shellfish and has otherwise complied with this section and the rules of the Commission. Renewals may be denied or reduced in scope when the public interest so requires. Appeal of renewal decisions shall be conducted in accordance with G.S. 113-202(p). Renewals are subject to the lease terms and rates set out in subsection (d) of this section.

(h) The procedures and requirements of G.S. 113-202 shall apply to proposed water column leases or water column leases to perpetual franchises considered under this section except that more specific provisions of this section control conflicts between the two sections.

(i) Demonstration or research aquaculture development projects may be authorized for two years with no more than one renewal and when the project is proposed or formally sponsored by an educational institution which conducts aquaculture research or demonstration projects. Production of shellfish with a sales value in excess of one thousand dollars (\$1,000) per acre per year shall constitute commercial production. Demonstration or research aquaculture development projects shall be exempt from the rental rate in subsection (d) of this section unless commercial production occurs as a result of the project."

Sec. 4. G.S. 113-154 reads as rewritten:

"§ 113-154. ~~Oyster, scallop and clam~~ Shellfish and crab licenses.

(a) ~~In addition to all other license requirements, every individual engaged in taking oysters, scallops, or clams~~ It is unlawful for an individual to take shellfish or crabs from the public or private grounds of North Carolina by mechanical means or for commercial use by any means ~~whatever must have without having~~ first procured an individual ~~oyster, scallops, and clam~~ shellfish and crab license.

(b) It is unlawful for any individual to take ~~oysters, scallops, or clams~~ shellfish or crabs for commercial use from the public or private grounds of North Carolina without having ready at hand for inspection a current and valid ~~oyster, scallop, and clam~~ shellfish and crab license issued to him personally and bearing his correct name and address. It is unlawful for any such individual taking or possessing freshly taken ~~oysters, scallops, or clams~~ shellfish or crabs to refuse to exhibit his license upon the request of an officer authorized to enforce the fishing laws.

(c) ~~Oyster, scallop, and clam~~ Shellfish and crab licenses are issued annually on a fiscal year basis upon payment of a fee of ~~four dollars (\$4.00)~~ fifteen dollars (\$15.00) upon proof that the license applicant is a resident of North Carolina: Provided, that persons under 16 years of age are exempt from the license requirements of this section if they are accompanied by their parent or guardian who is in compliance with the requirements of this section or if they have in their possession their parent's or guardian's ~~oyster, scallop, and clam~~ shellfish and crab license. Notwithstanding G.S. 113-130, for purposes of this subsection, a North Carolina resident means a person that has resided in North Carolina for six months immediately preceding the application for the shellfish and crab license.

(d) In the event an individual possessing ~~an oyster, scallop, and clam~~ a shellfish and crab license changes his name or address or receives one erroneous in this respect, he must within 30 days surrender the license for one bearing the correct name and address. An individual prosecuted for failure to possess a valid license is exonerated if he can show that the invalidity consisted solely of an incorrect name or address appearing in a license to which he was lawfully entitled and that the erroneous condition had not existed for longer than 30 days.

(e) It is unlawful for an individual issued ~~an oyster, scallop, and clam~~ a shellfish and crab license to transfer or offer to transfer his license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure ~~an oyster, scallop, or clam~~ a shellfish and crab license from a source not authorized by the Marine Fisheries Commission."

Sec. 5. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.2B. Storage of waste on vessels.

The operator of a vessel in the State's waters shall take precautions to ensure that certain items do not enter and contaminate the waters. The operator shall store fuel, oil, paint, varnish, solvent, pesticide, insecticide, fungicide, algicide, or any other hazardous liquid in one or more closed containers that are adequate to prevent the release of the items into the waters of the State."

Sec. 6. In addition to the powers and functions set forth in Article 12F of Chapter 120 of the General Statutes, the Joint Legislative Commission on Seafood and Aquaculture shall study and evaluate the effect of littering on water pollution. Special emphasis shall be placed on the intentional or reckless disposal of non-readily biodegradable materials in the waters of the State. The Commission shall report its findings and recommendations to the 1993 General Assembly, 1994 Regular Session.

Sec. 7. The provisions of this act are severable. If a court determines that a provision of this act is invalid, the invalidity does not affect other provisions of this act that can be given effect without the invalid provision.

Sec. 8. This act becomes effective January 1, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives