

1 HB56
2 171285-1
3 By Representatives Hanes, Sessions, Greer, Ledbetter,
4 Whorton (R), South and Pettus
5 RFD: Agriculture and Forestry
6 First Read: 05-AUG-15

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8 SYNOPSIS: Under existing law, applicants for renewal
9 of net and seine permits for commercial fishing are
10 required to have previously purchased a license and
11 to meet certain income requirements in subsequent
12 years.

13 This bill would delete the proof of income
14 requirements in subsequent years. This bill would
15 further authorize a person who failed to meet the
16 income requirements beginning October 1, 2014, to
17 renew a net or seine permit and would delete
18 certain income verification provisions.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 To amend Section 9-12-113 of the Code of Alabama
25 1975, relating to commercial fishing and net and seine
26 permits; to further provide for the renewal of permits of

1 persons who failed to meet the income requirements for certain
2 license years.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 9-12-113 of the Code of Alabama
5 1975, is amended to read as follows:

6 "§9-12-113.

7 "(a) Each license or permit issued by the
8 Commissioner of Conservation and Natural Resources or his or
9 her authorized agent shall state the name of the applicant.

10 "(1) If the applicant is a resident of the State of
11 Alabama, the applicant shall pay the following fees:

12 "a. One hundred dollars (\$100) for commercial
13 fishing.

14 "b. Three hundred dollars (\$300) on each net or
15 seine permit, plus an additional five hundred dollars (\$500)
16 per permit for the taking of Roe Mullet and Spanish Mackerel,
17 as defined by regulation of the Department of Conservation and
18 Natural Resources.

19 "c. One thousand five hundred dollars (\$1,500) for
20 each purse seine license.

21 "(2) Nonresidents shall pay the following fees:

22 "a. Two hundred dollars (\$200) for commercial
23 fishing.

24 "b. One thousand five hundred dollars (\$1,500) for
25 each net or seine permit, plus an additional two thousand five
26 hundred dollars (\$2,500) per permit for the taking of Roe

1 Mullet and Spanish Mackerel, as defined by regulation of the
2 Department of Conservation and Natural Resources.

3 "c. Three thousand dollars (\$3,000) for each purse
4 seine license except where the nonresident of the State of
5 Alabama is a resident of a state which has a reciprocal
6 fishing agreement with the State of Alabama, in which case the
7 fee shall be the same as the fee for an Alabama resident in
8 that state.

9 "(3) A commercial fishing license shall be required
10 for any person to do any of the following:

11 "a. Sell or attempt to sell finfish or take or
12 attempt to take, by the use of hook and line, rod and reel,
13 cast net, gig, trot line, spear gun, or bow and arrow, or
14 other gear as defined by regulation or to possess or transport
15 for commercial purposes finfish from those waters under the
16 jurisdiction of the Marine Resources Division of the
17 Department of Conservation and Natural Resources, as provided
18 in Rule 220-2-.42, Alabama Administrative Code.

19 "b. Possess finfish for commercial purposes on board
20 a boat in those waters under the jurisdiction of the Marine
21 Resources Division of the Department of Conservation and
22 Natural Resources, as provided in Rule 220-2-.42, Alabama
23 Administrative Code.

24 "c. Off-load or land a catch of finfish to a
25 resident or nonresident seafood dealer, regardless of where
26 the fish were taken.

1 "(4) A commercial fishing license shall not be
2 required for a commercial gill net license holder validly
3 licensed under this section, in order for the licensee to
4 take, possess, or sell his or her catch taken with a gill net,
5 seine, or other entangling net, nor shall it be required for
6 the taking, possession, and sale of finfish taken with a
7 licensed commercial shrimp boat.

8 "(b) The net and seine permits provided for pursuant
9 to ~~subdivision (1)~~ of subsection (c) shall not be transferable
10 from one person to another for a period of three years from
11 October 1, 1995, or until a transfer system is developed by
12 departmental regulation, except in the case of proven physical
13 hardship, as determined within the sole discretion of the
14 Director of the Marine Resources Division. The Department of
15 Conservation and Natural Resources shall by regulation
16 establish a system for the transfer of the permits within a
17 three-year period. In establishing the system, the department
18 shall provide that there shall be no financial gain realized
19 by the transferor of the permits. The net and seine permits
20 provided for pursuant to subdivision (2) of subsection (c)
21 shall not be transferable under any circumstances, including
22 physical hardship, and shall not be transferred to any other
23 applicant by the department.

24 "(c) In addition to all other requirements to be
25 permitted pursuant to this section, except as otherwise
26 provided for residents age 62 years or older under certain
27 conditions as may be subsequently determined by the

1 department, all applicants for net and seine permits shall
2 submit the following:

3 "(1) Proof that the applicant purchased a license
4 under this section in at least two of the five years during
5 the period of 1989 through 1993 and proof, in the form of
6 unamended original income tax returns including Alabama state
7 income tax returns for all applicants in accordance with
8 procedures established by departmental regulations, that the
9 applicant recognized his or her applicable Alabama income and
10 derived at least 50 percent of his or her gross income from
11 the capture and sale of seafood species in at least two of the
12 five years during the period of 1989 through 1993 and in
13 subsequent years for annual renewal until the license year
14 ending on September 30, 2014; or

15 "(2) Proof that the applicant purchased a license
16 under this section every year from 1989 through 1993, and,
17 unless exempt from filing under the Alabama income tax law,
18 proof that the applicant filed an Alabama income tax return
19 from 1989 through 1993, and in subsequent years for annual
20 renewal until on the license year ending on September 30,
21 2014.

22 "For the license year beginning October 1, 1997,
23 only, any permittee who obtained a net and seine permit
24 pursuant to subdivision (2) may obtain a permit transferable
25 in the same manner as a permit pursuant to subdivision (1)
26 upon submitting proof in the form of unamended original income
27 tax returns including Alabama state income tax returns for all

1 applicants in accordance with procedures established by
2 departmental regulations, that the applicant recognized his or
3 her applicable Alabama income and derived at least 50 percent
4 of his or her gross income in 1996 from the capture and sale
5 of seafood species, ~~provided the permittee must meet the gross~~
6 ~~income requirements to continue to renew a permit issued~~
7 ~~pursuant to subdivision (1) in subsequent years. A permittee~~
8 ~~who receives a permit pursuant to the provision in the~~
9 ~~preceding sentence may not receive a permit pursuant to~~
10 ~~subdivision (2) thereafter. The Alabama Department of Revenue~~
11 ~~shall verify, upon request, to the Director of the Marine~~
12 ~~Resources Division of the Alabama Department of Conservation~~
13 ~~and Natural Resources the income tax return of the applicant~~
14 ~~if the applicant authorizes the release of the information.~~
15 ~~Authorization by the applicant to release the information~~
16 ~~shall be a prerequisite for a permit. After the effective date~~
17 ~~of the act adding this sentence, a person issued a permit~~
18 ~~pursuant to this subsection in the license year commencing on~~
19 ~~October 1, 2014, or thereafter, shall not be required to~~
20 ~~submit proof of income in order to renew a permit.~~

21 "(d) Only one permit shall be issued per individual.
22 The department shall issue each permittee one decal or placard
23 which shall be visibly displayed on the permittee's designated
24 vessel or vessels in accordance with regulations promulgated
25 by the Department of Conservation and Natural Resources. The
26 decal or placard may only be displayed on an Alabama
27 registered vessel and may not be displayed on an out-of-state

1 registered vessel. A permittee shall have only one net or
2 seine in use at any time and shall be present and have the
3 permit in his or her possession when the net or seine is in
4 use or in transit, provided the presence of the permittee
5 shall not be required when the boat is docked, refueling, or
6 at a launch site.

7 "(e) All nets and seines, except purse seines, and
8 seines 25 feet or less, shall bear a tag showing the name and
9 number of the permittee and any other identification as
10 required by regulation, when the nets or seines are in use or
11 on board a boat in the waters of Alabama. A designated vessel
12 of 45 feet in length or less, as measured down the centerline,
13 may have properly marked nets which are the property of the
14 owner of the designated vessel on board the vessel but no fish
15 may be in contact with the nets and provided that the vessel
16 is not in motion and is moored or anchored when the permittee
17 is not present. An initial designated vessel may be replaced
18 by another vessel owned by the permittee that is no longer
19 than 110 percent of the original vessel subject in all events
20 to a maximum of 45 feet except in certain cases which may be
21 waived by the Director of the Division of Marine Resources
22 upon presentation of evidence that a permittee owned a vessel
23 longer than 45 feet prior to the passage of this amendatory
24 act.

25 "(f) All permits issued shall be issued to
26 individual persons only. A purse seine license may be issued
27 to a person, firm, or corporation. A nonresident, as mentioned

1 in this section, for the purposes of all permits issued, is
2 defined to be any person who has not been continuously
3 domiciled in this state for more than one continuous year
4 prior to the date of the issuance of the license and for the
5 purpose of purse seine licenses, a nonresident is defined to
6 be any person, firm, or corporation who has not been domiciled
7 in this state for more than one continuous year immediately
8 prior to the date of the issuance of the license. Any
9 nonresident fishing with a resident commercial gill net
10 license holder shall not provide any gill nets, trammel nets,
11 haul nets, or other fishing equipment to the resident
12 commercial gill net license holder. All persons on board must
13 have proof of residency in the form of a valid state driver's
14 license or state nondriver identification card.

15 "(g) All licenses and permits issued pursuant to
16 this section shall expire on September 30 thereafter
17 irrespective of the date of the issuance of the same.

18 "(h) All nets and seines fished in an illegal
19 manner, or in an illegal area, are declared to be a nuisance
20 and may be confiscated, along with the entire catch, boat,
21 motor, and any other fishing gear in the violator's
22 possession, and all of the items may be held as evidence by
23 any agent of the Department of Conservation and Natural
24 Resources. After conviction of the person in whose possession
25 the device or items were found or when the operator of the
26 device has not been determined after a period of 30 days, the
27 device or items shall be forfeited to the Department of

1 Conservation and Natural Resources which shall destroy or
2 otherwise dispose of the device or items as it shall deem
3 advisable or in lieu of forfeiture, the court may impose
4 additional fines.

5 "(i) All game fish taken by nets or seines under
6 this law shall be immediately returned to the waters where
7 they were taken with the least possible injury to the fish.
8 Possession of game fish in violation of this subsection will
9 be considered as using a net or seine in an illegal manner.
10 Saltwater game fish are defined as follows: Spotted Seatrout
11 (*Cynoscion nebulosus*); Red Drum (*Sciaenops ocellata*); Tarpon
12 (*Megalops atlanticus*); and those species designated by
13 regulation of the Department of Conservation and Natural
14 Resources. The department shall by regulation to the extent
15 possible establish a tagging system to regulate importation or
16 sale of the above listed species or species added by
17 regulation.

18 "(j) In addition to any other penalties provided in
19 this section, a violation of this section or any regulation
20 promulgated pursuant to this section, shall be a Class B
21 misdemeanor punishable as provided by law; provided, however,
22 that there shall be a mandatory minimum fine of two thousand
23 dollars (\$2,000) for first offenses of utilizing a net or
24 seine without the required license or permit hereunder, and
25 any subsequent violation of subsection (a) committed within a
26 three-year period of the date of conviction shall be a Class A
27 misdemeanor, punishable by a mandatory minimum fine of three

1 thousand dollars (\$3,000) and a mandatory minimum imprisonment
2 of 10 days. Any person violating this section or any
3 regulation promulgated pursuant to this section shall be
4 strictly liable and it shall not be necessary to prove any
5 criminal intent for conviction.

6 "A 10-point system is also hereby established to
7 provide that in the event a person is convicted of the
8 following offenses as set out in subdivisions (1) to (5),
9 inclusive, below in a manner so as to acquire ten or more
10 points within a three-year period the department shall
11 automatically and permanently revoke all licenses or permits
12 issued and the licenses, permits, and any decal issued to that
13 person shall be surrendered immediately by the licensee or
14 permittee to the Director of the Division of Marine Resources
15 upon conviction. Points shall be considered for a period of
16 three years from the date of conviction and shall be as
17 follows:

18 "(1) Sale, purchase, trade or barter of game fish,
19 10 points.

20 "(2) Fishing in closed areas, 5 points.

21 "(3) Retention of game fish, 5 points.

22 "(4) Fishing with improperly marked gear, 4 points.

23 "(5) Points for any other offense established or
24 designated by regulation of the Department of Conservation and
25 Natural Resources, shall be as provided in the regulation
26 relating to the prohibitions of this section."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.