

AN ACT RELATING TO FISH AND WILDLIFE

SECTION 1. Section 20-1-3 of the General Laws in Chapter 20-1 entitled "General Provisions" is hereby amended to read as follows:

20-1-3 Definitions. – (a) When used in this title, the following words and phrases shall have the following meanings, unless the context indicates another meaning:

- (1) "Bushel" means a standard U.S. bushel, 2,150.4 cubic inches capacity;
- (2) "Hinge width" means the distance between the convex apex of the right shell and the convex apex of the left shell;
- (3) "Nonresident landowner" means a nonresident citizen of the United States and owner of real estate in Rhode Island as evidenced by deed filed in the Recorder of Deeds office in a Rhode Island town or city hall.
- (4) "Peck" means one fourth (1/4) of a bushel;
- (5) "Person" means an individual, corporation, partnership, or other legal entity;
- (6) "Possession" means the exercise of dominion or control over the resource commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. The decision must be made at the first practical opportunity. In the case of aquaculture crops, "possession" means the exercise of dominion or control over cultured crops commencing at the time at which a decision is made not to return the crops to the lease or facility from which they were taken. The decision must be made at the first practical opportunity;
- (7) "Quart" means one thirty-second (1/32) of a bushel;
- (8) "Resident" means an individual who has had his or her actual place of residence and has lived in the state of Rhode Island for a continuous period of not less than six (6) months.

(b) When used in this title, the following common names shall mean the animals designated by the following scientific names:

Alewife – Pomolobus or Alosa pseudoharengus

Bay quahaug – Mercenaria mercenaria

Bay scallop – Argopecten irradians

- Blue crab – Callinectes sapidus
- Blue mussel – Mytilus edulis
- Conch/channel whelk – Busycon canaliculatum
- Conch/nob whelk – Busycon carica
- Deer – Virginia white tail deer, Odocoileus virginianus
- Eel – Anguilla rostrata
- Green crabs – Carcinus maenas
- Jonah/northern crab – Cancer borealis
- Lobster – Homarus americanus
- Menhaden – Brevoortia tyrannus
- Ocean quahaug – Arctica islandica
- Oyster – Crassostrea virginica, Ostrea edulis
- Rock crab – Cancer irroratus
- Sea scallop – Placopecten magellanicus
- Smelt – Osmerus mordax
- Soft shell clam – Mya arenaria
- Striped bass – Morone saxatilis
- Surf clam or sea clam – Spisula solidissima.

SECTION 2. Sections 20-2-1.1 and 20-2-28.2 of the General Laws in Chapter 20-2 entitled "Licensing" are hereby amended to read as follows:

20-2-1.1. Commercial fishing license moratorium. -- (a) The commercial marine fishing licenses as provided for in sections 20-2-20(a), (b); 20-2-21; 20-2-24(a); 20-2-25; 20-2-26; 20-2-26.1(a), (b); 20-2-27(a), (b), (c)(1), (2), (3), (4); 20-2-28(a), (b), (c); 20-2-28.1(a); 20-4-1.2(1), (2), (3), (4); 20-5-1; 20-5-2; and 20-5-3 shall be issued for renewal only. No new licenses applicable to these sections shall be issued between July 1, 2001, and ~~June 30, December 31 2001~~ 2002. In order to obtain a license applicable to these sections between July 1, 2001, and ~~June 30, December 31, 2002~~, an individual must provide proof that he or she possessed a valid Rhode Island commercial fishing license subsequent to July 1, 2000, and submit a license application to the department environmental management. The moratorium shall provide time for a continued study of

the commercial marine fishing licensing program to insure the sustainable viability and use of marine fisheries, ~~and~~ for a recommendation to the general assembly, in accordance with chapter 20-3.1, and for implementation of a new system of commercial fishing licenses as provided for in chapter 2.1 of this title.

(b) Notwithstanding the provisions of subsection (a), an existing license may only be transferred to an immediate family member upon approval by the director. An immediate family member for the purposes of this subsection is defined as the spouse, mother, father, brother, sister, or child of the transferor.

20-2-28.2. Deposit of fees.

In any fiscal year moneys generated from license fees provided for in §§ 20-2-20 - 20-2-28.1 and chapter 20-2.1 over and above the sum of two hundred thousand dollars (\$200,000) through June 30, 2003, and on and after July 1, 2003, the full amount shall be deposited with the general treasurer and appropriated to the department of environmental management. The state controller is authorized and directed to draw orders upon the general treasurer for payment of any sum or sums as may be necessary from time to time upon receipt by him or her of duly authenticated vouchers presented by the director of environmental management. The moneys received under this section are to be used only for the following specific purposes, consistent with an annual plan for the allocation and use of said funds adopted by the department with the advise of the Marine Fisheries Council :

- (1) For protection and propagation of marine fish, lobsters, and shellfish;
- (2) For additional enforcement of the marine fishery regulations;
- (3) For transplanting shellfish from closed areas or enhancing the shellfish resource through other technologies including seeding;
- (4) For fishing port development and construction;
- (5) For staff support of, and expenses incurred by, the marine fisheries council, ~~and~~
- (6) For lease and purchase of land or acquisition of conservation easements, and
- (7) For technical support to and expenses incurred by the department for the collection, processing, analysis, and maintenance of data for fisheries management.

SECTION 3. In chapter 20-2 entitled "Licensing" Section 20-2-27.2 is hereby repealed and sections 20-2-20; 2-2-21; 20-2-22; 20-2-23; 20-2-24, 20-2-25; 20-2-26, 2-2-26.1(B); 20-2-27; 20-2027.2 20-2-28; and 20-2-28.1 are hereby repealed effective January 1, 2003.

SECTION 4: Title 20 of the General laws, entitled Fish and Wildlife, is hereby amended by adding the following chapter thereto:

Chapter 2.1

COMMERCIAL FISHING LICENSES

20-2.1-1. Findings. -- The General Assembly finds and declares:

(A) That the constitution of the State places plenary authority and responsibility in the General Assembly to provide for the conservation of natural resources of the State, including its marine fisheries;

(B) That the State of Rhode Island has historically established programs to provide for and regulate harvesting, taking, landing, and selling marine finfish, crustaceans, and shellfish for the benefit of the people of the state;

(C) That Federal government and regional entities have established and continue to establish regulatory programs, management measures, quotas, and restrictions that affect persons engaged in marine fisheries in Rhode Island, and that Rhode Island functions in whole or in part in the context of these Federal and regional programs depending on the marine species;

~~(D) That the Department of Environmental Management in accordance with the requirements of section 20 3.1 7(1) of the General Laws has issued goals and principles pertaining to biological, socio-economic, and licensing and data collection issues that present a need to make substantial changes in commercial fishing licensing; rights and~~

interests of residents of Rhode Island to engage in fishing, including commercial fishing, need to be recognized and protected;

(E) That the ~~Coastal Institute of the University of Rhode Island has provided a process in 2001 that was open to widely divergent positions and interests pertaining to fisheries management in Rhode Island~~ interests of persons engaged in commercial fishing are affected by fisheries management programs and allocations need to be respected and given due consideration, and

(F) That Rhode Island's statutes and programs for marine fisheries management and licensure ~~have developed incrementally~~ over time and need to be ~~reviewed regularly~~, brought up-to-date and made adaptable to changing conditions and circumstances.

20-2.1-2. Purposes.-- The purposes of this chapter are, through a system of licensure that is clear, predictable and adaptable to changing conditions, to:

(A) Preserve, enhance, and allow for any necessary regeneration of the fisheries of the state, for the benefit of the people of the state, as an ecological asset and as a source of food and recreation;

(B) Provide Rhode Islanders who wish to fish commercially the opportunity to do so and end the moratorium on issuance of new commercial fishing licenses so that new licenses may be issued for the year beginning January 1, 2003, and each year thereafter;

(C) Allow residents who have fished commercially to sell their vessels and gear in a manner that first, facilitates up-grading license levels among residents already in the fishery; that second, provides lateral movement among residents who are holders of commercial fishing licenses to other types of fishing, and that third, enables new entrants into new commercial fishing;

(D) Respect the interests of residents who fish under licenses issued by the state and wish to continue to fish commercially in a manner that is economically viable: it is specifically not a purpose of this chapter to establish licensing procedures that eliminate the ability to fish commercially of any resident as of the date of enactment who holds commercial fishing license;

(E) Preserve and enhance full-time commercial fishing, with a high degree of participation by owner operated vessels, as a way of life and as a significant industry in Rhode Island;

(F) Establish principles, for a system of adaptive management, that shall be used by the Department in licensure programs and fisheries management, which principles shall include:

- 1) the foregoing purposes and
- 2) as appropriate, necessary, and effective, the following measures:
 - a) regulation of the design and use of gear,
 - b) limitations on the amount of gear that may be used by a license holder,
 - c) restrictions on when and where commercial fishing may be done,
 - d) quotas and limitations on catch or landings, and
 - e) restrictions on the number of license holders;

(G) Provide a licensure system that facilitates data collection and management so that marine fisheries can be managed more efficiently and effectively.

20-2.1-3. Definitions. -- For the purposes of this chapter the following terms shall mean:

(A) Commercial fisherman shall mean a natural person who catches, harvests, or takes finfish, crustaceans, or shellfish from the marine waters for sale.

(B) Council shall mean the Marine Fisheries Council established by chapter 20-3 of the General Laws.

(C) Crustaceans shall mean lobsters, crabs, shrimp, and for purposes of this chapter it shall also include horseshoe crabs.

(D) Director shall mean the director of the department of environmental management.

(E) Finfish shall mean cold-blooded aquatic vertebrates with fins, including fish, sharks, rays, skates, and eels, and shall also include squid.

(F) Shellfish shall mean quahogs, clams, mussels, scallops, oysters., conches, and mollusks in general other than squid.

(G) Student commercial fisherman shall mean a resident twenty-three (23) years of age or younger who is a fulltime student.

(H) "Basic harvest and gear levels" shall mean a harvest and/or gear level, established by the department by rule consistent with such management plans that may be in effect, for each of the three fisheries sectors in order to provide for new entries into commercial fishing; unless a fishery is closed or harvest levels or gear levels are being substantially reduced for current participants in order to achieve compliance with a State or Federally sanctioned fisheries management plan, the basic harvest and gear level shall provide for a reasonable level of effort in each fishery; provided however that consistent with a duly adopted management plan, the department may ratably reduce the allowable level of catch or gear.

(I) "Fisheries sectors" shall mean and comprise crustaceans, finfish, and lobsters, each of which shall singularly each be considered a fishery sector.

20-2.1-4. Licenses-- General provisions governing licenses issued to be effective

January 1, 2003, and after.-- (A) Licenses required. It shall be unlawful for any person in Rhode Island or the waters of the state to catch, harvest, ~~or to hold~~, or transport for sale ~~in Rhode Island~~ any marine finfish, crustacean, or shellfish without a license issued under the provisions of this title, provided however that marine finfish, crustaceans, or shellfish may be held or transported by a duly licensed dealer if the said marine finfish, crustacean, or shellfish has previously been sold by a duly licensed person.

(B) Endorsement of license. No license issued under this chapter shall be valid until endorsed by the licensee in his or her own handwriting.

(C) Transfer or loan of license. ~~(a)~~ Unless otherwise provided for in this title, a license issued to a person under this chapter shall be good only for the person to whom it is issued; and any transfer or loan of the license shall be grounds for revocation or suspension of that license pursuant to § 20-2-13. ~~(b) Notwithstanding the provisions of subsection (a), an existing license may only be transferred to an immediate family member as provided for in subsection 20-2-1-5(E) or upon approval by the director. An immediate family member for the purposes of this subsection is defined as the spouse, mother, father, brother, sister, or child of the transferor.~~

(D) Reporting and inspections-condition of license. All persons granted a license under the provisions of this chapter are deemed to have consented to ~~reporting requirements applicable to commercial fishing activity that are established pursuant to this title and to~~ the reasonable inspection of any boat, vessel, net, rake, bullrake, tong, dredge, trap, pot, vehicle, structure, or other contrivance used regularly for the keeping or storage of fish, shellfish, crustaceans, or any game bag firearms, creel, box, locker, basket, crate, blind, stand, or hunting, fishing, or trapping paraphernalia used in conjunction with the licensed activity by persons duly authorized by the director.

(E) Possession, inspection, and display of license. Every person holding a license issued under this chapter shall have that license in his or her possession at all times while engaged in the licensed activity and shall present the license for inspection on demand by any authorized person. Any person who shall refuse to present a license on demand shall be liable to the same punishment as if that person were fishing without a license.

(F) Application for license. Every person entitled to a license under this chapter shall file an application with the director or the director's authorized agent, properly sworn to, stating the name, age, occupation, place of residence, nationality, weight, height, and color of hair and eyes of the applicant for whom the license is wanted ~~and providing such other information as may reasonably be required pursuant to rule in order effectuate the purposes of this chapter~~ and pay the fees as provided in this chapter. All licenses issued under this chapter shall be valid only for the calendar year of issuance, unless otherwise

specified in this chapter or in the rules and regulations adopted pursuant to this chapter. If the person will be either the owner or the operator of a commercial ~~fishing vessels over twenty five feet (25') length overall~~, the person shall declare on the application the vessel name, length, horsepower, registration number, Federal permit number if any, gear type(s), the principal fishery or fisheries, and average projected crew size.

(G) For commercial marine fishing licenses provided for in sections 20-2.1-5, 20-2.1-6, and 20-2.1-7 of this chapter, the following provisions shall apply: (1) unless otherwise specified in this chapter , an individual qualified to obtain a license must submit an application to the department of environmental management no later than February 28 of each year; license applications shall be deemed valid if submitted to the department prior to the close of regular office hours on February 28, or if postmarked by February 28; (2) unless otherwise specified in this title, no new or renewed licenses shall be issued after February 28 of each year, unless an applicant has submitted an application by the February 28 deadline required by this section; and (3) the department shall notify all license holders, in writing, regarding the December 31 expiration and the February 28 renewal deadline no later than November 1 of each year.

(H) Lost or destroyed licenses and duplicate licenses. Whoever loses or by a mistake or accident destroys his or her certificate of a commercial marine fisheries license may, upon application to the department accompanied by an affidavit fully setting forth the circumstances of the loss, receive a duplicate certificate for the remainder of the year covered by the original certificate, for a fee of ~~twenty five dollars (\$25.00)~~ ~~ten dollars (\$10)~~ for each duplicate license.

(I) Expiration and deadline for renewal.(1) Beginning January 1, 2003, unless otherwise specified in this title, all licenses issued under this chapter shall be annual and shall expire on December 31 of every year.

(2) All commercial marine fisheries licenses that are subject to renewal July 1, 2002, may be renewed for a six (6) month period ending December 31, 2002. The fee for the

renewals shall be one-half (1/2) of the amount for annual renewal of the licenses as otherwise provided for in this title.

(J) Revocation of Licenses.-- (1) License revocation. The license of any person who has violated the provisions of this chapter, or rules adopted pursuant to the provisions of this chapter or rules and regulations that pertain to commercial fishing and reporting issued pursuant to this title may be suspended or revoked by the director in any manner and for any period as the director shall determine by regulation. Any person aggrieved by an order of suspension or revocation may appeal this order in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

(2) False statements and violations - Cancellation of license. Any person who willfully makes a false representation as to birthplace or requirements of identification or of other facts required in an application for license under this chapter, or is any wise directly or indirectly a party to such a false representation, shall be punished by a fine of not more than fifty dollars (\$50.00). A license obtained by any person through such a false representation shall be null and void, and the license shall be surrendered immediately to the director. No license shall be issued under this title to this person for a period of one year from the date of conviction.

(3) Every person who falsely makes, alters, forges, or counterfeits, or who causes to be made, altered, forged, or counterfeited, a license issued under this chapter or title or purporting to be a license issued under this chapter or title, or who shall have in his or her possession such a false, altered, forged, or counterfeit license, is guilty of a misdemeanor and is subject to the penalties prescribed in § 20-1-16.

20-2.1-5. Resident Licenses effective January 1, 2003, and after.-- ~~The Director shall establish as a minimum the following classes of licenses: commercial fishing licenses, multi-species participant licenses, and principal effort licenses for shellfish, crustaceans, and finfish, and a student commercial fishing license for shellfish. In addition, the director may establish such other classes and types licenses and endorsements, consistent with the provisions of this chapter, that may be necessary to accomplish the purposes of this chapter.~~ The Director shall establish, as a minimum, the following types of licenses:

commercial fishing licenses, principal effort licenses and multi-purpose licenses and student shellfish licenses and over sixty-five shellfish licenses. In addition, the director may establish such other types of licenses and endorsements, consistent with the provisions of this chapter and with management plans, as may be necessary to accomplish the purposes of this chapter.

(A) Classes-Types of License.

(1) Class I: Commercial Fishing License. Rhode Island residents age 18 and over shall be eligible to obtain a Class I commercial fishing license; said license shall as at minimum allow the holder to harvest, land, and sell in a lawful manner any species of shellfish, crustacean, or finfish that is not subject to a quota or to an effort restriction implemented by the department. The annual fee for a commercial fishing license shall be one hundred dollars (\$100). Rhode Island residents shall be eligible to obtain a commercial fishing license; said license shall as at minimum allow the holder to harvest, land, and sell in a lawful manner any species of shellfish, crustacean, or finfish subject to such basic harvest and gear levels as the department shall establish. The annual fee for a commercial fishing license shall be one hundred-fifty dollars (\$150).

(2) Class II: Multi-species participant license. All multi-purpose license holders and other duly licensed holders of commercial fishing licenses as of December 31, 2002, shall be eligible to obtain a Class II license, which shall allow the holder to harvest, and to land and sell, shellfish including quahogs, crustaceans including lobsters, and finfish, consistent with quota programs and restrictions, at the basic catch level, which shall be established by rule as provided for in section 20-2.1-8(D)(3), provided the license holder has obtained the required endorsement, which may require that the Class II license holder to document prior participation in the fishery. A minimum of three endorsements shall be available: one for shellfish including quahogs; one for crustaceans including lobsters; and one for finfish. The annual fee for a multi-species participant license shall be one hundred dollars (\$100) and each endorsement thereon shall be one hundred dollars (\$100). Principal effort license. Duly licensed persons in a fishery as of the effective date of this act shall be eligible to obtain a principal effort license for either crustaceans,

including lobsters, or finfish consistent with quotas and management programs, or shellfish including quahogs; which license shall allow its holder to fish for either crustaceans or finfish, or shellfish to the maximum extent allowable by law and regulation. No person shall be eligible to hold more than one principal effort license; provided however that a person may own more than one vessel used for fishing, and the operator of that vessel may hold a principal effort license different from the principal effort license of the vessel owner. The annual fee for a principal effort license shall be two hundred dollars (\$200). Principle effort license holders, in addition to the fishery of their principle effort, shall be eligible to obtain endorsements for other fisheries sectors at the basic harvest and gear levels; the annual fee for each fishery sector endorsement shall be fifty dollars (\$50).

~~(3) Class III: Principal effort license. Duly licensed persons in a fishery as of the effective date of this act who have documented historic commercial effort in fishery that is subject to quotas or restrictions on effort shall be eligible to obtain a principal effort license for either crustaceans including lobsters, or finfish consistent with quotas and management programs, or shellfish including quahogs; which Class III license shall allow its holder to fish for either crustaceans or finfish, or shellfish to the maximum extent allowable by law and regulation. No person shall be eligible to hold more than one principal effort license; provided however that a person may own more than one vessel used for fishing, and the operator of that vessel may hold a principal effort license different from the principal effort license of the vessel owner. The annual fee for a principal effort license shall be two hundred dollars (\$200). Multi-purpose license. All multi-purpose license holders as of December 31, 2002, shall be eligible to obtain a multi-purpose license, which shall allow the holder to harvest, and to land and sell, shellfish including quahogs, crustaceans including lobsters, and finfish, consistent with quota programs and restrictions, to the maximum extent allowable by law and regulation. At the time of application for a multi-purpose license and each annual renewal thereof, the applicant shall make a non-binding declaration of which fishing sectors the applicant~~

~~intends to place significant fishing effort during the period covered by the license. The annual fee for a multi-purpose license shall be three hundred dollars (\$300).~~

(4) Special licenses

(a) Student shellfish license. A resident twenty-three (23) years or younger shall pay fifty dollars (\$50.00) for a student commercial license to take shellfish upon provision of proof of full-time student status.

(b) Over sixty-five shellfish license. A resident sixty-five year of age and over shall be eligible for a shellfish license to ~~quahog shellfish~~ commercially and there shall be no fee for this license.

~~(c) Commercial scallop license: two hundred dollars (\$200). The license is only issued to a resident of this state and shall be valid only for the reason for which issued.~~

~~(d) Apprentice licenses, the department may in addition to the Class I license establish such apprentice licenses as it may deem appropriate to facilitate persons to enter and gain experience in a fishery, the allowable effort and/or catch for such apprentice licenses shall not be greater than the basic catch level for a Class II license.~~

(B) Vessel fees and special vessel gear licenses and fees.

~~(1) Vessel declaration and fee. The department shall require that the owner and/or operator of a commercial fishing vessel over twenty five feet (25') length overall to declare the vessel on the owner/operators commercial fishing license; the declaration shall be made at the time of initial license issuance and each renewal, or prior to the vessel's being used for commercial fishing by the owner and/or operator if the first usage of the vessel for commercial fishing occurs during the course of a year after the license has been issued or renewed, if the vessel is to be used in the finfishery the fee for the declaration shall be two dollars (\$2) for each whole foot over twenty five feet (25') length overall.~~

(1) Vessel declaration and fee. The department shall require that the owner and/or operator of a commercial fishing vessel to make a vessel declaration on the owner's and/or operator's commercial fishing license. The declaration shall be made at the time of initial license issuance and each renewal, or if the vessel is twenty-five feet (25') in length or greater, prior to the vessel's being used for commercial fishing by the

owner and/or operator if the first usage of the vessel for commercial fishing occurs during the course of a year after the license has been issued or renewed; if the declaration is for a vessel of less than twenty-five feet (25') in length, the declaration shall be transferable on a temporary basis to another vessel less than twenty-five feet (25') in length. The declaration shall state the name, type, length, and horse power of the vessel. For declarations of vessels of less than twenty-five feet (25') in length a plate shall be issued to the license holder. The fee for each declaration shall be \$25 for the first twenty-five feet, or under, and fifty cents (\$0.50) for each whole foot over twenty-five feet in length.

(2) Special vessel and gear licenses and fees.

(a) Shellfish dredging license -- Fee. A resident of this state shall pay an annual fee of two hundred dollars (\$200) for a license to take quahogs, mussels, and surf clams by dredges hauled by power boat.

(b) Fish trap license. ~~Two hundred dollars (\$200) per license and T~~twenty dollars (\$20.00) per trap location in accordance with the provisions of chapter 5 of this title.

(c) Gill net licenses. A person who holds a multi-species participant license and/or a principal effort license for finfish is also eligible to apply for a commercial gill net permit in accordance with the provisions of this section. The annual recording fee for commercial gill netting is twenty dollars (\$20.00).

(d) Miscellaneous ~~gear licenses, the department may establish by rule such specific gear licenses as may be necessary or appropriate to effectuate the purposes of this chapter and facilitate participation in a specific fishery with a specific type of gear; the fee for such a gear license shall not be greater than~~ ~~pot fishery, vessels not licensed in any of the above categories engaged in commercial pot scup, crab, eel or conch fishery:~~ two hundred dollars (\$200), but may be a lesser amount. This license ~~is~~ shall be issued only in a manner consistent with the general requirements of this chapter, including specifically those governing residency ~~to a legal resident of the state of Rhode Island.~~

(C) New Licenses:

(1) Eligibility. For new ~~Class II and Class III~~ principal effort and multi-purpose licenses priority shall be given to applicants who have a held a lower level of license for two years

or more, with preference to family members and crew members of a license holder who is retiring his or her license.

(2) A new license shall be granted to priority/preference applicants who have acquired vessel and or gear from a license holder who has retired a license, provided that as the result of any such transaction for each license retired not more than one new license may be granted, nor may the nominal effort, including the total number licenses, in a fishery subject effort or catch restrictions be increased.

(3) Availability new, additional licenses. New ~~Class II and Class III principal effort and multi-purpose~~ licenses, that increase the total number of licenses in the fishery, may be made available by rule for issuance effective January 1 in any year, based on status of resource and economic condition of fishery.

(D) Retirement of licenses. Issuance of license shall not be deemed to create a property right that can be sold or transferred by license holder; fishing licenses shall be considered the property of the state and shall be surrendered to the state upon their non-renewal or forfeiture.

(E) Transfer for hardship. Notwithstanding the provisions of section 20-2.1-4 (C), a license may be transferred to a family member upon the ~~illnesses~~, incapacity, or death of the license holder ~~who has been active in the fishery~~. Such transfer shall be effective upon its registration with department. A family member shall be defined as the spouse, mother, father, brother, sister, ~~child~~ or ~~grandchild~~ of the transferor. The department shall ~~by rule~~ make available as necessary operator permits to provide solely for the continued operation of a fishing vessel upon the illness, incapacity or death of a license holder, ~~who has been active in the fishery, where the failure to issue such an operator permit would result in hardship~~, which operator permits shall be subject at minimum to the conditions and restrictions that applied to the license holder.

(F) Transfer of vessels and gear. Vessels and gear may be sold, transferred, or disposed at the sole discretion of the owner, provided however that the subsequent level of use of

the gear may be restricted in RI waters in order to accomplish the purposes of a duly adopted management plan or other duly adopted program to reduce effort.

20-2.1-6. Non-Resident Licenses effective January 1, 2003, and after.-- Subject to the rules of the department, non-residents may apply for the following commercial fishing licenses:

~~(A) Class I: Commercial Fishing License. Nonresidents age 18 and over shall be eligible to obtain a commercial fishing license; said license shall as at minimum allow the holder to harvest, land, and sell in a lawful manner any species of species of shellfish, crustacean, or finfish that is not subject to a quota or restriction on effort. The annual fee for a non-resident commercial fishing license shall be two hundred dollars (\$200).~~

~~(B) Class II: Multi-species participant license. Non-residents who are multi-purpose license holders or holders of commercial fishing licenses as of December 31, 2002, and who have historic effort in a fishery that is subject to quotas or restrictions on total effort, shall be eligible to obtain a Class II License; said Class II license shall allow the holder to harvest, and to land and sell, shellfish including quahogs, crustaceans including lobsters, and all finfish, consistent with quota programs and restrictions, at the at the basic catch level, provided the license holder has historic effort in the fishery and has obtained the required endorsement. A minimum of three endorsements shall be available: one for shellfish including quahogs; one for crustaceans including lobsters; and one for finfish. The annual fee for a non-resident multi-species participant license shall be three hundred dollars (\$300); and for each endorsement two hundred dollars (\$200).~~

~~(C) Class III: Principal effort license. Duly licensed non-residents as of the effective date of this act who have documented historic commercial effort in a fishery that is subject to quotas or restrictions on effort shall be eligible to obtain a principal effort license for either crustaceans including lobsters, or finfish consistent with quotas and management programs, or shellfish including quahogs; which principal effort license shall allow its holder to fish for either crustaceans or finfish, or shellfish to the maximum extent allowable by law and regulation for either a fulltime commercial fisherman or a seasonal~~

~~commercial fisherman. No person shall be eligible to hold more than one Class III license; provided however that a person may own more than one vessel used for fishing, and the operator of that vessel may hold a principal effort license different from the principal effort license of the vessel owner. The annual fee for a non-resident Class III license shall be four hundred dollars (\$400).~~

~~(A) Non-resident commercial fishing license. Duly licensed non-residents as of the effective date of this act, who have documented participation in a fishery in this state, shall be eligible to obtain a non-resident commercial fishing license solely for that fishery, subject to the restrictions applicable to a resident principal effort license for that fishery and to such other restrictions that were applicable to the license as of the effective date of this act, which other restrictions may be altered or changed consistent with a management plan adopted by the department. The annual fee for a non-resident commercial fishing license shall be five hundred dollars (\$500).~~

~~(B) Non-resident limited commercial fishing license. Non-residents aged eighteen (18) and over shall be eligible to obtain a non-resident limited commercial fishing license, which license shall allow them to harvest, land, off-load, and sell any species that is not subject to a limitation on total catch or effort and as allowed in a management plan adopted by the department, provided that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents. The annual fee for a non-resident limited commercial fishing license shall be three hundred dollars (\$300).~~

~~(D)-(C) Special licenses and seasonal licenses. Seasonal finfish licenses. (1) Rod and reel (for sale of finfish lawfully taken by rod and reel or diving): four hundred dollars (\$400) for nonresidents of the state.~~

~~(2) Individual non-boat (for named individual only, lawfully taking fish for sale with use of nets or other means without use of boat): four hundred dollars (\$400) for nonresidents of the state.~~

~~(E) Vessel declaration fees and vessel and gear license, fees.~~

~~(a) Vessel declaration. The department shall require that a non-resident owner and/or operator of a commercial fishing vessel over twenty-five feet (25') length overall to make a declaration for that vessel; which shall be made at the time of initial license issuance and each renewal, or prior to the vessel's being used for commercial fishing in Rhode Island waters by the non-resident owner and/or operator if the first usage of the vessel for commercial fishing occurs during the course of a year after the license has been issued or renewed, for a cost of fifty dollars (\$50). The annual fee for the non-resident declaration shall be six dollars (\$6) for each whole foot over twenty-five feet (25') length overall, on the owner's and/or operator's commercial fishing license. The declaration shall be made at the time of initial license issuance and each renewal, or if the vessel is twenty-five feet (25') in length or greater, prior to the vessel's being used for commercial fishing by the owner and/or operator if the first usage of the vessel for commercial fishing occurs during the course of a year after the license has been issued or renewed; if the declaration is for a vessel of less than twenty-five feet (25') in length, the declaration shall be transferable on a temporary basis to another vessel less than twenty-five feet (25') in length. The declaration shall state the name, type, length, and horse power of the vessel. For declarations of vessels of less than twenty-five feet (25') in length a plate shall be issued to the license holder. The fee for each declaration shall be one hundred dollars (\$100) for the first twenty-five feet and one dollar (\$1) for each whole foot over twenty-five feet in length.~~

~~(b) Non-resident otter, beam, or pair trawl. Any resident of a state which accords to residents of Rhode Island reciprocal commercial fishing privileges may obtain a license for the setting of an otter, beam, or pair trawl or other mechanical trawling device in those areas of the state's waters where such a device is allowed upon application therefor and payment of a fee computed on the basis of twenty dollars (\$20.00) per lineal foot, or part thereof, of the registered length of the vessel to be licensed, as indicated on its document, certificate of award, register, enrollment, or license issued by the United States collector of customs. This license is non-transferable and is issued annually for the fee specified on the first day of January in each year and expires on the succeeding~~

~~December 31st. If it appears in the public interest, the director may suspend or cancel this license on ten (10) days' notice in writing to the holder thereof.~~

~~(F) New Licenses. Any resident of a state that accords to Rhode Island residents commercial fishing privileges that include an ability to obtain a new license to fish for finfish species that are subject restrictions and or quotas, may on reciprocal basis be eligible to obtain a Class II non-resident license if new Class II licenses are made available, subject priority being given to persons having held Class I licenses.~~

20-2.1-6. Landing Permits.-- Landing permits shall be issued as provided for in chapter 4 of this title. In addition, a non-resident must obtain a shellfish landing license permit, for a fee of two hundred dollars (\$200), to off-load and/or sell land shellfish (surf clams, blue mussels, ocean quahogs, sea scallops) any non-quota species harvested outside Rhode Island waters. Said land permit shall be valid be for the calendar year in which it was issued. The department shall adopt such rules and procedures as may be necessary for the timely issuance of such permits in order to facilitate the off-loading and sale of non-quota species harvested outside Rhode Island waters.

20-2.1-7. Dealers Licenses.-- Dealers licenses shall be issued as as provided for in chapter 4 of this title; unless otherwise established, license fees for dealers shall be as follows:

(A) Multi-purpose Rhode Island dealers licenses. This license allows persons to deal all marine products in the state of Rhode Island, three hundred dollars (\$300).

(B) Lobster dealer license. Sellers and Rhode Island lobster dealer: two hundred dollars (\$200).

(C) Shellfish buyer's license. The annual fee for a shellfish buyer's license is two hundred dollars (\$200).

20-2.1-8. Powers and duties of the Director.-- It shall be the duty of the director to adopt, implement, and maintain a commercial fisheries licensing system that shall incorporate and be consistent with the purposes of this chapter; in performance of this duty the director shall follow the guidelines and procedures set forth below.

(A). The rule making powers of the director to accomplish the purposes of this chapter shall include the following with regard to commercial fishing licenses and commercial fishing by license holders.

(1) Types ~~and classes of~~ licenses consistent with the provisions of this chapter and applicable sections of this title, and limitations on levels of effort and/or on catch by type ~~or class~~ license; ~~information to be supplied with license applications, reporting requirements by license holders, and grounds for revocation of licenses;~~

(2) Design, use, and identification of gear;

(3) Declarations for data collection purposes of vessels used in commercial fishing, which declaration requirements shall in no way, except as otherwise provided for in law, restrict the use of any vessel less than 25' in length overall by appropriate holders of commercial fishing licenses;

(4) Areas in Rhode Island waters where commercial ~~fishing~~ of different types may take place, and where it may be prohibited or limited, and the times and/or seasons when commercial fishing by type or species may be allowed, restricted, or prohibited.

(5) Limitations and/or restrictions on effort, gear, catch, or number of license holders ~~and endorsements.~~

(6) Emergency rules, as provided for in chapter 42-35, to protect an unexpectedly imperiled fishery resource, to provide access to a fisheries resource that is unexpectedly more abundant, and to protect the public health and safety from an unexpected hazard or risk. The Marine Fisheries Council shall be notified of all emergency rules on or before their effective date, and no emergency rule shall become a final rule unless it is promulgated as provided for in section 20-2.1-8

(C).

(B) When implementing the system of licensure set forth in sections 20-2.1-4, 20-2.1-5, 20-2.1-6, and 20-2.1-7 of this chapter and other provisions of this title pertaining to commercial fishing licenses, permits, and registrations, the director shall consider **the effect of the measure on the access of Rhode Island residents to commercial fishing, and when establishing limitations on effort and/or catch:**

(1) The effectiveness of the limitation:

(a) In achieving duly established conservation or fisheries regeneration goals or requirements;

(b) In maintaining the viability of fisheries resources overall, including particularly, the reduction of by-catch, discards, and fish mortality, and in improving efficiency in the utilization of fisheries resources;

(c) In complementing Federal and regional management programs and the reciprocal arrangements with other states;

(2) The impact of the limitation on persons engaged in commercial fishing on:

(a) Present participation in the fishery, including ranges and average levels of participation by different types or classes of participants;

(b) Historical fishing practices in, and dependence on, the fishery;

(c) The economics of the fishery;

(d) The potential effects on the safety of human life at sea.

(e) The cultural and social framework relevant to the fishery and any affected fishing communities; and

(3) Any other relevant considerations that Director finds in the rule making process.

(4) The following standards for fishery conservation and management, which standards shall be understood and applied so far as practicable and reasonable in a manner consistent with Federal fisheries law, regulation, and guidelines:

(a) Conservation and management measures shall prevent overfishing, while achieving, on a continuing basis, the optimum yield from each fishery;

(b) Conservation and management measures shall be based upon the best scientific information available; and analysis of impacts shall consider ecological, economic and social consequences of the fishery as a whole

(c) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fisheries resources; except that no such measure shall have economic allocation as its sole purpose;

(d) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches;

(e) Conservation and management measures shall, where practicable,

minimize costs and avoid unnecessary duplication. (f) Conservation and management measures shall, consistent with conservation requirements of this Act (including the prevention and overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

(g) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

(h) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

(C) The rule making process herein set forth shall conform with the requirements of chapter 42-35, the Administrative Procedures Act, and shall:

(1)Regulatory agenda for marine fisheries management, with the advice of the Marine Fisheries Council, in accordance the requirements of section 42-35-5.1 of the General Laws.

(2) Director shall submit proposed rule to the Marine Fisheries Council at least sixty days prior to the proposed date public hearing on the rule;

(3) The public hearing shall be on either the rule as proposed to the Marine Fisheries Council by the director or a proposed revision to that rule adopted by the Marine Fisheries Council;

(4) The proposed rule as submitted by the director to the Marine Fisheries Council and the Council report and recommendation regarding the rule shall both be entered into the record of the hearing conducted in accordance with the requirements of chapter 42-35.

(5) The decision of the director shall state the bases for adopting the Rule including a concise statement giving the principal reasons for and against its adoption and the response to positions entered into the record of the hearing. Licensing of individuals and registration of vessels and/or fishing equipment for fishing or landing fish in the State;

(D) Matters to be consider in establishing license programs under this chapter. The Director shall consistent with the requirements of section 20-2.1-2(F) establish and implement a licensing system in accordance with the provisions of this chapter that shall be designed to accomplish marine fisheries management objectives. Such licensing system may limit access to fisheries, particularly commercial fisheries for which there is adequate or greater than adequate harvesting capacity currently in the fishery and for which either a total allowable catch has been set or a total allowable level of fishing effort has been established for the purpose of preventing over fishing of the resource or the dissipation of the economic yield from the fishery. This authority shall include the authority of the Director to:

(1) Differentiate between the level of access to fisheries provided to license holders or potential license holders on the basis of past performance, dependence on the fishery, or other criteria;

(2) Establish prospective control dates that provide notice to the public that access to, and levels of participation in, a fishery may be restricted and that entrance into, or increases in levels of participation in a fishery after the control date may not be treated in the same way as participation in the fishery prior to the control date.

Retroactive control dates are prohibited and shall not be used or implemented, unless expressly required by Federal law, regulation, or court decision.

(3) Establish levels of catch by ~~class-type~~ of license, which shall provide for basic catch levels ~~for Class II licenses, may include reduced or specific catch levels for student and apprentice commercial fisherman~~, and may set maximum catch levels ~~for Class III licenses~~; quotas may be allocated proportionally among classes of license holders as needed to maintain the viability of different forms of commercial fishing ~~and to increase access to the fishery.~~

(E) Director shall by rule, with the advice of the Marine Fisheries Council, develop conservation and management plans for the fishery resources of the State, which conservation and management plans shall be adopted prior to and the at the same time as adoption of any license restrictions on effort or catch. In the development of such fishery conservation and management plans, priority shall be given to those resources with the highest value to the State, either for commercial or recreational purposes.

(F) The Director to report annually to the General Assembly and to the citizens concerning the conservation and management of the fishery resources of the State, noting particularly the status of any fishery resources that are considered to be overfished or were considered to be overfished in the preceding year.

20-2.1-11 Commercial Fishing Licenses Appeals Board. There is hereby established within the department a commercial fishing licenses appeals board of five members to be appointed by the governor with the advice and consent of the Senate, three members shall be commercial fishers, one from each of the fisheries sectors; one of whom shall be a person with professional knowledge of fisheries management, and one of whom shall be attorney with knowledge of environmental law; the attorney member shall be chair. The purpose of the board shall be to hear requests for reconsideration of the denial of a commercial fishing license that arise from changes in statute and regulation and that result in unreasonable hardship. The appeals board shall consider the requested action's impact on fisheries management program overall, equity with license holders, consistency with prior decisions, consistency with management plans, and consistency

with the purposes of this act. The appeals board shall recommend to the director an action to be taken on the request for reconsideration, and the decision of the director shall be in writing and shall affirm, deny, or amend the recommendation of the appeals board.

20-2.1-~~11~~(12). Powers and Duties of the Marine Fisheries Council--with regard to licensure.-- The Marine Fisheries Council, established by chapter 20-3, shall have the power and the duty to advise the director in accordance with subsection 20-2.1-8(C) on all rules, except emergency rules, necessary to implement the provisions of this chapter. The Council ~~may~~ shall establish an industry advisory committee to provide coordination among commercial fisheries sectors and to review plans and recommendations that affect more than commercial fishery sector, which shall include representatives of each commercial fisheries sector and of manners of commercial fishing, and such other committees as appropriate and shall hold such meetings and hearings as it may deem appropriate to fulfill this responsibility. The Council shall advise the director on the development of the regulatory agenda for marine fisheries and shall have the power to initiate rule making by petition as provided for in section 42-35-6. The Council shall advise the department with regard to the development of annual plans for the allocation of the funds made available to the department from commercial fishing license fees, permits, and tags as provided for in section 20-2-28.2.

20-2.1-~~12~~ (13). Liberal Construction. -- The provisions of this chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

SECTION 5. Section 20-3-1 in chapter 20-3 entitled "Marine Fisheries Council" is hereby amended to read as follows:

20-3-1. Council created - Membership - Compensation.

There is hereby created a marine fisheries council. The council shall be composed of the director of the department of environmental management or the director's designee, who

shall serve as chairperson and eight (8) private citizen members. The private citizen members shall be chosen from among those with skill, knowledge and experience in the commercial fishing industry, the sport fishing industry, and in the conservation and management of fisheries resources and shall be appointed by the governor with the advice and consent of the senate. Three (3) of the private citizen members shall be representatives of the commercial fishing industry; three (3) shall be representatives of the sport fishing industry; and the remaining two (2) shall have skill, knowledge, and experience in the conservation and management of fisheries resources and/or marine biology. The chairperson of the coastal resources management council and the chiefs of the divisions of enforcement and fish and wildlife in the department of environmental management shall serve in an advisory capacity to the council. Members of the council shall serve for a term of four (4) years and may not succeed themselves more than once after January 1, 2002. Initial appointments to the council shall be appointed as follows: three (3) members for a term of two (2) years, three (3) members for a term of three (3) years, and two (2) members for a term of four (4) years. All members of the council shall serve without compensation and shall be reimbursed for their necessary expenses incurred in travel and in the performance of their duties.

SECTION 6. Chapter 20-3.1 of the General Laws entitled the Marine Fisheries Modernization is hereby repealed effective January 1, 2004.

SECTION 7. Chapter 20-4 of the General Laws entitled "Commercial Fisheries" is hereby amended by adding the following sections thereto:

20-4-1.4 Non-resident landing permits. A new landing permit shall not be issued to any non-resident to off-load, land, offer for sale, or sell any marine species for which a quota has been allocated to the state of Rhode Island by the Atlantic States Marine Fisheries Council or the National Marine Fisheries service, unless a) the landing shall be counted against the quota of the state where the vessel making the landing is registered or documented, or b) the state where the vessel making the landing is registered or documented issues new landing permits to Rhode Island residents to land against that

State's quota for the same species. For purposes of this section the renewal of any non-resident landing permit shall be considered a new non-resident landing permit unless the applicant can show, to the satisfaction of the director, historic participation in the fishery and landings of the species; and any change or up-grade of a vessel twenty percent (20%) or greater in length, displacement, or horsepower above the named vessel shall be considered a new landing permit. Issuance of a landing permit shall not be deemed to create a property right that can be sold, transferred, or encumbered; landing permits shall be surrendered to the state upon their non-renewal or forfeiture, and the acquisition of a named vessel by a non-resident who does not already have a landing permit shall not entitle the non-resident to a landing permit unless a new landing permit can be issued as herein allowed.

SECTION 8. Sections 20-6-3 and 20-6-11 of the General Laws in Chapter 20-6 entitled "Shellfish" are hereby amended to read as follows:

20-6-3. Scallops -- Open season. -- Unless otherwise specified in regulations adopted by the director, in consultation with the marine fisheries council, the open season for taking scallops from the free and common scallop fisheries in any of the waters of the state shall be between sunrise of the first day of October and sunset on the last day of December of every year. Any person taking scallops in violation of this section shall, upon conviction, be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or imprisoned exceeding thirty (30) days for each offense.

20-6-11 Minimum size of shellfish – Penalty. – No person shall take and/or possess any quahaugs less than one inch (1") shell thickness (hinge width); In addition, no person shall take and/or possess soft shell clams, taken from the free and common soft shell clam fisheries, or mussels of a diameter less than one and one half inches (1 1/2") taking the maximum shell diameter, or any oysters, taken from the free and common oyster fisheries, measuring less than three inches (3") measured parallel to the long axis of the oyster, unless greater minimum sizes are established by the director, in consultation with the marine fisheries council. Any person who takes and/or possesses shellfish of less than

the minimum size, as delineated above, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each and every fifteen (15) shellfish taken. Additionally, any person who takes and/or possesses shellfish of less than the minimum size commingled and/or otherwise stored or contained with shellfish of not less than the minimum size, where the percentage of the less than minimum size shellfish is not less than ten percent (10%) of the total piece count of the commingled and/or otherwise stored or contained package, shipment, or container shall be subject to seizure and/or forfeiture of the entire commingled and/or otherwise stored or contained package, shipment, or container, in accordance with the provisions of §§ 20-1-8(e) and (f) and 20-1-8.1.

SECTION 9. Sections 20-10-12 and 20-10-16 of the General Laws in Chapter 20-10 entitled "Aquaculture" are hereby amended to read as follows:

~~**20-10-12. Permits for possession, importation, and transportation of species used in aquaculture.**~~ — **20-10-12. Permits and licenses for the taking, possession, sale, importation, and transportation of species used in aquaculture.**

(a) The director is authorized and empowered to grant permits for, issue licenses for, and establish rules and regulations governing the taking, possession, sale, importation, and transportation of animal or plant species utilized in aquaculture; provided, however, that in the case of bivalves, no approval shall be given for the sale, possession, use, storage, or transportation of those species for human consumption without the written approval and permission of the director of health.

(b) Any person who takes, possesses, imports, or transports any animal or plant species as delineated in subsection (a) without a permit issued by the director shall be guilty of a misdemeanor and subject to imprisonment of not more than one year or a fine not exceeding five hundred dollars (\$500), or both. The animal or plant species possessed, imported, or transported by that person may be forfeited to the state.

(c) In accordance with rules and regulations established under this section, permits issued by the director may provide for specific exemptions, notwithstanding other provisions of

law, from quotas, catch or bag limits, seasons, minimum size limits and other such restrictions on commercial fishing as the director, in consultation with the council, may determine to be inappropriate to commercial aquaculture.

(d) Any person who is granted permits for the conduct of aquaculture by the CRMC and the director in accordance with this chapter shall obtain a commercial aquaculture license to sell aquaculture products in the state to licensed fish and shellfish dealers. The license shall be issued by the department on a calendar year basis for an annual fee of two hundred dollars (\$200).

20-10-16. Penalties. – (a) Any person who conducts aquaculture activities in excess of those authorized by an aquaculture permit shall be guilty of a misdemeanor and subject to imprisonment not exceeding one year or a fine not exceeding ~~five hundred dollars (\$500)~~ one thousand dollars (\$1,000), or both. In addition to that fine and/or imprisonment, all works, improvements, fish, and animal and plant life involved in the project may be forfeited to the state.

(b) Any person damaging, disturbing, or interfering with any area subject to an aquaculture permit or any person damaging, disturbing, interfering, or taking by any means whatsoever, or possessing the cultivated species in an area subject to an aquaculture permit, without the permission of the permittee, is guilty of a misdemeanor and subject to imprisonment not exceeding one year or a fine of not more than ~~five hundred dollars (\$500)~~ one thousand dollars (\$1,000), or both. In addition to that fine and/or imprisonment, all vessels, dredges, tongs, rakes, and other implements used to damage, disturb, interfere, or take cultivated species in those areas may be forfeited to the state.

SECTION 10. Chapter 20-10 of the General Laws entitled "Aquaculture" is hereby amended by adding the following sections thereto:

20-10-16.1. License or permit suspension or revocation. -- The permit or license of any person who has violated the provisions of this chapter or the rules and regulations issued pursuant thereto, including anyone holding a license or permit found guilty of a violation in accordance with section 20-10-16(b), may be suspended or revoked by the CRMC or the director in any manner and for any period as the CRMC or the director shall determine by regulation. Any person aggrieved by an order of suspension or revocation may appeal this order in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

20-10-13.1. Cultivated plants or animals -- Exemption from certain wild fishery restrictions. -- Aquaculture activities conducted in a manner consistent with permit and license conditions and in accordance with the rules and regulations promulgated pursuant to this chapter, and aquaculture products harvested for sale as a result of said activities, shall be exempt from the following statutory and regulatory restrictions governing wild fisheries: seasons; bag limits; methods of harvest; and, except for quahaugs (*Mercenaria mercenaria*), minimum sizes. Aquaculturists are prohibited from harvesting for sale to a shellfish dealer for human consumption quahaugs (*Mercenaria mercenaria*) with a hinge width of less than one inch.

SECTION 11. SEVERABILITY. If any clause, sentence, paragraph, section or part of this act shall be adjudged to be invalid by any court of competent jurisdiction, the judgment shall not affect, impair, or invalidate the remainder of the act.

SECTION 12. Effective Date. This act shall effective upon passage.