~~Indicates Matter Stricken~~

Indicates New Matter

INTRODUCED

April 14, 2009

**H. 3635**

Introduced by Rep. Hodges

S. Printed 4/14/09--S.

Read the first time April 14, 2009.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT** 1/

This bill is expected to raise restricted funds allocated to the Department of Natural Resources (DNR) by $230,436, and generate an additional $33,300 in commissions to respective licensing agents in this State in FY 2009-10. The bill would have no impact on state general fund revenue.

**Explanation**

This bill realigns certain saltwater fishing provisions from Chapter 5 to Chapter 9 of Title 50 of the Code of Laws to conform revenue reporting and distribution. It creates new, temporary and annual recreational saltwater fishing licenses applicable to shore-based fishing (seashore, seawall, bridge, private dock, etc.) in order to comply with the implementation schedule of the National Marine Fisheries Services for the National Saltwater Angler Registry. This mode of fishing is now exempt. The new fee rates are the same as those currently required to fish from a boat. All license proceeds, net of agent commission, are allocated to restricted funds within the DNR for various saltwater fishery programs.

Based on a review by the DNR of saltwater licensing trends, we expect this bill would require 33,300 more saltwater anglers to be licensed in FY 2009-10. The distribution of an estimated gross yield of $263,736 in total license fees is as follows: Agent commissions: prorated at $1 each, $33,000; DNR fees: prorated at $230,436 overall, from respective allocations for state residents of $63,936, temporary (at $4), $59,940, annual (at $9); and nonresident allocations of $106,560 ($10, temporary). Pursuant to proposed Section 50-9-925 (A) (1), the increase of $230,436 in DNR restricted funds in FY 2009-10 would be allocated as follows: recreational administration, $8,325; saltwater enforcement, $33,300; other saltwater programs, $188,811. Since all license fee proceeds go to DNR restricted funds, this bill would have no impact on state general fund revenue.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑9‑560 SO AS TO SPECIFY APPLICABLE FEES FOR RECREATIONAL SALTWATER FISHING LICENSES; BY ADDING SECTION 50‑9‑715 SO AS TO SPECIFY RECREATIONAL SALTWATER FISHING LICENSE EXEMPTIONS; BY ADDING SECTION 50‑9‑925 SO AS TO SPECIFY HOW THE REVENUE FROM THE SALE OF STAMPS, LICENSES, PRINTS, AND RELATED ARTICLES MUST BE DISTRIBUTED; TO AMEND SECTION 50‑5‑15, RELATING TO THE DEFINITIONS APPLICABLE TO THE SOUTH CAROLINA MARINE RESOURCES ACT, SO AS TO DEFINE THE TERMS “DROP NET” AND “FOLD UP TRAP”; TO AMEND SECTION 50‑5‑955, RELATING TO THE DESIGNATION AND MAINTENANCE OF PUBLIC SHELLFISH GROUNDS, SO AS TO SUBSTITUTE REFERENCE TO THE RECREATIONAL SALTWATER FISHING LICENSE FOR THE MARINE RECREATIONAL FISHING STAMP; TO AMEND SECTION 50‑5‑1915, RELATING TO CHARTER FISHING VESSEL LOGS, SO AS TO REQUIRE MONTHLY SUBMISSIONS TO THE SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTION 50‑9‑20, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, SO AS TO REMOVE REFERENCES TO RESIDENT AND NONRESIDENT LICENSES; TO AMEND SECTION 50‑9‑40, RELATING TO LICENSES FOR FRESHWATER FISHING, SO AS TO SPECIFY RECREATIONAL FRESHWATER FISHING; TO AMEND SECTION 50‑9‑540, AS AMENDED, RELATING TO FRESHWATER AND SALTWATER FISHING LICENSES, SO AS TO MAKE TECHNICAL CORRECTIONS; AND TO REPEAL SECTIONS 50‑5‑1905, 50‑5‑1910, 50‑5‑1920, 50‑5‑1925, AND 50‑5‑1945 ALL RELATING TO RECREATIONAL SALTWATER FISHERIES LICENSES AND STAMPS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑560. (A) For the privilege of recreational fishing in the saltwaters of this State:

(1) a resident shall purchase an annual recreational saltwater fishing license for ten dollars, of which one dollar may be retained by the issuing agent;

(2) in lieu of obtaining an annual recreational saltwater fishing license, a resident may purchase a temporary recreational saltwater fishing license valid for fourteen specified consecutive days for five dollars, of which one dollar may be retained by the issuing agent;

(3) a nonresident shall purchase an annual recreational saltwater fishing license for thirty‑five dollars, of which one dollar may be retained by the issuing agent; and

(4) in lieu of obtaining an annual recreational saltwater fishing license, a nonresident may purchase a temporary recreational saltwater fishing license valid for fourteen specified consecutive days for eleven dollars, of which one dollar may be retained by the issuing agent.

(B) For the privilege of operating a public fishing pier in the salt waters of this State, the owner or operator must purchase an annual saltwater public fishing pier license for:

(1) one hundred fifty dollars for a pier one hundred feet or less in total length; or

(2) three hundred fifty dollars for a pier greater than one hundred feet in total length.

(C) For the privilege of operating a charter fishing vessel in the salt waters of this State the owner or operator must purchase an annual charter vessel license for each vessel for the following fee to:

(1) carry six or fewer passengers, one hundred fifty dollars;

(2) carry seven to forty‑nine passengers, two hundred fifty dollars; and

(3) carry fifty or more passengers, three hundred fifty dollars.”

SECTION 2. Article 7, Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑715. The following are exempt from purchasing the recreational saltwater fishing license a:

(1) fisherman fishing from a licensed charter fishing vessel or from a licensed public fishing pier;

(2) drop net fisherman using no more than three drop nets;

(3) fold up fisherman using no more than three fold up traps;

(4) hand line fisherman using no more than three hand lines with a single bait each and no hooks; and

(5) fisherman taking shrimp with bait.”

SECTION 3. Article 9, Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑925. (A) Revenue from the sale of the stamps, recreational saltwater licenses, prints, and related articles must be paid into a special account separate from the general fund. Revenues in the account are carried forward each year and may be used to match available federal funds. The revenue must be distributed as follows:

(1) from the sale of an annual or temporary recreational saltwater fishing license; twenty‑five cents to saltwater administration, one dollar to saltwater enforcement, and the balance to recreational saltwater programs;

(2) from the sale of a charter vessel license; five percent to saltwater administration, twenty percent to saltwater enforcement, and the balance to recreational saltwater programs; and

(3) from the sale of stamps, prints, and related articles; five percent to saltwater administration, twenty percent to saltwater enforcement, and the balance to recreational saltwater programs.

(B) Revenues distributed for recreational saltwater programs may be used only for the following programs which directly benefit recreational saltwater fisheries:

(1) development of recreational saltwater fishing facilities;

(2) scientific research and management of recreational saltwater fisheries;

(3) protection, maintenance, or enhancement of saltwater habitat important to the continued production of fish stocks and their food sources of significance to recreational saltwater fisheries;

(4) other programs directly benefiting recreational saltwater fisheries recommended by the Saltwater Recreational Fisheries Advisory Committee; and

(5) publish an annual report to be made available to stamp and license holders to indicate how the previous year’s funds were utilized.

(C) Revenue distributed for saltwater administrative activities must be used in support of activities authorized pursuant to the South Carolina Marine Resources Act of 2000.

(D) Revenue distributed for saltwater enforcement activities must be expended for enforcement of the laws and fishery management regulations relating to recreational saltwater fisheries, including habitat protection and other activities authorized pursuant to this chapter.”

SECTION 4. Section 50‑5‑15 of the 1976 Code is amended to read:

“Section 50‑5‑15. As used in this ~~chapter except as specified in Article 19~~title pertaining to saltwaters:

(1) ‘Anadromous’ identifies fish which undertake adult migration from brackish or salt waters into freshwaters to spawn, except striped bass or rock fish and hybrid bass, and includes landlocked stocks of those fish.

(2) ‘Bang stick’ means ~~any~~a device containing a charge mounted on a spear, pole, or other contrivance which is activated in order to stun or kill fish or other marine resource.

(3) ‘Board’ means the South Carolina Board of Natural Resources.

(4) ‘Bottoms’ are all of the lands within this State covered at mean high water from the freshwater/saltwater dividing line seaward to the seawardmost limits of the territorial sea.

(5) ‘Bull rake’ means a rake having a basket and a width greater than twelve inches.

(6) ‘Bushel’ means one U.S. bushel.

(7) ‘Cast net’ means nonbaited circular webbing having a weighted peripheral line which is thrown by hand and retrieved by a central line connected to radiating tuck lines attached to the peripheral line.

(8) ‘Catadromous’ identifies fish which undertake adult migration from freshwater into brackish or salt water to spawn.

(9) ‘Channel net’ means any conical‑shaped, fixed, or stationary net used for taking shrimp which:

(a) is attached to poles, stakes, anchors, buoys, or other fixed objects; and

(b) has a mesh size of less than two and one‑half inches when the mesh is stretched; and is also known as a set net.

(10) ‘Charter fishing vessel’ means a vessel used to transport recreational saltwater fishermen for hire and includes charter, party, and head boats.

(11) ‘Commercial equipment’ means:

(a) any trawl, haul seine, gill net, channel net, bull rake, seed fork, grabs, escalator, or dredge; and

(b) any net, seine, trap, pot, tongs, rake, fork, trotline, or other device or appliance when used for taking or attempting to take fish for a commercial purpose.

(12) ‘Commercial purpose’ means:

(a) being engaged in buying or selling fish;

(b) taking or attempting to take fish in order to derive income or other consideration;

(c) using commercial equipment; and

(d) otherwise being engaged in the fisheries industry with the intent to derive income.

(13) ‘Conservation of fisheries’ means management, regulation, data collection and analysis, permitting, public interactions, enhancement and protection of fisheries stocks and habitat, law enforcement, and research.

(14) ‘Conviction’ or ‘convicted’ means adjudication at trial or civil hearing and includes the entry of a plea of guilty, or nolo contendere, or the forfeiture of bail or collateral deposited to secure a defendant’s appearance in court.

(15) ‘Crustacean’ means all forms of crabs, shrimp, crayfish, stone crabs, lobsters, and ~~any~~other motile fish having a chitonized shell excluding snails and horseshoe crabs.

(16) ‘Culch’ means oyster shell or other substrate which is purposely placed for propagation of oysters through the attachment of oyster larvae.

(17) ‘Cultured live rock’ means a type of live rock which has been produced as a result of cultivation under controlled conditions, as in aquaculture operations. Live rock culture specifically entails the deposition of substrate materials for the express purpose of removing the material at a later date for use, sale, or trade as live rock.

(18) ‘Department’ means the South Carolina Department of Natural Resources unless otherwise stated.

(19) ‘Dredge’ means equipment used for harvesting bottom dwelling aquatic life which is not a trawl and is powered by mechanical means, and is designed to contact the bottom when in operation.

(20) ‘Drop net’ means a net mounted to a rigid frame with its diameter or diagonal width being eight feet or less and designed to be fished vertically by hand.

(21) ‘Elver’ means all American eels (Anguilla rostrata) less than or equal to six inches in total length.

~~(21)~~(22) ‘Fish’ means finfish, shellfish including mollusks, crustaceans, horseshoe crabs, whelks (conchs), turtles, and terrapin or products thereof.

~~(22)~~(23) ‘Fishing’ means all activity and effort involved in taking or attempting to take fish.

~~(23)~~(24) ‘Fishery and fisheries’ ~~means~~mean the interactions within and between:

(a) the populations of fish or marine resources being harvested;

(b) the populations of fishermen;

(c) the method, equipment, and effort involved in taking or attempting to take fish;

(d) the processing, transporting, offering for sale, or selling of fish or marine resources; and

(e) the natural resources supporting that interaction.

(25) ‘Fold up trap’ means a pyramid‑shaped plastic or wire meshed collapsing trap, with a square base panel and triangular‑shaped side panels, that opens outward to occupy a single plane when placed on the water bottom. It is baited in the center of the base panel and encloses crabs when retrieved by means of a cord drawing together the topmost points of the side triangles.

~~(24)~~(26) ‘Gig’ means ~~any type~~a device used to spear fish by hand; to take fish by hand by use of a prong, spear, or similar device and includes bow and arrow.

~~(25)~~(27) ‘Gill net’ means a net which is designed to hang vertically and capture fish by entanglement usually of the head, gill covers, or preopercles, and does not include gill net for taking shad unless specified.

~~(26)~~(28) ‘Haul seine’ means a net of twine no smaller than #9 with a stretched mesh size no smaller than two inches and no larger than two and seven‑eighths inches, one end of which is anchored to the shore and the other end is moved through the water by a vessel to take fish by encircling the fish and then being mechanically drawn to the shore.

~~(27)~~(29) ‘Herring’ means ~~any or~~all life stages of the river herrings being blueback herring (Alosa aestivalis) and alewife (Alosa pseudoharengus).

~~(28)~~(30) ‘Inshore salt waters’ means those salt waters of this State between the landward limit of the Atlantic Ocean connected by COLREG demarcation lines, and the freshwater/saltwater dividing line.

~~(29)~~(31) ‘Landed’ or ‘to land’ means to take and ~~bring a saltwater fish ashore~~retain possession while afloat or to take and bring ashore.

~~(30)~~(32) ‘Live rock’ means living saltwater organisms or an assemblage of them attached to a hard substrate including dead coral or rock . Living saltwater organisms associated with hard bottoms, banks, reefs, and live rock include, but are not limited to:

(a) sea anemones (Phylum Cnidaria: Class Anthozoa: Order Actinaria);

(b) sponges (Phylum Porifera);

(c) tube worms (Phylum Annelida) including fan worms, feather duster worms, and Christmas tree worms;

(d) bryozoans (Phylum Bryozoa);

(e) sea squirts (Phylum Chordata); and

(f) marine algae including mermaid’s fan and cups (Udotea spp.), corraline algae, green feather and green grape algae (Caulerpa spp.), and watercress (Halimeda spp.).

~~(31)~~(33) ‘Mariculture’ means controlled cultivation in confinement of marine and estuarine organisms in salt waters.

~~(32)~~(34) ‘Marine resource’ means any live, fresh, processed, or frozen whole, part, or portion of any marine organism, anadromous fish, or catadromous fish, to include shell deposits occurring upon or within state‑owned bottoms and those lying above the mean high water mark if created by processes of natural accretion upon state‑owned lands or bottoms.

~~(33)~~(35) ‘Mile’ means one nautical mile, being six thousand seventy‑six feet.

~~(34)~~(36) ‘Minnow trap’ means a trap having no opening which has a dimension greater than one inch only when used for taking small finfish for bait.

~~(35)~~(37) ‘Mollusk’ or ‘molluscan’ means ~~any~~a member of the phylum Mollusca.

~~(36)~~(38) ‘Peeler crab’ means ~~any~~a hard crab of the blue crab species (Callinectes sapidus) which has a fully formed soft shell beneath the exterior hard shell and exhibits molt signs in the form of red, pink, or white lines just inside the exterior margin of the rear paddle (swimming) legs.

~~(37)~~(39) ‘Peeler trap’ means a trap constructed of one inch or smaller hexagonal wire which is:

(a) unbaited; or

(b) baited with only one live male crab and may have one single piece of fish having no dimension greater than three inches.

~~(38)~~(40) ‘Pot’ has the same definition as ‘trap’ herein contained.

~~(39)~~(41) ‘Protected species’ means ~~any~~a species with which man’s interaction is legally controlled, restricted, or prohibited either continually or periodically.

~~(40)~~(42) ‘Public fishing pier’ means piers open to the public which charge a fee to fish.

~~(41)~~(43) ‘Recreational fishermen’ means persons taking or attempting to take saltwater fish for recreation only, and not for commercial purposes.

~~(42)~~(44) ‘Salt waters’ ~~means~~mean all waters of the rivers and their tributaries, streams, and estuaries lying seaward of the dividing line between salt water and freshwater and all impounded waters seaward of the dividing line between salt water and freshwater which are intermittently filled or drained by the action of the tide.

~~(43)~~(45) ‘Saltwater gamefish’ means ~~any~~a species of saltwater fish designated as a saltwater gamefish in this title.

~~(44)~~(46) ‘Saltwater privileges’ ~~means~~mean the privilege of participating or assisting in the taking or attempting to take or to buy, receive, handle, pack, process, ship, consign, sell, barter, or trade ~~any~~a saltwater fish or marine resource and includes the privilege to hold any license, permit, or stamp authorizing such activity.

~~(45)~~(47) ‘Seed fork’ means a fork manufactured having seven or more straight or slightly curved tines or having ~~any~~a tine greater than eight inches in length. All tines must be at least one inch apart unless utilized for mariculture harvest.

~~(46)~~(48) ‘Shad’ means American or white shad (Alosa sapidissima) and hickory or skip‑jack shad (Alosa mediocris).

~~(47)~~(49) ‘Shellfish’ means oysters, clams, mussels, scallops, and all nonmotile molluscan fish having shells.

~~(48)~~(50) ‘Shoreline’ means the line of mean high water along that portion of a land mass which is in direct contact with the waters of the Atlantic Ocean.

~~(49)~~(51) ‘Shrimp seine’ means an ~~unanchored net having a stretched mesh of not less than one inch but no greater than one and three quarters inches, the webbing of which does not exceed forty feet in length or six feet in depth, which is continually moved through the water by human and not mechanical power. Beginning on the date three years following the effective date of this definition “shrimp seine” means an~~unanchored net having a stretched mesh of not less than one inch but no greater than one and three‑quarters inches, the webbing of which does not exceed forty feet in length or six feet in depth, which is continually moved through the water by human and not mechanical power, and which has no tail bag or cod.

~~(50)~~(52) ‘Shrimp trawl’ means ~~any~~a trawl with ~~any~~netting having a stretch mesh size of less than two and one‑half inches.

~~(51)~~(53) ‘Sponge crab’ means a female blue crab bearing visible eggs.

~~(52)~~(54) ‘State resident’ has the same meaning as prescribed in Chapter 9 of this title unless otherwise indicated.

~~(53)~~(55) ‘State waters’ extend to the seaward limit of the territorial sea.

(56) ‘Stretch’ as used to describe the measure of mesh of nets means that the material is pulled snugly but not to the point of lengthening the single or multistrand line of the netting. Measurement is made across the widest dimension of the mesh when so pulled.

~~(54)~~(57) ‘Striker’ means a person, other than a licensed saltwater commercial fisherman, who under immediate supervision assists a licensed commercial saltwater fisherman, but does not use separate commercial equipment on a vessel which is engaged in commercial fishing.

~~(55)~~(58) ‘Take’ means to harass intentionally, hunt, capture, gather, harvest, remove, catch, wound, or kill or attempt to harass, hunt, capture, gather, harvest, remove, catch, wound, or kill.

~~(56)~~(59) ‘Territorial sea’ means that portion of the Atlantic Ocean under the jurisdiction of the State of South Carolina~~as depicted on charts of the National Oceanic and Atmospheric Administration or its successor agency~~.

~~(57)~~(60) ‘Trap’ is an enclosed device used for taking fish, constructed to facilitate entry but prohibit or restrict exit of fish and is also called ‘pot’.

~~(58)~~(61) ‘Trawl’ means ~~any~~a net, other than a haul seine, towed behind a boat.

~~(59)~~(62) ‘Trawler’ means ~~any~~a vessel rigged for towing a trawl.

~~(60)~~(63) ‘Trawling’ means fishing with a trawl or having ~~any~~part of a trawl door in the water.

~~(61)~~(64) ‘Trotline’ means a single line or wire having numerous hooks or baits and is also called long line.

~~(62)~~ ~~‘Skim‑bow net’ means a net constructed of webbing not greater than two and one‑half inches, stretched mesh, hung within a frame formed by a length of wood or other material looped and attached upon itself end to end forming a loop having no distance across greater than fifteen feet.~~

~~(63)~~ ~~‘Stretch’ as used to describe the measure of mesh of nets means that the material is pulled snugly but not to the point of lengthening the single or multi‑strand line of the netting. Measurement is made across the widest dimension of the mesh when so pulled.~~”

SECTION 5. Section 50‑5‑955(A) of the 1976 Code is amended to read:

“(A) The Department of Natural Resources may designate and shall maintain Public Shellfish Grounds where persons holding or exempted from holding a ~~marine~~recreational saltwater fishing ~~stamp as required by Article 19 of this chapter~~license may gather shellfish solely for personal use not to exceed the personal limits specified in this article. The open areas must be located preferably at or near public landings. The Department of Natural Resources may not designate an area located within one thousand feet of highland property capable of development as a Public Shellfish Ground. Areas designated before January 1, 1996, are exempt from the siting provision of this section and retain their designation until such designation is removed by the department.”

SECTION 6. Section 50‑5‑1915 of the 1976 Code is amended to read:

“Section 50‑5‑1915. (A) Charter fishing vessels shall maintain a log of the number of persons carried each day, number of hours engaged in fishing, number of fish by species caught each day and other information considered necessary by the department. The logs must be submitted ~~as prescribed or approved by~~to the department monthly by the tenth day of the following month.

A person licensed to operate a charter fishing vessel who fails to maintain or submit a log as required is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars, or imprisoned for not more than thirty days, and a subsequent charter fishing vessel license must not be issued until the requirements of this subsection are met.

(B) Public fishing piers shall maintain a log of the number of persons fishing from that structure each day. The logs must be submitted to the department monthly by the tenth day of the following month as prescribed or approved by the department. ~~A person~~An owner or operator who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than ~~two~~five hundred dollars or imprisoned for not more than thirty days and a subsequent license must not be issued until the requirements of this subsection are met.”

SECTION 7. Section 50‑9‑20 of the 1976 Code is amended to read:

“Section 50‑9‑20. Annual ~~resident and nonresident hunting and fishing~~licenses, permits, stamps, and tags issued by the department are valid July first through June thirtieth the following year. ~~Resident and nonresident~~Temporary licenses and permits are valid for the consecutive days ~~as indicated on the license~~of issue.”

SECTION 8. Section 50‑9‑40 of the 1976 Code is amended to read:

“Section 50‑9‑40. Licenses for fishing privileges regulated by this chapter, unless otherwise specified, apply to ~~freshwaters of the State only~~recreational freshwater fishing.”

SECTION 9. Section 50‑9‑540(F) of the 1976 Code, as added by Act 268 of 2008, is amended to read:

“(F) For the privilege of recreational saltwater fishing, a resident of this State may obtain a lifetime ~~saltwater~~recreational ~~fisheries~~saltwater fishing license from the department~~at its designated licensing locations~~ for three hundred dollars at its designated licensing locations.”

SECTION 10. Sections 50‑5‑1905, 50‑5‑1910, 50‑5‑1920, 50‑5‑1925, and 50‑5‑1945 of the 1976 Code are repealed.

SECTION 11. This act takes effect on July 1, 2009.

‑‑‑‑XX‑‑‑‑