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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2002**

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A N A C T

RELATING TO FISH AND WILDLIFE

Introduced By: Senators Sosnowski, McDonald, Walaska, Bates, and Felag

Date Introduced: February 07, 2002

Referred To: Joint Environment & Energy

It is enacted by the General Assembly as follows:

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

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

5           (1) "Bushel" means a standard U.S. bushel, 2,150.4 cubic inches capacity;

6           (2) "Hinge width" means the distance between the convex apex of the right shell and the  
7 convex apex of the left shell;

8           (3) "Nonresident landowner" means a nonresident citizen of the United States and owner  
9 of real estate in Rhode Island as evidenced by deed filed in the Recorder of Deeds office in a  
10 Rhode Island town or city hall.

11           (4) "Peck" means one fourth (1/4) of a bushel;

12           (5) "Person" means an individual, corporation, partnership, or other legal entity;

13           (6) "Possession" means the exercise of dominion or control over the resource  
14 commencing at the time at which a decision is made not to return the resource to the immediate  
15 vicinity from which it was taken. The decision must be made at the first practical opportunity;

16 In the case of aquaculture crops, "possession" means the exercise of dominion or control over  
17 cultured crops commencing at the time which a decision is made not to return the crops to the  
18 lease or facility from which they were taken. The decision must be made at the first practical  
19 opportunity.

1 (7) "Quart" means one thirty-second ( 1/32) of a bushel;

2 (8) "Resident" means an individual who has had his or her actual place of residence and  
3 has lived in the state of Rhode Island for a continuous period of not less than six (6) months.

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

6 Alewife -- Pomolobus or Alosa pseudoharengus

7 Bay quahaug -- Mercenaria mercenaria

8 Bay scallop -- Argopecten irradians

9 Blue crab -- Callinectes sapidus

10 Blue mussel -- Mytilus edulis

11 Conch/channel whelk -- Busycon canaliculatum

12 Conchob whelk -- Busycon carica

13 Deer -- Virginia white tail deer, Odocoileus virginianus

14 Eel -- Anguilla rostrata

15 Green crabs -- Carcinus maenas

16 Jonahorthern crab -- Cancer borealis

17 Lobster -- Homarus americanus

18 Menhaden -- Brevoortia tyrannus

19 Ocean quahaug -- Arctica islandica

20 Oyster -- Crassostrea virginica, Ostrea edulis

21 Rock crab -- Cancer irroratus

22 Sea scallop -- Placopecten magellanicus

23 Smelt -- Osmerus mordax

24 Soft shell clam -- Mya arenaria

25 Striped bass -- Morone saxatilis

26 Surf clam or sea clam -- Spisula solidissima.

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

29 **20-2-1.1. Commercial fishing license moratorium.** -- (a) The commercial marine  
30 fishing licenses as provided for in sections 20-2-20(a), (b); 20-2-21; 20-2-24(a); 20-2-25; 20-2-  
31 26; 20-2-26.1(a), (b); 20-2-27(a), (b), (c)(1) -- (c)(4); 20-2-28(a) -- (c); 20-2-28.1(a); 20-4-1.2(1) -  
32 - (4); 20-5-1; 20-5-2; and 20-5-3 shall be issued for renewal only. No new licenses applicable to  
33 these sections shall be issued between July 1, 2001, and ~~June 30,~~ December 31, 2002. In order to  
34 obtain a license applicable to these sections between July 1, 2001, and ~~June 30,~~ December 31,

1 2002, an individual must provide proof that he or she possessed a valid Rhode Island commercial  
2 fishing license subsequent to July 1, 2000, and submit a license application to the department  
3 environmental management. The moratorium shall provide time for a continued study of the  
4 commercial marine fishing licensing program to insure the sustainable viability and use of marine  
5 fisheries, ~~and~~ for a recommendation to the general assembly, in accordance with chapter 3.1 of  
6 title 20-, and for implementation of a new system of commercial fishing licenses as provided for  
7 in chapter 2.1 of this title.

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

12 **20-2-28.2. Deposit of fees.** -- In any fiscal year moneys generated from license fees  
13 provided for in sections 20-2-20 -- 20-2-28.1 and from the provisions of chapter 20-2.1, over and  
14 above the sum of two hundred thousand dollars (\$200,000) shall be deposited with the general  
15 treasurer and appropriated to the department of environmental management. The state controller  
16 is authorized and directed to draw orders upon the general treasurer for payment of any sum or  
17 sums as may be necessary from time to time upon receipt by him or her of duly authenticated  
18 vouchers presented by the director of environmental management. The moneys received under  
19 this section are to be used only for the following specific purposes:

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

29 SECTION 3. Section 20-2-27.2 of the General Laws in Chapter 20-2 entitled "Licensing"  
30 is hereby repealed.

31 ~~**20-2-27.2. Commercial aquaculture license.** -- There is hereby established a~~  
32 ~~commercial aquaculture license for the purpose of facilitating the development of commercial~~  
33 ~~aquaculture in the state. Any person, corporation or business entity, chartered under the laws of~~  
34 ~~this state, who is granted a permit for the conduct of aquaculture by the coastal resources~~

1 management council in accordance with chapter 10 of this title, shall obtain a commercial  
2 aquaculture license to harvest, possess, or sell aquaculture products in the state to licensed fish  
3 and shellfish dealers. The license shall be issued by the department on a calendar year basis for an  
4 annual fee of two hundred dollars (\$200).

5 SECTION 4. Sections 20-2-20, 20-2-21, 20-2-22, 20-2-23, 20-2-24, 20-2-25, 20-2-26,  
6 20-2-27, 20-2-27.2, 20-2-28 and 20-2-28.1 of the General Laws in Chapter 20-2 entitled  
7 "Licensing" are hereby repealed.

8 ~~**20-2-20. Commercial shellfish licenses.**~~ (a) A resident older than nineteen (19) years  
9 but younger than sixty five (65) years shall pay two hundred dollars (\$200) for a commercial  
10 license to take shellfish.

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

13 ~~(c) Commercial shellfish licenses shall expire on December 31 of each year.~~

14 ~~**20-2-21. Shellfish dredging license -- Fees.**~~ A resident of this state shall pay an annual  
15 fee of two hundred dollars (\$200) for a license to take quahaugs, mussels, and surf clams by  
16 dredges hauled by power boat.

17 ~~**20-2-22. Non-resident's noncommercial shellfish license.**~~ (a) Every non resident  
18 over the age of twelve (12) years may obtain a non resident, noncommercial annual shellfish  
19 license for a fee of two hundred dollars (\$200).

20 ~~(b) A non resident may obtain one noncommercial limited license per calendar year~~  
21 ~~covering fourteen (14) days, including the date of issue, for eleven dollars (\$11.00).~~

22 ~~(c) A non resident must obtain a shellfish landing license, for a fee of two hundred~~  
23 ~~dollars (\$200), to land shellfish (surf clams, blue mussels, ocean quahaugs, sea scallops)~~  
24 ~~harvested outside Rhode Island waters.~~

25 ~~(d) A nonresident landowner, as defined in section 20-1-3(a)(3), who owns residential~~  
26 ~~real estate in Rhode Island assessed for taxation at a valuation of not less than thirty thousand~~  
27 ~~dollars (\$30,000) may, with proof of residential property ownership in the form of a current tax~~  
28 ~~bill from a town or city hall showing that the nonresident landowner is current in his or her~~  
29 ~~property tax obligation, obtain an annual, noncommercial, nonresident shellfish license for a fee~~  
30 ~~of twenty five dollars (\$25.00).~~

31 ~~**20-2-23. Shellfish buyer's license.**~~ The annual fee for a shellfish buyer's license is two  
32 hundred dollars (\$200).

33 ~~**20-2-24. Lobster license.**~~ (a) Commercial: two hundred dollars (\$200). The license is  
34 issued only to a legal resident of the state who is the operator of a Rhode Island registered vessel.

1 ~~(b) Non-commercial pot:—forty dollars (\$40.00). The license is issued only to a legal~~  
2 ~~resident of the state of Rhode Island.~~

3 ~~(c) Non-commercial divers:—forty dollars (\$40.00). The license is issued only to a legal~~  
4 ~~resident of the state of Rhode Island.~~

5 ~~(d) Sellers:—two hundred dollars (\$200).~~

6 ~~(e) Rhode Island lobster dealer:—two hundred dollars (\$200).~~

7 ~~**20-2-25. Scallop license.**— Commercial:—two hundred dollars (\$200). The license is~~  
8 ~~only issued to a resident of this state and shall be valid only for the reason for which issued.~~

9 ~~**20-2-26. Fish trap license.**— Two hundred dollars (\$200) per license and twenty dollars~~  
10 ~~(\$20.00) per trap location in accordance with the provisions of chapter 5 of this title.~~

11 ~~**20-2-27. Commercial fishing licenses.**— (a) Rod and reel (for sale of finfish lawfully~~  
12 ~~taken by rod and reel or diving):—two hundred dollars (\$200) for residents of the state; four~~  
13 ~~hundred dollars (\$400) for nonresidents of the state.~~

14 ~~(b) Individual (for named individual only, lawfully taking fish for sale with use of nets or~~  
15 ~~other means without use of boat):—two hundred dollars (\$200) for residents of the state; four~~  
16 ~~hundred dollars (\$400) for nonresidents of the state.~~

17 ~~(c) Commercial vessel or vessel operators engaged in a commercial fishery, excepting~~  
18 ~~those vessels or operators of vessels covered by section 20-2-24 (lobster fishery), sections 20-2-~~  
19 ~~20 and 20-2-21 (shellfishery), or section 20-2-28 (non-resident otter trawl):~~

20 ~~(1) Vessels up to fifty feet (50') in total length: two hundred dollars (\$200) for residents~~  
21 ~~of the state; four hundred dollars (\$400) for nonresidents of the state;~~

22 ~~(2) Vessels from fifty feet (50') to ninety-nine feet (99') in total length: two hundred fifty~~  
23 ~~dollars (\$250) for residents of the state; five hundred dollars (\$500) for nonresidents of the state;~~

24 ~~(3) Vessels from ninety-nine feet (99') or more in total length: twenty dollars (\$20.00)~~  
25 ~~per lineal foot or any part thereof of the registered length of the vessel for residents of the state;~~  
26 ~~forty dollars (\$40.00) per lineal foot or any part thereof of the registered length of the vessel for~~  
27 ~~nonresidents of the state;~~

28 ~~(4) Miscellaneous pot fishery, vessels not licensed in any of the above categories~~  
29 ~~engaged in commercial scup, crab, eel or conch pot fishery: two hundred dollars (\$200). This~~  
30 ~~license is issued only to a legal resident of the state of Rhode Island.~~

31 ~~(d) Rhode Island finfish dealer:—two hundred dollars (\$200).~~

32 ~~**20-2-27.2. Commercial aquaculture license.**— There is hereby established a~~  
33 ~~commercial aquaculture license for the purpose of facilitating the development of commercial~~  
34 ~~aquaculture in the state. Any person, corporation or business entity, chartered under the laws of~~

1 ~~this state, who is granted a permit for the conduct of aquaculture by the coastal resources~~  
2 ~~management council in accordance with chapter 10 of this title, shall obtain a commercial~~  
3 ~~aquaculture license to harvest, possess, or sell aquaculture products in the state to licensed fish~~  
4 ~~and shellfish dealers. The license shall be issued by the department on a calendar year basis for an~~  
5 ~~annual fee of two hundred dollars (\$200).~~

6 ~~**20-2-28. Non-resident otter, beam, or pair trawl.** --- Any resident of a state which~~  
7 ~~accords to residents of Rhode Island reciprocal commercial fishing privileges may obtain a~~  
8 ~~license for the setting of an otter, beam, or pair trawl or other mechanical trawling device in those~~  
9 ~~areas of the state's waters where such a device is allowed upon application therefor and payment~~  
10 ~~of a fee computed on the basis of twenty dollars (\$20.00) per lineal foot, or part thereof, of the~~  
11 ~~registered length of the vessel to be licensed, as indicated on its document, certificate of award,~~  
12 ~~register, enrollment, or license issued by the United States collector of customs. This license is~~  
13 ~~non-transferable and is issued annually for the fee specified on the first day of January in each~~  
14 ~~year and expires on the succeeding December 31st. If it appears in the public interest, the director~~  
15 ~~may suspend or cancel this license on ten (10) days' notice in writing to the holder thereof.~~

16 ~~**20-2-28.1. Multi-purpose license --- Fees.** --- (a) Each resident of this state is eligible to~~  
17 ~~obtain a multi purpose commercial marine license to participate in all commercial marine~~  
18 ~~fisheries licensed subject to this chapter upon payment of an annual fee of three hundred dollars~~  
19 ~~(\$300).~~

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

22 SECTION 5. Section 20-2-26.1 of the General Laws in Chapter 20-2 entitled "Licensing"  
23 is hereby amended to read as follows:

24 ~~**20-2-26.1. Gill net licenses.** -- (a) Each resident of the state is eligible to obtain a license~~  
25 ~~to utilize gill nets upon payment of an annual fee of two hundred dollars (\$200) subject to rules~~  
26 ~~and regulations established by the marine fisheries council.~~

27 ~~(b) Each resident who holds a multi purpose commercial marine license, as provided in~~  
28 ~~section 20-2-28.1, or a commercial vessel or vessel operator's license, as provided in section 20-~~  
29 ~~2-27(c), is also eligible to apply for a commercial gill net permit in accordance with the~~  
30 ~~provisions of this section. The annual recording fee for commercial gill netting is twenty dollars~~  
31 ~~(\$20.00) and shall be paid in addition to the fees payable under sections 20-2-27(c) and 20-2-~~  
32 ~~28.1.~~

33 SECTION 6. Title 20 of the General Laws entitled "Fish and Wildlife" is hereby  
34 amended by adding thereto the following chapter:

1 CHAPTER 2.1

2 COMMERCIAL FISHING LICENSES

3 **20-2.1-1. Findings.** – The general assembly finds and declares:

4 (1) That the constitution of the state places plenary authority and responsibility in the  
5 general assembly to provide for the conservation of natural resources of the state, including its  
6 marine fisheries;

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

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

14 (4) That the department of environmental management in accordance with the  
15 requirements of section 20-3.1-7(1) of the general laws has issued goals and principles pertaining  
16 to biological, socio-economic, and licensing and data collection issues that present a need to make  
17 substantial changes in commercial fishing licensing;

18 (5) That the Coastal Institute of the University of Rhode Island has provided a process in  
19 2001 that was open to widely divergent positions and interests pertaining to fisheries management  
20 in Rhode Island; and

21 (6) That Rhode Island's statutes and programs for marine fisheries management and  
22 licensure have developed incrementally over time and need to be brought up-to-date and made  
23 adaptable to changing conditions and circumstances.

24 **20-2.1-2. Purposes.** – The purposes of this chapter are, through a system of licensure that  
25 is clear, predictable and adaptable to changing conditions, to:

26 (1) Preserve, enhance, and allow for nay necessary regeneration of the fisheries of the  
27 state, for the benefit of the people of the state, as an ecological asset and as a source of food and  
28 recreation;

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

32 (3) Allow residents who have fished commercially to sell their vessels and gear in a  
33 manner that first, facilitates up-grading license levels among residents already in the fishery; that  
34 second, provides lateral movement among residents who are holders of commercial fishing

1 licenses to other types of fishing; and that third, enables new entrants into new commercial  
2 fishing;

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

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

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

13 (i) the foregoing purposes; and

14 (ii) as appropriate, necessary, and effective, the following measures:

15 (A) regulation of the design and use of gear;

16 (B) limitations on the amount of gear that may be used by a license holder;

17 (C) restrictions on when and where commercial fishing may be done;

18 (D) quotas and limitations on catch or landings; and

19 (E) restrictions on the number of license holders;

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

22 **20-2.1-3. Definitions.** – For the purposes of this chapter the following terms shall mean:

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

25 (2) "Council" shall mean the Marine Fisheries Council established by chapter 20-3 of the  
26 general laws.

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

29 (4) "Director" shall mean the director of the department of environmental management.

30 (5) "Finfish" shall mean cold-blooded aquatic vertebrates with fins, including fish,  
31 sharks, rays, skates, and eels.

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

34 (G) "Student commercial fisherman" shall mean a resident twenty-three (23) years of age

1 or younger who is a full-time student.

2 **20-2.1-4. Licenses -- General provisions governing licenses issued [to be effective**  
3 **January 1, 2003, and after].** – (a) Licenses required. It shall be unlawful for any person in

4 Rhode Island or the waters of the state to catch, harvest, hold,, or transport for sale any marine  
5 finfish, crustacean, or shellfish without a license issued under the provisions of this title,  
6 provided, however, that marine finfish, crustaceans, or shellfish may be transported by a duly  
7 licensed dealer if the said marine finfish, crustaceans, or shellfish has previously been sold by a  
8 duly licensed person.

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

11 (c) Transfer or loan of license. (1) Unless otherwise provided for in this title, a license  
12 issued to a person under this chapter shall be good only for the person to whom it is issued; and  
13 any transfer or loan of the license shall be grounds for revocation or suspension of that license  
14 pursuant to section 20-2-13. (2) Notwithstanding the provisions of subsection (1), an existing  
15 license may only be transferred to an immediate family member as provided for in subsection 20-  
16 2.1-5(5) or upon approval by the director. An immediate family member for the purposes of this  
17 subsection is defined as the spouse, mother, father, brother, sister, or child of the transferor.

18 (d) Inspections condition of license. All persons granted a license under the provisions of  
19 this chapter are deemed to have consented to the reasonable inspection of any boat, vessel, net,  
20 rake, bullrake, tong, dredge, trap, pot, vehicle, structure, or other contrivance used regularly for  
21 the keeping or storage of fish, shellfish, crustaceans, or any game bag firearms, creel, box, locker,  
22 basket, crate, blind, stand, or hunting, fishing, or trapping paraphernalia used in conjunction with  
23 the licensed activity by persons duly authorized by the director.

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

29 (f) Application for license. Every person entitled to a license under this chapter shall file  
30 an application with the director or the director's authorized agent, properly sworn to, stating the  
31 name, age, occupation, place of residence, nationality, weight, height, and color of hair and eyes  
32 of the applicant for whom the license is wanted and pay the fees as provided in this chapter. All  
33 licenses issued under this chapter shall be valid only for the calendar year of issuance, unless  
34 otherwise specified in this chapter or in the rules and regulations adopted pursuant to this chapter.

1 If the person will be either the owner or the operator of a commercial vessel over twenty-five feet  
2 (25') in length overall, the person shall declare on the application the vessel name, length,  
3 horsepower, registration number federal permit number if any, gear type(s), the principal fishery  
4 or fisheries, and average projected crew size.

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

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

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

23 (2) All commercial marine fisheries licenses that are subject to renewal July 1, 2002, may  
24 be renewed for a six (6) month period ending December 31, 2002. The fee for the renewals shall  
25 be one-half (1/2) of the amount for annual renewal of the licenses as otherwise provided for in  
26 this title.

27 (j) Revocation of licenses. -- (1) License revocation. The license of any person who has  
28 violated the provisions of this chapter, or rules adopted pursuant to the provisions of this chapter  
29 or rules and regulations that pertain to commercial fishing issued pursuant to this title may be  
30 suspended or revoked by the director in any manner and for any period as the director shall  
31 determine by regulation. Any person aggrieved by an order of suspension or revocation may  
32 appeal this order in accordance with the provisions of the administrative procedures act, chapter  
33 35 of title 42.

34 (2) False statements and violations -- Cancellation of license. Any person who willfully

1 makes a false representation as to birthplace or requirements of identification or of other facts  
2 required in an application for license under this chapter, or is otherwise directly or indirectly a  
3 party to such a false representation, shall be punished by a fine of not more than fifty dollars  
4 (\$50.00). A license obtained by any person through such a false representation shall be null and  
5 void, and the license shall be surrendered immediately to the director. No license shall be issued  
6 under this title to this person for a period of one (1) year from the date of conviction.

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

12 **20-2.1-5. Resident licenses [effective January 1, 2003, and after].** – The director shall  
13 establish as a minimum the following classes of licenses: commercial fishing licenses, multi-  
14 species participant licenses, and principal effort licenses for shellfish, crustaceans, and finfish,  
15 and a student commercial fishing license for shellfish. In addition, the director may establish  
16 such other classes and types licenses and endorsements, consistent with the provisions of this  
17 chapter, that may be necessary to accomplish the purposes of this chapter.

18 (1) Classes of License.

19 (i) Class I: Commercial fishing license. Rhode Island residents age eighteen (18) and  
20 over shall be eligible to obtain a Class I commercial fishing license; said license shall as at  
21 minimum allow the holder to harvest, land, and sell in a lawful manner any species of shellfish,  
22 crustacean, or finfish that is not subject to a quota or to an effort restriction implemented by the  
23 department. The annual fee for a commercial fishing license shall be one hundred dollars (\$100).

24 (ii) Class II: Multi-species participant license. All multi-purpose license holders and  
25 other duly licensed holders of commercial fishing licenses as of December 31, 2002, shall be  
26 eligible to obtain a Class II license, which shall allow the holder to harvest, and to land and sell,  
27 shellfish including quahogs, crustaceans including lobsters, and finfish, consistent with quota  
28 programs and restrictions, at the basic catch level, which shall be established by rule as provided  
29 for in section 20-2.1-8(4)(iii), provided the license holder has obtained the required endorsement,  
30 which may require that the Class II license holder to document prior participation in the fishery.  
31 A minimum of three (3) endorsements shall be available: one (1) for shellfish including quahogs;  
32 one (1) for crustaceans including lobsters; and one (1) for finfish. The annual fee for a multi-  
33 species participant license shall be one hundred dollars (\$100) and each endorsement thereon  
34 shall be one hundred dollars (\$100).

1           (iii) Class III: Principal effort license. Duly licensed persons in a fishery as of the  
2 effective date of this act who have documented historic commercial effort in fishery that is  
3 subject to quotas or restrictions on effort shall be eligible to obtain a principal effort license for  
4 either crustaceans including lobsters, or finfish consistent with quotas and management programs,  
5 or shellfish including quahogs; which Class III license shall allow its holder to fish for either  
6 crustaceans or finfish, or shellfish to the maximum extent allowable by law and regulation. No  
7 person shall be eligible to hold more than one (1) principal effort license; provided, however, that  
8 a person may own more than one vessel used for fishing, and the operator of that vessel may hold  
9 a principal effort license different from the principal effort license of the vessel owner. The  
10 annual fee for a principal effort license shall be two hundred dollars (\$200).

11           (iv) Special licenses.

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

15           (B) Over sixty-five (65) shellfish license. A resident sixty-five (65) year of age and over  
16 shall be eligible for a shellfish license to quahog commercially and there shall be no fee for this  
17 license.

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

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

24           (2) Vessel fees and special vessel gear licenses and fees.

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

33           (ii) Special vessel and gear licenses and fees.

34           (A) Shellfish dredging license -- Fee. A resident of this state shall pay an annual fee of

1 two hundred dollars (\$200) for a license to take quahogs, mussels, and surf clams by dredges  
2 hailed by powerboat.

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

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

9 (D) Miscellaneous pot fishery, vessels not licensed in any of the above categories  
10 engaged in commercial pot scup; crab, eel or conch fishery: two hundred dollars (\$200). This  
11 license is issued only to a legal resident of the state of Rhode Island.

12 (3) New Licenses:

13 (i) Eligibility. For new Class II and Class III priority shall be given to applicants who  
14 have held a lower level of license for two (2) years or more, with preference to family members  
15 and crew members of a license holder who is retiring his or her license.

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

21 (iii) Availability new, additional licenses. New Class II and Class III licenses, that  
22 increase the total number of licenses in the fishery, may be made available by rule for issuance  
23 effective January 1, in any year, based on status of resource and economic condition of fishery.

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

27 (5) Transfer for hardship. Notwithstanding the provisions of section 20-2.1-4 (C), a  
28 license may be transferred to a family member upon the illnesses, incapacity, or death of the  
29 license holder. Such transfer shall be effective upon its registration with the department. A  
30 family member shall be defined as the spouse, mother, father, brother, sister, or child of the  
31 transferor. The department shall make available as necessary operator permits to provide solely  
32 for the continued operation of a fishing vessel upon the illness, incapacity or death of a license  
33 holder, which operator permits shall be subject at minimum to the conditions and restrictions that  
34 applied to the license holder.

1           (6) Transfer of vessels and gear. Vessels and gear may be sold, transferred, or disposed  
2 at the sole discretion of the owner; provided, however, that the subsequent level of use of the gear  
3 may be restricted in Rhode Island waters in order to accomplish the purposes of a duly adopted  
4 management plan or other duly adopted program to reduce effort.

5           **20-2.1-6. Non-resident licenses [effective January 1, 2003, and after].** – Subject to the  
6 rules of the department, non-residents may apply for the following commercial fishing licenses:

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

12           (2) Class II: Multi-species participant license. Non-residents who are multi-purpose  
13 license holders or holders of commercial fishing licenses as of December 31, 2002, and who have  
14 historic effort in a fishery that is subject to quotas or restrictions on total effort, shall be eligible to  
15 obtain a Class II license; said Class II license shall allow the holder to harvest, and to land and  
16 sell, shellfish including quahogs, crustaceans including lobsters, and all finfish, consistent with  
17 quota programs and restrictions, at the basic catch level, provided the license holder has historic  
18 effort in the fishery and has obtained the required endorsement. A minimum of three (3)  
19 endorsements shall be available; one (1) for shellfish including quahogs; one (1) for crustaceans  
20 including lobsters; and one (1) for finfish. The annual fee for a non-resident multi-species  
21 participant license shall be three hundred dollars (\$300); and for each endorsement two hundred  
22 dollars (\$200).

23           (3) Class III: Principal effort license. Duly licensed non-residents as of the effective date  
24 of this act who have documented historic commercial effort in a fishery that is subject to quotas  
25 or restrictions on effort shall be eligible to obtain a principal effort license for either crustaceans  
26 including lobsters, or finfish consistent with quotas and management programs, or shellfish  
27 including quahogs; which principal effort license shall allow its holder to fish for either  
28 crustaceans or finfish, or shellfish to the maximum extent allowable by law and regulation for  
29 either a full-time commercial fishermen or a seasonal commercial fisherman. No person shall be  
30 eligible to hold more than one Class III license; provided, however, that a person may own more  
31 than one vessel used for fishing, and the operator of that vessel may hold a principal effort license  
32 different from the principal effort license of the vessel owner. The annual fee for a non-resident  
33 Class III license shall be four hundred dollars (\$400).

34           (4) Special licenses and seasonal licenses. Seasonal finfish licenses. (i) Rod and reel (for

1 sale of finfish lawfully taken by rod and reel or diving): four hundred dollars (\$400) for non-  
2 residents of the state.

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

6 (5) Vessel declaration fees and vessel and gear license, fees.

7 (i) Vessel declaration. The department shall require that a non-resident owner and/or  
8 operator of a commercial fishing vessel over twenty-five feet (25') length overall to make a  
9 declaration for that vessel; which shall be made at the time of initial license issuance and each  
10 renewal, or prior to the vessel's being used for commercial fishing in Rhode Island waters by the  
11 non-resident owner and/or operator if the first usage of the vessel for commercial fishing occurs  
12 during the course of a year after the license has been issued or renewed, for a cost of fifty dollars  
13 (\$50.00). The annual fee for the non-resident declaration shall be six dollars (\$6.00) for each  
14 whole foot over twenty-five feet (25') in length overall.

15 (ii) Non-resident otter, beam, or pair trawl. Any resident of a state which accords to  
16 residents of Rhode Island reciprocal commercial fishing privileges may obtain a license for the  
17 setting of an otter, beam, or pair trawl or other mechanical trawling device in those areas of the  
18 state's waters where such a device is allowed upon application therefor and payment of a fee  
19 computed on the basis of twenty dollars (\$20.00) per lineal foot, or part thereof, of the registered  
20 length of the vessel to be licensed, as indicated on its document, certificate of award, register,  
21 enrollment, or license issued by the United States collector of customs. This license is non-  
22 transferable and is issued annually for the fee specified on the first day of January in each year  
23 and expires on the succeeding December 31st. If it appears in the public interest, the director  
24 may suspend or cancel this license on ten (10) days notice in writing to the holder thereof.

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

30 **20-2.1-6. Landing permits.** – Landing permits shall be issued as provided for in chapter  
31 4 of this title. In addition, a non-resident must obtain a shellfish landing license, for a fee of two  
32 hundred dollars (\$200), to land shellfish (surf clams, blue mussels, ocean quahogs, sea scallops)  
33 harvested outside Rhode Island waters.

34 **20-2.1-7. Dealers licenses.** – Dealers licenses shall be issued as provided for in chapter 4

1 of this title; unless otherwise established, license fees for dealers shall be as follows:

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

4 (2) Lobster dealer license. Sellers and Rhode Island lobster dealer: two hundred dollars  
5 (\$200).

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

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

12 (1) The rule making powers of the director to accomplish the purposes of this chapter  
13 shall include the following with regard to commercial fishing licenses and commercial fishing by  
14 license holders:

15 (i) Types and classes of licenses consistent with the provisions of this chapter and  
16 applicable sections of this title, and limitations on levels of effort and/or on catch by type or class  
17 license;

18 (ii) Design, use, and identification of gear;

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

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

26 (v) Limitations and/or restrictions on effort, gear, catch, or number of license holders.

27 (vi) Emergency rules, as provided for in chapter 42-35, to protect an unexpectedly  
28 imperiled fishery resource, to provide access to a fisheries resource that is unexpectedly more  
29 abundant, and to protect the public health and safety from an unexpected hazard or risk. The  
30 Marine Fisheries Council shall be notified of all emergency rules on or before their effective date,  
31 and no emergency rule shall become a final rule unless it is promulgated as provided for in  
32 section 20-2.1-8(3).

33 (2) When implementing the system of licensure set forth in sections 20-2.1-4, 20-2.1-5,  
34 20-2.1-6, and 20-2.1-7 of this chapter and other provisions of this title pertaining to commercial

1 fishing licenses, permits, and registrations, the director shall consider when establishing  
2 limitations on effort and/or catch:

3 (i) The effectiveness of the limitation:

4 (A) In achieving duly established conservation or fisheries regeneration goals or  
5 requirements;

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

9 (C) In complementing federal and regional management programs and the reciprocal  
10 arrangements with other states.

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

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

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

15 (C) The economics of the fishery;

16 (D) The potential effects on the safety of human life at sea;

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

19 (iii) Any other relevant considerations that the director finds in the rule making process.

20 (3) The rule making process herein set forth shall conform with the requirements of  
21 chapter 42-35, the administrative procedures act, and shall:

22 (i) Regulatory agenda for marine fisheries management, with the advice of the Marine  
23 Fisheries Council, in accordance with the requirements of section 42-35-5.1 of the general laws.

24 (ii) The director shall submit proposed rule to the Marine Fisheries Council at least sixty  
25 (60) days prior to the proposed date public hearing on the rule;

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

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

32 (v) The decision of the director shall state the basis for adopting the rule including a  
33 concise statement giving the principal reasons for and against its adoption and the response to  
34 positions entered into the record of the hearing. Licensing of individuals and registration of

1 vessels and/or fishing equipment for fishing or landing fish in the state.

2 (4) Matters to be considered in establishing license programs under this chapter. The  
3 director shall be consistent with the requirements of section 20-2.1-2(6) establish and implement  
4 a licensing system in accordance with the provisions of this chapter that shall be designed to  
5 accomplish marine fisheries management objectives. Such licensing system may limit access to  
6 fisheries, particularly commercial fisheries for which there is adequate or greater than adequate  
7 harvesting capacity currently in the fishery and for which either a total allowable catch has been  
8 set or a total allowable level of fishing effort has been established for the purpose of preventing  
9 over-fishing of the resource or the dissipation of the economic yield from the fishery. This  
10 authority shall include the authority of the director to:

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

14 (ii) Establish control dates that provide notice to the public that access to, and levels of  
15 participation in, a fishery may be restricted and that entrance into, or increases in levels of  
16 participation in a fishery after the control date may not be treated in the same way as participation  
17 in the fishery prior to the control date;

18 (iii) Establish levels of catch by class of license, which shall provide for basic catch  
19 levels for Class II licenses, may include reduced or specific catch levels for student and  
20 apprentice commercial fisherman, and may set maximum catch levels for Class III licenses;  
21 quotas may be allocated proportionally among classes of license holders as needed to maintain  
22 the viability of different forms of commercial fishing.

23 (5) The director shall by rule, with the advice of the Marine Fisheries Council develop  
24 conservation and management plans for the fishery resources of the state, which conservation and  
25 management plans shall be adopted prior to and at the same time as adoption of any license  
26 restrictions on effort or catch. In the development of such fishery conservation and management  
27 plans, priority shall be given to those resources with the highest value to the state, either for  
28 commercial or recreational purposes.

29 (6) The director to report annually to the general assembly and to the citizens concerning  
30 the conservation and management of the fishery resources of the state, noting particularly the  
31 status of any fishery resources that are considered to be over-fished or were considered to be  
32 over-fished in the preceding year.

33 **20-2.1-11. Powers and duties of the Marine Fisheries Council with regard to**  
34 **licensure.** – The Marine Fisheries Council, established by chapter 20-3, shall have the power and

1 the duty to advise the director in accordance with section 20-2.1-8(3) on all rules, except  
2 emergency rules, necessary to implement the provisions of this chapter. The council may  
3 establish such committees and hold such meetings and hearings as it may deem appropriate to  
4 fulfill this responsibility. The council shall advise the director on the development of the  
5 regulatory agenda for marine fisheries and shall have the power to initiate rule making by petition  
6 as provided for in section 42-35-6.

7 **20-2.1-12. Liberal construction.** – The provisions of this chapter, being necessary for  
8 the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its  
9 purposes.

10 SECTION 7. Section 20-3-1 of the General Laws in Chapter 20-3 entitled "Marine  
11 Fisheries Council" is hereby amended to read as follows:

12 **20-3-1. Council created -- Membership -- Compensation.** -- There is hereby created a  
13 marine fisheries council. The council shall be composed of the director of the department of  
14 environmental management or the director's designee, who shall serve as chairperson and eight  
15 (8) private citizen members. The private citizen members shall be chosen from among those with  
16 skill, knowledge and experience in the commercial fishing industry, the sport fishing industry,  
17 and in the conservation and management of fisheries resources and shall be appointed by the  
18 governor with the advice and consent of the senate. Three (3) of the private citizen members shall  
19 be representatives of the commercial fishing industry; three (3) shall be representatives of the  
20 sport fishing industry; and the remaining two (2) shall have skill, knowledge, and experience in  
21 the conservation and management of fisheries resources and/or marine biology. The chairperson  
22 of the coastal resources management council and the chiefs of the divisions of enforcement and  
23 fish and wildlife in the department of environmental management shall serve in an advisory  
24 capacity to the council. Members of the council shall serve for a term of four (4) years and may  
25 not succeed themselves more than once after January 1, 2002. Initial appointments to the council  
26 shall be appointed as follows: three (3) members for a term of two (2) years, three (3) members  
27 for a term of three (3) years, and two (2) members for a term of four (4) years. All members of  
28 the council shall serve without compensation and shall be reimbursed for their necessary  
29 expenses incurred in travel and in the performance of their duties.

30 SECTION 8. Sections 20-3.1-1, 20-3.1-2, 20-3.1-3, 20-3.1-4, 20-3.1-5, 20-3.1-6, 20-3.1-  
31 7, 20-3.1-8 and 20-3.1-9 of the General Laws in Chapter 20-3.1 entitled "Marine Fisheries  
32 Management Modernization" are hereby repealed.

33 **20-3.1-1. Short title.** -- ~~This chapter shall be known and may be cited as the "Rhode~~  
34 ~~Island Marine Fisheries Management Modernization Act of 2001."~~

1           ~~**20-3.1-2. Legislative findings.** — The general assembly finds and declares that:~~

2           ~~-(1) Marine fisheries have been important to the way of life of people in Rhode Island~~  
3 ~~throughout its history;~~

4           ~~-(2) Marine fisheries resources are seriously depleted in many respects, and this condition~~  
5 ~~adversely affects commercial and recreational fishing;~~

6           ~~-(3) There is a public interest in taking action to secure the sustainable viability and use of~~  
7 ~~marine fisheries;~~

8           ~~-(4) Sustainability can often be enhanced or achieved through effective control of effort~~  
9 ~~and mortality in marine fisheries;~~

10           ~~-(5) Rhode Island has actively managed its marine fisheries for more than one hundred~~  
11 ~~fifty (150) years, and these management efforts have been responsive to the conditions of the~~  
12 ~~fisheries, knowledge of the fisheries, and socio-economic conditions and values;~~

13           ~~-(6) Marine fisheries management methods currently used in Rhode Island are not~~  
14 ~~adequate to achieve desired levels of sustainability of certain species of the state's marine~~  
15 ~~fisheries and their commercial and recreational use;~~

16           ~~-(7) Moratoria in commercial fisheries, which have been used in 1995–1998 and 2000–~~  
17 ~~present to address concerns about over fishing, are at best an interim measure;~~

18           ~~-(8) There is a need to comprehensively upgrade and restructure Rhode Island's marine~~  
19 ~~fisheries management structure and improve information and data collection systems; and~~

20           ~~-(9) The Coastal Institute of the University of Rhode Island, with voluntary involvement~~  
21 ~~of a broad range of fishing interests during the winter–spring 2001, produced an analysis of~~  
22 ~~commercial fishing issues that can serve as a basis for commencing the process of restructuring~~  
23 ~~marine fisheries management.~~

24           ~~**20-3.1-3. Purposes.** — The purposes of this chapter are to:~~

25           ~~-(1) Commence the process of restructuring marine fisheries management in Rhode Island~~  
26 ~~by: (i) taking initial steps in redesigning fisheries licensure and fees; (ii) establishing expectation~~  
27 ~~for modernization of data collection and analysis by the department; and (iii) authorizing studies~~  
28 ~~to be undertaken that are critical to the development of fisheries management structures needed to~~  
29 ~~secure the sustainability of fisheries and the viability of commercial and recreational fishing;~~

30           ~~-(2) Provide a one-year period, through an extension of the moratorium on commercial~~  
31 ~~fishing licenses, for the development of effective fisheries management structures.~~

32           ~~**20-3.1-4. Definitions.** — For the purposes of this chapter, the following terms shall have~~  
33 ~~the following meaning:~~

34           ~~-(1) "Council" shall mean the marine fisheries council established pursuant to chapter 3 of~~

1 this title.

2 ~~(2) "Department" shall mean the department of environmental management.~~

3 ~~(3) "Director" shall mean the director of the department of environmental management.~~

4 ~~**20-3.1-5. Interim management measure.** --- In order to provide a period of time in order~~  
5 ~~to accomplish the purposes and requirements of this chapter and to provide for an orderly~~  
6 ~~transition to such other management system as may be enacted by the general assembly or~~  
7 ~~adopted by rule by the council or department, the moratorium established pursuant to section 20-~~  
8 ~~2-1.1 shall remain in effect until June 30, 2002.~~

9 ~~**20-3.1-6. Information systems and data collection.** --- The department, in consultation~~  
10 ~~with the council, shall develop and implement for license renewals for the year beginning January~~  
11 ~~1, 2003, an electronic license system for commercial fishing licenses, which licensing system~~  
12 ~~shall have the capacity to incorporate data on landings by species and effort and shall provide for~~  
13 ~~electronic license renewal. The licensing system shall be designed so that appropriate~~  
14 ~~confidentiality for individual license holders is maintained and data analysis for fisheries~~  
15 ~~management purposes is facilitated.~~

16 ~~**20-3.1-7. Studies and analyses.** --- The department, with the advice and involvement of~~  
17 ~~the council, the University of Rhode Island Coastal Institute, and commercial and recreational~~  
18 ~~fishing interests, shall undertake the following studies and analyses that shall evaluate the full~~  
19 ~~reasonable range of options for improving fisheries management in Rhode Island. The process for~~  
20 ~~undertaking these studies and analyses and developing legislative options for consideration by the~~  
21 ~~general assembly shall be open, inclusive, and participatory, and shall fairly and appropriately~~  
22 ~~involve the range of fishing interests and give fair and balanced consideration to the interests of~~  
23 ~~year round, seasonal, and recreational fishers, full and part time fishers, aquaculturists, and~~  
24 ~~persons who may wish to participate in fishing in the future:~~

25 ~~(1) Principles for fisheries management. The department shall, by October 1, 2001,~~  
26 ~~recommend goals and principles to guide the development and implementation of a restructured~~  
27 ~~marine fisheries management system.~~

28 ~~(2) Commercial fisheries. The department shall, by January 1, 2002, recommend options~~  
29 ~~for commercial fishing licenses that address license eligibility, provide for new entrants into~~  
30 ~~fisheries in the state, and establish an analytic basis for and a method to manage fisheries by~~  
31 ~~effort, as well as by quota for catch by species.~~

32 ~~(3) Recreational fisheries. The department is authorized to propose a licensing system for~~  
33 ~~recreational fisheries for the purposes of: (i) obtaining reliable data about the level and effects of~~  
34 ~~recreational fishing in the state; (ii) improving the quality and extent of recreational fishing~~

1 opportunities in Rhode Island; and (iii) providing revenue to be used solely and exclusively for  
2 the purposes of managing recreational fisheries and enhancing recreational fishing opportunities.  
3 The licensing system shall not be effective either before April 1, 2003, or without general  
4 assembly approval and shall be put into effect by rule after a finding by the director, following the  
5 general assembly approval, that the system is fair, enforceable, and accomplishes the purposes of  
6 this chapter.

7 ~~(4) Commercial aquaculture. The department shall, by January 1, 2002, develop~~  
8 ~~proposed rules and recommend statutory changes for the purposes of fostering the expansion and~~  
9 ~~competitiveness of commercial aquaculture, which rules shall treat commercial aquaculture as a~~  
10 ~~separate and distinct activity from commercial fishing.~~

11 ~~(5) Comprehensive. The department shall develop a plan, by January 1, 2002, to~~  
12 ~~coordinate Rhode Island licensing requirements with federal licensing requirements and licensing~~  
13 ~~requirements in other states that minimizes conflicts and confusion in licensing and reporting,~~  
14 ~~provides for consistent data collection and analysis, and supports regional management efforts~~  
15 ~~that maintain or enhance the stewardship and productivity of fisheries resources.~~

16 **20-3.1-8. Reporting.** ~~--- The department, with the advice of the council, shall report~~  
17 ~~annually by March 15 of each year through March 15, 2004, on the status and condition of~~  
18 ~~fisheries in Rhode Island and the effectiveness of management programs to accomplish the~~  
19 ~~purposes of this chapter.~~

20 **20-3.1-9. Severability.** ~~--- If any provision of this chapter or the application thereof to any~~  
21 ~~person or circumstances is held invalid, such invalidity shall not effect other provisions or~~  
22 ~~applications of the chapter, which can be given effect without the invalid provision or application,~~  
23 ~~and to this end the provisions of this chapter are declared to be severable.~~

24 SECTION 9. Chapter 20-4 of the General Laws entitled "Commercial Fisheries" is  
25 hereby amended by adding thereto the following section:

26 **20-4-1.3. Non-resident landing permits.** ~~– A new landing permit shall not be issued to~~  
27 ~~any non-resident to off-load, land, offer for sale, or sell any marine species for which a quota has~~  
28 ~~been allocated to the state of Rhode Island by the Atlantic States Marine Fisheries Council or the~~  
29 ~~National Marine Fisheries service, unless: (1) the landing shall be counted against the quota of the~~  
30 ~~state where the vessel making the landing is registered or documented; or (2) the state where the~~  
31 ~~vessel making the landing is registered or documented, issues new landing permits to Rhode~~  
32 ~~Island residents to land against that state's quota for the same species. For purposes of this~~  
33 ~~section, the renewal of any non-resident landing permit shall be considered a new non-resident~~  
34 ~~landing permit unless the applicant can show, to the satisfaction of the director, historic~~

1 participation in the fishery and landings of the species; and any change or upgrade of a vessel  
2 twenty percent (20%) or greater in length, displacement, or horsepower above the named vessel  
3 shall be considered a new landing permit. Issuance of a landing permit shall not be deemed to  
4 create a property right that can be sold, transferred, or encumbered; landing permits shall be  
5 surrendered to the state upon their non-renewal or forfeiture, and the acquisition of a named  
6 vessel by a non-resident who does not already have a landing permit shall not entitle the non-  
7 resident to a landing permit unless a new landing permit can be issued as herein allowed.

8 SECTION 10. Sections 20-6-3 and 20-6-11 of the General Laws in Chapter 20-6 entitled  
9 "Shellfish" are hereby amended to read as follows:

10 **20-6-3. Scallops -- Open season.** -- Unless otherwise specified in regulations adopted by  
11 the director, in consultations with the marine fisheries council, the open season for taking scallops  
12 from the free and common scallop fisheries in any of the waters of the state shall be between  
13 sunrise of the first day of October and sunset on the last day of December of every year. Any  
14 person taking scallops in violation of this section shall, upon conviction, be fined not less than  
15 fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or imprisoned exceeding thirty  
16 (30) days for each offense.

17 **20-6-11. Minimum size of shellfish -- Penalty.** -- No person shall take and/or possess  
18 any quahogs less than one inch (1") shell thickness (hinge width); In addition, no person shall  
19 take and/or possess soft shell clams, taken from the free and common soft shell clam fisheries, ~~or~~  
20 ~~mussels~~ of a diameter less than one and one half inches (1 1/2") taking the maximum shell  
21 diameter, or any oysters, taken from the free and common oyster fisheries, measuring less than  
22 three inches (3") measured parallel to the long axis of the oyster, unless greater minimum sizes  
23 are established by the director, in consultation with the marine fisheries council. Any person who  
24 takes and/or possesses shellfish of less than the minimum size, as delineated above, upon  
25 conviction, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00)  
26 for each and every fifteen (15) shellfish taken. Additionally, any person who takes and/or  
27 possesses shellfish of less than the minimum size commingled and/or otherwise stored or  
28 contained with shellfish of not less than the minimum size, where the percentage of the less than  
29 minimum size shellfish is not less than ten percent (10%) of the total piece count of the  
30 commingled and/or otherwise stored or contained package, shipment, or container shall be subject  
31 to seizure and/or forfeiture of the entire commingled and/or otherwise stored or contained  
32 package, shipment, or container, in accordance with the provisions of sections 20-1-8(e) and (f)  
33 and 20-1-8.1.

34 SECTION 11. Sections 20-10-12 and 20-10-16 of the General Laws in Chapter 20-10

1 entitled "Aquaculture" are hereby amended to read as follows:

2 ~~**20-10-12. Permits for possession, importation, and transportation of species used in**~~  
3 ~~**aquaculture. Permits and licenses for the taking, possession, sale, importation, and**~~

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

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

15 (c) In accordance with rules and regulations established under this section, permits  
16 issued by the director may provide for specific exemptions, notwithstanding other provisions of  
17 law, from quotas, catch or bag limits, seasons, minimum size limits and other such restrictions on  
18 commercial fishing as the director, in consultation with the council, may determine to be  
19 inappropriate to commercial aquaculture.

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

24 ~~**20-10-16. Penalties. --**~~ (a) Any person who conducts aquaculture activities in excess of  
25 those authorized by an aquaculture permit shall be guilty of a misdemeanor and subject to  
26 imprisonment not exceeding one year or a fine not exceeding ~~five hundred dollars (\$500), one~~  
27 ~~thousand dollars (\$1,000)~~, or both. In addition to that fine and/or imprisonment, all works,  
28 improvements, fish, and animal and plant life involved in the project may be forfeited to the state.

29 (b) Any person damaging, disturbing, or interfering with any area subject to an  
30 aquaculture permit or any person damaging, disturbing, interfering, or taking by any means  
31 whatsoever, or possessing the cultivated species in an area subject to an aquaculture permit,  
32 without the permission of the permittee, is guilty of a misdemeanor and subject to imprisonment  
33 not exceeding one year or a fine of not more than ~~five hundred dollars (\$500), one thousand~~  
34 ~~dollars (\$1,000)~~, or both. In addition to that fine and/or imprisonment, all vessels, dredges, tongs,

1 rakes, and other implements used to damage, disturb, interfere, or take cultivated species in those  
2 areas may be forfeited to the state.

3 SECTION 12. Chapter 20-10 of the General Laws entitled "Aquaculture" is hereby  
4 amended by adding thereto the following sections:

5 **20-10-13.1. Cultivated plants or animals -- Exemption from certain wild fishery**  
6 **restrictions.** – Aquaculture activities conducted in a manner consistent with permit and license  
7 conditions and in accordance with the rules and regulations promulgated pursuant to this chapter,  
8 and aquaculture products harvested for sale as a result of said activities, shall be exempt from the  
9 following statutory and regulatory restrictions governing wild fisheries: seasons; bag limits;  
10 methods of harvest; and, except for quahaugs (*Mercenaria mercenaria*), minimum sizes.  
11 Aquaculturists are prohibited from harvesting for sale to a shellfish dealer for human  
12 consumption, quahaugs (*Mercenaria mercenaria*) with a hinge width of less than one inch (1").

13 **20-10-16.1. License or permit suspension or revocation.** – The permit or license of any  
14 person who has violated the provisions of this chapter or the rules and regulations issued pursuant  
15 thereto, including anyone holding a license or permit found guilty of a violation in accordance  
16 with subsection 20-10-16(b), may be suspended or revoked by the CRMC or the director in any  
17 manner and for any period as the CRMC or the director shall determine by regulation. Any  
18 person aggrieved by an order of suspension or revocation may appeal this order in accordance  
19 with the provisions of the administrative procedures act, chapter 35 of title 42.

20 SECTION 13. Severability. If any clause, sentence, paragraph, section or part of this act  
21 shall be adjudged to be invalid by any court of competent jurisdiction, the judgment shall not  
22 affect, impair, or invalidate the remainder of the act.

23 SECTION 14. Sections 4, 5 and portions of section 6 of this act as identified herein shall  
24 take effect on January 1, 2003. Section 8 of this act shall take effect on January 1, 2004. The  
25 remaining portions of this act shall take effect upon passage.

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LC01698  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FISH AND WILDLIFE

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1           This act would amend laws regarding the licensing of shell fisherman. The act would  
2 also extend the current moratorium and would make other technical changes to the laws  
3 governing commercial fisherman.

4           Sections 4, 5 and portions of section 6 of this act as identified therein would take effect  
5 on January 1, 2003. Section 8 of this act would take effect on January 1, 2004. The remaining  
6 portions of this act would take effect upon passage.

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